



## **PLEASE NOTE**

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This document is *not* the official version of the Act. The Act and the amendments as printed under the authority of the Queen's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the [Table of Public Acts](#).

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## CHAPTER T-3.1

### TOBACCO SALES AND ACCESS ACT

- 1. In this Act** Definitions
- (a) “inspector” means a person appointed under subsection 3(1); inspector
- (a.1) “licensed premises” means premises for which a liquor license issued under the *Liquor Control Act* R.S.P.E.I. 1988, Cap. L-14 is in effect; licensed premises
- (b) “Minister” means the Minister of Health and Wellness; Minister
- (c) “tobacco” means tobacco in any form, and includes any tobacco-related product; tobacco
- (c.1) “tobacco-related product” means any product that may be used in the consumption of tobacco, and includes a cigarette paper, a cigarette tube, a cigarette filter, a cigarette maker, a cigarette holder, a pipe, a pipe cleaner and a cigar clip; tobacco-related product
- (d) “vending machine” means any automatic machine for the sale of tobacco. vending machine
- (e) repealed by 2004,c.20,s.2. 1991, c.44, s.1; 2004,c.20,s.2; 2009,c.73,s.2; 2010,c.31,s.3 Health and Wellness. vendor
- 2. The Minister is responsible for the administration of this Act. 1991, c.44, s.2.** Administration
- 3. (1) The Minister may designate health officers or other persons as inspectors.** Inspectors
- (2) For the purpose of enforcing this Act and the regulations an inspector may Powers of entry etc.
- (a) enter and inspect the business premises of a person who sells tobacco by retail and examine and take copies of any records relevant to a prosecution of a violation of this Act;
- (b) investigate any complaint of a violation of this Act and examine a person referred to in clause (a) or an employee of such a person to determine if a violation occurred;
- (c) make test purchases, or take samples of tobacco;
- (d) give directions to a person referred to in clause (a);
- (e) issue a ticket summons or information in respect of a violation of this Act;
- (f) record and report convictions under this Act. 1991, c.44, s.3; 1993, c.30, s.61; 2004,c.20,s.3; 2005,c.22,s.1.

## PROVISION OF TOBACCO TO PERSONS UNDER 19

- Sale or supply to person under 19      **4.** (1) No person shall sell or supply tobacco to a person under the age of 19 years.
- Purchase of tobacco for person under 19      (2) No person shall purchase or attempt to purchase tobacco on behalf of, or for the purpose of resale to, a person under the age of 19 years.
- Defence—person appearing to be over 19      (3) It is not a defence to a prosecution for a contravention of this section for the defendant to show that the person under the age of 19 years appeared to be 19 years of age or older.
- Sale or supply to person appearing to be under 19      (4) No person shall sell or supply tobacco to a person who appears to be under the age of 19 years unless that person first produces, as proof that he or she is 19 years of age or older, a prescribed form of identification that shows his or her age and that contains a photograph of the person.
- Alteration of prescribed form of identification      (5) No person shall sell or supply tobacco to a person who produces, as proof of his or her age, a document that is a prescribed form of identification if it appears that the document has been altered or is not authentic.
- Exception—Aboriginal spiritual practices      (6) Nothing in this section prevents a person from giving tobacco to a person who is or appears to be under the age of 19 years if the gift is made solely for use in traditional Aboriginal spiritual or cultural practices or ceremonies. 1991, c.44, s.4; 1995, c.42, s.1; 2004,c.20,s.4.

## SALE PROHIBITED IN DESIGNATED PLACES

- Sale in a designated place      **4.1** (1) No person shall sell tobacco in a designated place.
- Designated places      (2) Subject to subsection (3), the following are designated places:
  - (a) a hospital as defined in the *Hospitals Act* R.S.P.E.I. 1988, Cap. H-10;
  - (b) that part of a building, other than a hospital, where health care services are provided;
  - (c) a facility that is licensed as a nursing home under the *Community Care Facilities and Nursing Homes Act* R.S.P.E.I. 1988, Cap. C-13;
  - (d) a building, or that part of a building, that is owned or occupied by
    - (i) the Government of Prince Edward Island,
    - (ii) a municipal government,
    - (iii) a regional health authority,
    - (iv) a school board, or
    - (v) a post-secondary institution, including

- (A) the University of Prince Edward Island,
- (B) Holland College, or
- (C) a school that is registered as a private training school under the *Private Training Schools Act* R.S.P.E.I. 1988, Cap. P-20.1;

- (e) that part of a building or a recreational facility that is a bowling alley, fitness centre, gymnasium, pool, a skating, hockey or curling rink or a similar sport or health-related activity area;
- (f) a theatre, including a movie theatre;
- (g) a video arcade;
- (h) an amusement park;
- (i) a pharmacy;
- (j) a retail store if
  - (i) a pharmacy is located within the retail store,
  - (ii) customers or employees of a pharmacy can pass into the retail store directly from the pharmacy or by use of a corridor or area used exclusively to connect the pharmacy with the retail store, or
  - (iii) the retail store belongs to a prescribed class or type of retail store.

(3) A hospital or an institution for the mentally ill is not a designated place. Hospital for mentally ill

(4) In this section, “pharmacy” means a retail drug store that provides, for profit, a non-exclusive array of drugs and related services to the general public in a non-exclusive way. 2004,c.20,s.5; 2005,c.22,s.2,3. “pharmacy”, defined

#### VENDING MACHINES, DISPLAYS AND ADVERTISING

**5.** No person shall permit a vending machine to be in any place that the person owns or occupies. 2004,c.20,s.6. Vending machines

**5.1** (1) No person shall display or permit the display of tobacco in any place or premises in which tobacco is sold or offered for sale at retail Tobacco not to be displayed

- (a) by any means or in any manner, including the use of a countertop or wall display, that permits a consumer in the place or premises to view tobacco before purchasing it; or
- (b) by any means or in any manner that makes tobacco visible to the public from the outside of the place or premises.

(2) The owner or person in charge of a tobacconist shop, and any person working at the tobacconist shop, may display or permit the display of tobacco in the tobacconist shop in any manner referred to in clause (1)(a) if persons under the age of 19 years are not permitted access to the tobacconist shop. Exception

	(3) In this section,
Definitions	
“tobacconist shop”	(a) “tobacconist shop” means a place or premises in which the primary business conducted is the retail sale of tobacco;
“tobacco”	(b) “tobacco” includes the package in which tobacco is sold. 1995, c.42, s.1; 2004,c.20,s.6; 2005,c.22,s.4.
Tobacco not to be advertised or promoted in place or premises	<b>5.2</b> (1) No person shall advertise or promote the sale or use of tobacco in any place or premises in which tobacco is sold or offered for sale at retail.
Advertisements or promotional material not to be visible from outside place or premises	(2) No person shall advertise or promote the sale or use of tobacco by means of an advertisement or promotional material placed in the windows of any place or premises in which tobacco is sold or offered for sale at retail if the advertisement or promotional material is placed so that it is visible from the outside of the place or premises.
Exception	(3) Notwithstanding subsection (1), a person may, in any place or premises in which tobacco is sold or offered for sale at retail, <ul style="list-style-type: none"> <li>(a) display a sign that lists the types of tobacco offered for sale and their prices, if the sign complies with, and is displayed in accordance with, the requirements of the regulations; or</li> <li>(b) display a magazine or other publication that is offered for sale and that contains tobacco advertising, if the magazine or publication             <ul style="list-style-type: none"> <li>(i) is displayed in such a way that the tobacco advertisement is not visible to a consumer unless he or she is reading the magazine or publication, and</li> <li>(ii) meets any requirements set out in the <i>Tobacco Act</i> (Canada) or any regulations made pursuant to that Act. 2005,c.22,s.4.</li> </ul> </li> </ul>

#### REQUIRED SIGNS

Signs	<b>6.</b> No owner or person in charge of a place or premises in which tobacco is sold or offered for sale at retail shall <ul style="list-style-type: none"> <li>(a) fail to display in the place or premises, any sign respecting or disclosing information concerning the sale of tobacco and the effect of tobacco on health that is required to be displayed by the regulations; or</li> <li>(b) fail to display any sign referred to in clause (a) in the manner and locations prescribed by the regulations. 1991,c.44,s.6; 2004,c.20,s.7; 2005,c.22,s.5.</li> </ul>
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- 6.1** Where the retail vendor's license issued to a retail vendor under the *Tobacco Tax Act* R.S.P.E.I. 1988, Cap. T-3.11 is suspended or cancelled under that Act, the retail vendor shall post a notice of the suspension or cancellation that is provided by an inspector in the form required by the regulations and shall keep that notice posted,
- (a) if the license was suspended, for the duration of the suspension; or
- (b) if the license was cancelled, until a new license is issued to the retail vendor. 2005,c.22,s.5; 2008,c.33,s.1.
- Notice of suspension or cancellation of retail vendor's license

#### GENERAL

- 7.** Any person who reports to an inspector or peace officer a violation or suspected violation of this Act is not liable to any civil action in respect of the allegation contained in the report or anything done in good faith in assistance of an investigation by an inspector. 1991, c.44, s.7. Civil liability
- 7.1** No person shall obstruct or attempt to obstruct, or fail to cooperate with, an inspector in the exercise of his or her functions under this Act or the regulations. 2005,c.22,s.6. Obstruction
- 8.** Every person who contravenes a provision of this Act or the regulations is guilty of an offence and liable on summary conviction
- (a) for a first offence, to a fine not exceeding \$2,000;
- (b) for a second offence, to a fine not exceeding \$5,000; and
- (c) for a third or subsequent offence, to a fine not exceeding \$10,000. 1991, c.44, s.8; 1993, c.29, s.4; 1995, c.42, s.1; 2004,c.20,s.9. Offences and penalties
- 9.** The Lieutenant Governor in Council may make regulations
- (a) prescribing the forms of identification acceptable as proof of the age of a person;
- (b) respecting the manner, location, form, size and content of signs permitted or required to be displayed in a place or premises in which tobacco is sold or offered for sale at retail;
- (b.1) prescribing classes or types of retail stores for the purposes of clause 4.1(2)(j);
- (b.2) respecting the form of the notice required to be posted under section 6.1;
- (b.3) regulating signage respecting the advertisement and promotion of tobacco; and
- (c) respecting any other matter that the Lieutenant Governor in Council considers necessary and advisable to carry out the purposes and provisions of this Act. 1991, c.44, s.9; 2004,c.20,s.10; 2005,c.22,s.7. Regulations