



2nd SESSION, 63rd GENERAL ASSEMBLY
Province of Prince Edward Island
58 ELIZABETH II, 2009

CHAPTER 86

(Bill No. 76)

An Act to Amend the Smoke-Free Places Act

Honourable Doug W. Currie
Minister of Health

GOVERNMENT BILL

MICHAEL D. FAGAN
Queen's Printer
Charlottetown, Prince Edward Island

CHAPTER 86

An Act to Amend the Smoke-Free Places Act

(Assented to May 15, 2009)

BE IT ENACTED by the Lieutenant Governor and the Legislative Assembly of the Province of Prince Edward Island as follows:

1. Section 1 of the *Smoke-Free Places Act* R.S.P.E.I. 1988, Cap. S-4.2 is amended

(a) by the repeal of clause (b) and the substitution of the following:

(b) “designated smoking area” means

- (i) an outdoor area of a public place or workplace that is designated as a designated smoking area under subsection 8(1), or
- (ii) a designated smoking room;

designated smoking area

(b) by the repeal of clause (c) and the substitution of the following:

(c) “designated smoking room” means a room in a long-term care facility that is designated as a designated smoking area under subsection 9(1);

designated smoking room

(c) by the repeal of clause (i) and the substitution of the following:

(i) “long-term care facility” means

- (i) a nursing home or community care facility for which a license issued under the *Community Care Facilities and Nursing Homes Act* R.S.P.E.I. 1988, Cap. C-13 is in effect, and
- (ii) a nursing home that is operated by the Department of Health;

long-term care facility

(d) by the addition of the following after clause (j):

(j.1) “motor vehicle” means a motor vehicle as defined in the *Highway Traffic Act* R.S.P.E.I. 1988, Cap. H-5;

motor vehicle

(e) by the addition of the following after clause (k):

(k.1) “patio” means any outdoor area that is used or operated as part of, or in conjunction with, an eating establishment or a licensed premises;

patio

(f) by the repeal of clause (l) and the substitution of the following:

public place

(l) “public place” means

(i) a place that is open to members of the public, and includes

(A) the part of an office building, a retail store or other commercial establishment that is open to members of the public,

(B) the part of a building in which health services are provided and that is open to patients or members of the public,

(C) the part of a day care centre, nursery school or kindergarten that is open to children or members of the public,

(D) the part of an educational institution or educational facility that is open to students or members of the public,

(E) the part of an eating establishment that is open to members of the public, whether or not the eating establishment is a licensed premises,

(F) the part of a licensed premises that is open to members of the public, whether or not the licensed premises is an eating establishment or part of an eating establishment, or

(G) a vehicle or the enclosed areas of a vessel, where the vehicle or vessel is designed or used for carrying passengers for compensation, or

(ii) any part of a long-term care facility;

(g) in clause (p), by the addition of the words “, but does not include any area of a shelter for victims of domestic violence” after the words “or other common area within that place”.

2. Section 4 of the Act is amended

(a) by renumbering it as subsection 4(1); and

(b) by the addition of the following after subsection (1):

Smoking in a motor vehicle in which person under 19 is present

(2) No person shall smoke in a motor vehicle while any person under the age of nineteen years is present in the motor vehicle regardless of whether any window, sunroof, car-top roof, door or other feature of the motor vehicle is open.

3. Section 5 of the Act is repealed.

4. Section 8 of the Act is repealed and the following substituted:

Designated smoking area

8. (1) Subject to subsection (2), an owner of a public place or workplace or an employer at a workplace may, in accordance with the regulations, designate an outdoor area of the public place or workplace as a designated smoking area for those persons who are permitted to use the area by the owner or employer, if

- (a) the outdoor area is located a prescribed minimum distance from any entrance to or outdoor air intake for the indoor non-smoking areas of the public place or workplace; and
- (b) the indoor non-smoking areas of the public place or workplace are structurally separated from the outdoor area by walls, ceilings, windows and doors that fully enclose the indoor non-smoking areas.

(2) An outdoor area in the following public places or workplaces may not be designated as a designated smoking area under subsection (1):

Restriction

- (a) the portion of a public place or workplace that is used as a day care centre, nursery school or kindergarten;
- (b) an elementary, intermediate or secondary school;
- (c) a hospital;
- (d) a patio, except during the hours prescribed in the regulations.

(3) Notwithstanding subsection (2), an outdoor area at Hillsborough Hospital may be designated as a designated smoking area under subsection (1) for the patients of Hillsborough Hospital.

Exception

(4) Notwithstanding section 6, where an outdoor area at Hillsborough Hospital is designated as a designated smoking area under subsection (1) for the patients of Hillsborough Hospital, no person may smoke in the designated smoking area other than a patient of Hillsborough Hospital.

Restriction respecting smoking at Hillsborough Hospital

5. Section 9 of the Act is repealed and the following substituted:

9. (1) An owner of a long-term care facility may, in accordance with the regulations, designate a room in the long-term care facility as a designated smoking area for residents of the facility, if the room

Designated smoking room in long-term care facility

- (a) is fully enclosed by walls, a ceiling, windows and doors;
- (b) is equipped with a ventilation system as required by the regulations;
- (c) is constructed, designed and located as required by the regulations; and
- (d) is not ordinarily used or occupied by non-smokers.

(2) Notwithstanding section 6, where a room in a long-term care facility is designated as a designated smoking room under subsection (1) for residents of the facility, no person may smoke in the designated smoking room other than a resident of the long-term care facility.

Prohibition respecting a long-term care facility

6. Section 11 of the Act is amended

(a) by the deletion of the words “No owner or employer” and the substitution of the words “No owner of a long-term care facility, and no employer at a long-term care facility,”; and

(b) by the deletion of the words “in a public place or workplace” wherever they occur and by the substitution of the words “in the long-term care facility”.

7. Subsection 14(1) of the Act is amended

(a) in the words preceding clause (a), by the addition of the words “, other than subsection 4(2),” after the words “ensuring compliance with this Act”;

(b) in clause (a), by the deletion of the words “inspect the public place or workplace,” and the substitution of the words “inspect any public place or workplace,”; and

(c) in clause (d), by the deletion of the words “the public place or workplace” wherever they occur and the substitution of the words “any public place or workplace”.

8. Subsection 15(1) of the Act is amended by the addition of the words “, other than subsection 4(2),” after the words “a contravention of this Act”.

9. Subsection 16(1) of the Act is amended

(a) in clause (a) by the addition of the words “, other than subsection 4(2),” after the word “Act”; and

(b) in subclause (b)(i) by the addition of the words “, other than subsection 4(2),” after the word “Act”.

10. Subsection 17(1) of the Act is amended, in clauses (a) to (d), by the deletion of the words “the employee” and the substitution of the words “an employee”.

11. Section 19 of the Act is amended by the deletion of the words “\$500” and the substitution of the words “\$100”.

12. The Act is amended by the addition of the following after section 19:

Police may stop motor vehicle

19.1 (1) For the purpose of ensuring compliance with subsection 4(2), a police officer may require the driver of a motor vehicle to stop.

Driver shall stop

(2) The driver of a motor vehicle when signaled or requested to stop by a police officer shall immediately come to a safe stop.

(3) In a prosecution of a contravention of subsection 4(2), a court may find evidence that a police officer enforcing this section reasonably believed a person present in a motor vehicle to be under the age of nineteen years to be sufficient proof of the person's age. Proof of age

13. Section 20 of the Act is amended

(a) by the repeal of clause (a) and the substitution of the following:

(a) respecting the designation of an outdoor area of a public place or workplace as a designated smoking area under subsection 8(1), including providing for and regulating the method of effecting such a designation;

(a.1) prescribing, for the purpose of clause 8(1)(a), the minimum distance that an outdoor area must be from any entrance to or outdoor air intake for any indoor non-smoking area of a public place or workplace in order for the outdoor area to be designated as a designated smoking area;

(a.2) prescribing, for the purpose of clause 8(2)(d), the hours during which a patio may be designated as a designated smoking area;

(a.3) respecting the designation of a room of a long-term care facility as a designated smoking area, including providing for and regulating the method of effecting such a designation;

(a.4) establishing or specifying, for the purpose of clause 9(1)(b), standards or requirements respecting the ventilation system that a room in a long-term care facility must be equipped with in order to be designated as a designated smoking area;

(a.5) establishing or specifying, for the purpose of clause 9(1)(c), standards or requirements respecting the construction, design and location of a room in a long-term care facility that must be complied with in order for the room to be designated as a designated smoking area;

(a.6) requiring an owner of a long-term care facility to ensure that the ventilation system of a designated smoking room is operating while smoking is occurring in the room;

(b) by the repeal of clauses (c) and (d).

14. This Act comes into force on a date that may be fixed by proclamation of the Lieutenant Governor in Council.

CHAPTER 86

(Bill No. 76)

An Act to Amend the Smoke-Free Places Act

<i>STAGE:</i>	<i>DATE:</i>
<i>1st Reading:</i>	April 24, 2009
<i>2nd Reading:</i>	May 13, 2009
<i>To Committee:</i>	May 13, 2009
<i>Reported:</i>	May 13, 2009
<i>3rd Reading and Pass:</i>	May 15, 2009
<i>Assent:</i>	May 15, 2009

Honourable Doug W. Currie
Minister of Health

GOVERNMENT BILL