

HOUSE USE ONLY

CHAIR:

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1st SESSION, 65th GENERAL ASSEMBLY
Province of Prince Edward Island
64 ELIZABETH II, 2015

BILL NO. 10

An Act to Amend the Tobacco Sales and Access Act

Honourable Doug W. Currie
Minister of Health and Wellness

GOVERNMENT BILL

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An Act to Amend the Tobacco Sales and Access Act

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

1. The title of the *Tobacco Sales and Access Act R.S.P.E.I. 1988, Cap. T-3.1* is amended by the addition of the words “and Electronic Smoking Device” after the word “Tobacco”.

2. Section 1 of the Act is amended

(a) by the repeal of clauses (a) and (a.1) and the substitution of the following:

(a) “electronic smoking device” means an electronic or battery-operated device used or intended to be used to deliver vapourized solutions by inhalation from the device in a manner that resembles smoking tobacco, such as an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe or electronic waterpipe, and includes a cartridge, solution or replaceable component used or intended to be used in such a device; electronic smoking device

(a.1) “inspector” means a person designated under subsection 3(1); inspector

(b) in clause (c.1), by the addition of the words “a waterpipe,” after the words “a pipe,”;

(c) in clause (d), by the addition of the words “or an electronic smoking device” after the words “sale of tobacco”; and

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

(d.1) “waterpipe” means an instrument used or intended to be used to smoke tobacco or other products, in which smoke generated during its operation passes through a liquid before it may be inhaled from the instrument. waterpipe

3. (1) Subsection 3(1) of the Act is amended by the deletion of the words “health officers” and the substitution of the words “public health officials appointed under the *Public Health Act* R.S.P.E.I. 1988, Cap. P-30.1”.

(2) Clauses 3(2)(a) and (c) of the Act are amended by the addition of the words “or an electronic smoking device” after the word “tobacco”.

4. The Act is amended by the addition of the following after section 3:

FLAVOURED TOBACCO

Sale of tobacco
with flavouring
agent

3.1 No person shall sell or offer to sell tobacco that contains a prescribed flavouring agent.

5. The heading immediately before section 4 of the Act is amended by the addition of the words “OR AN ELECTRONIC SMOKING DEVICE” after the word “TOBACCO”.

6. Subsections 4(1), (2), (4) and (5) of the Act are amended by the addition of the words “or an electronic smoking device” after the word “tobacco”.

7. (1) Subsection 4.1(1) of the Act is amended by the addition of the words “or an electronic smoking device” after the word “tobacco”.

(2) Subclause 4.1(2)(d)(iii) of the Act is repealed and the following substituted:

(iii) Health PEI,

8. (1) Subsection 5.1(1) of the Act is amended by the deletion of the word “No” and the substitution of the words “Subject to subsection (2), no”.

(2) Section 5.1 of the Act is amended by the addition of the following after subsection (1):

Electronic smoking
devices not to be
displayed

(1.1) Subject to subsection (2), no person shall display or permit the display of an electronic smoking device in any place or premises in which an electronic smoking device is sold or offered for sale at retail

(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 an electronic smoking device before purchasing it;
or

(b) by any means or in any manner that makes an electronic smoking device visible to the public from the outside of the place or premises.

(3) Subsection 5.1(2) of the Act is amended

(a) by the addition of the words “or an electronic smoking device” after the word “tobacco”; and

(b) by the addition of the words “or (1.1)(a)” after the words “clause (1)(a)”.

(4) Subsection 5.1(3) of the Act is repealed and the following substituted:

(3) In this section, “tobacconist shop” means a place or premises in which the primary business conducted is the retail sale of

- (a) tobacco;
- (b) electronic smoking devices; or
- (c) a combination of (a) and (b).

Tobacconist shop

(4) For the purposes of this section, the display of tobacco or an electronic smoking device in packaging constitutes the display of the tobacco or electronic smoking device, as the case may be, contained in the packaging.

Display of package is display of product

(5) For the purposes of this section, when a package containing tobacco or an electronic smoking device is visible, the tobacco or electronic smoking device, as the case may be, contained in the package is considered visible.

Tobacco or device visible if package visible

9. Subsections 5.2(1) and (2) of the Act are repealed and the following substituted:

5.2 (1) No person shall advertise or promote, or permit the advertisement or promotion of, the sale or use of tobacco

Tobacco not to be advertised or promoted

- (a) in a place or premises where tobacco is sold or offered for sale at retail;
- (b) in a place or premises to which persons under the age of 19 years are permitted access;
- (c) in a vehicle, building or other structure if the advertisement or promotion is visible from outside the vehicle, building or other structure; or
- (d) on any sign located outdoors, including
 - (i) a billboard,
 - (ii) a portable sign, and
 - (iii) a sign on a bench, vehicle, building or other structure.

10. The Act is amended by the addition of the following after section 5.2:

Device not to be advertised or promoted

5.3 (1) No person shall advertise or promote, or permit the advertisement or promotion of, the sale or use of an electronic smoking device

- (a) in a place or premises where an electronic smoking device is sold or offered for sale at retail;
- (b) in a place or premises to which persons under the age of 19 years are permitted access;
- (c) in a vehicle, building or other structure if the advertisement or promotion is visible from outside the vehicle, building or other structure; or
- (d) on any sign located outdoors, including
 - (i) a billboard,
 - (ii) a portable sign, and
 - (iii) a sign on a bench, vehicle, building or other structure.

Exception

(2) Notwithstanding subsection (1), a person may, in a place or premises where an electronic smoking device is sold or offered for sale at retail,

- (a) display a sign that lists the types of electronic smoking devices offered for sale and their prices, if the sign complies with, and is displayed in accordance with, the requirements of the regulations; or
- (b) display a magazine or other publication that is offered for sale and that contains advertising for an electronic smoking device, if the magazine or publication
 - (i) is displayed in such a way that advertising for an electronic smoking device is not visible to a consumer unless he or she is reading the magazine or publication, and
 - (ii) meets any requirements in legislation enacted by the Government of Canada respecting advertising for electronic smoking devices.

False, misleading or deceptive advertising

5.4 No person shall advertise or promote the sale or use of tobacco or an electronic smoking device by any means that are false, misleading or deceptive, particularly with respect to the characteristics, health effects or health hazards of tobacco, an electronic smoking device or the emissions from tobacco or an electronic smoking device.

11. Section 6 of the Act is amended

(a) by renumbering it as subsection 6(1); and

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

(2) No owner or person in charge of a place or premises in which an electronic smoking device is sold or offered for sale at retail shall

Signs respecting
electronic smoking
devices

- (a) fail to display in the place or premises, any sign respecting or disclosing information concerning the sale of electronic smoking devices and the effect of electronic smoking devices on health that is required to be displayed by the regulations; or
- (b) fail to display any sign referred to in clause (a) in the manner and locations prescribed by the regulations.

12. Section 8 of the Act is amended by the addition of the words “, or whose employee contravenes subsections 4(1), (4) or (5) or 5.1(1) or (1.1) or clauses 5.2(1)(a) or 5.3(1)(a),” after the words “this Act or the regulations”.

13. Section 9 of the Act is amended

(a) by the addition of the following after clause (a):

(a.1) prescribing flavouring agents for the purposes of section 3.1;

(b) in clause (b), by the addition of the words “or an electronic smoking device” after the word “tobacco”; and

(c) in clause (b.3), by the addition of the words “or electronic smoking devices” after the word “tobacco”.

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

EXPLANATORY NOTES

SECTION 1 amends the title of the Act.

SECTION 2 adds definitions for “electronic smoking device” and “waterpipe”, rennumbers and amends the definition of “inspector” and amends the definition of “vending machine”.

SECTION 3 corrects a reference to “health officers” to refer to “public health officials appointed under the *Public Health Act*”. It also provides for inspection powers related to electronic smoking devices.

SECTION 4 prohibits the sale of tobacco that contains a prescribed flavouring agent.

SECTION 5 amends a heading to include an electronic smoking device.

SECTION 6 prohibits the sale of electronic smoking devices to persons under the age of 19.

SECTION 7 prohibits the sale of electronic smoking devices in designated places. It also substitutes Health PEI in place of a reference to a regional health authority.

SECTION 8 makes the prohibitions respecting the display of tobacco subject to an exception for tobacconist shops. It adds prohibitions respecting the display of electronic smoking devices, which are also subject to the exception for tobacconist shops. It defines “tobacconist shop” and provides that tobacco or an electronic smoking device contained in packaging is considered on display or visible in the packaging.

SECTION 9 prohibits the advertisement or promotion of the sale or use of tobacco in specified places.

SECTION 10 prohibits the advertisement or promotion of the sale or use of an electronic smoking device in specified places subject to exceptions related to lists of products and their prices and advertising in magazines. It also prohibits false, misleading or deceptive advertising respecting tobacco or an electronic smoking device.

SECTION 11 rennumbers a section as a subsection and requires the owner or person in charge of a place where an electronic smoking device is sold or offered for sale to display any signs respecting the sale, or

health effects, of electronic smoking devices that are required in the regulations in the manner and locations required by the regulations.

SECTION 12 makes a person whose employee contravenes certain provisions of the Act guilty of an offence and liable to specified penalties.

SECTION 13 provides for the Lieutenant Governor in Council to make regulations respecting signs related to, and advertising of, electronic smoking devices and prescribing flavouring agents.

SECTION 14 provides for the commencement of this Act.

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<i>STAGE:</i>	<i>DATE:</i>
<i>1st Reading:</i>	June 9, 2015
<i>2nd Reading:</i>	
<i>To Committee:</i>	
<i>Reported:</i>	
<i>3rd Reading and Pass:</i>	
<i>Assent:</i>	

SIGNATURES:

Honourable H. Frank Lewis, Lieutenant Governor

Honourable Francis (Buck) Watts, Speaker

Clerk

Honourable Doug W. Currie
Minister of Health and Wellness

GOVERNMENT BILL

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