

BILL

No. 147

An Act to amend *The Tobacco and Vapour Products Control Act*

(Assented to _____)

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

Short title

1 This Act may be cited as *The Tobacco and Vapour Products Control Amendment Act, 2023*.

SS 2001, c T-14.1 amended

2 *The Tobacco and Vapour Products Control Act* is amended in the manner set forth in this Act.

New section 2

3 Section 2 is repealed and the following substituted:

“Definitions

2 In this Act:

‘**advertise**’ means to use any commercial communication, through any media or other means, that is intended to have or is likely to have the effect of:

- (a) creating an awareness of or association with:
 - (i) tobacco, a tobacco-related product or a vapour product;
 - (ii) a brand of a product or device mentioned in subclause (i); or
 - (iii) a manufacturer or seller of a product or device mentioned in subclause (i); or
- (b) promoting the purchase or use of:
 - (i) tobacco, a tobacco-related product or a vapour product; or
 - (ii) a brand of a product or device mentioned in subclause (i);

‘**child care facility**’ means a facility as defined in *The Child Care Act, 2014*;

‘**e-cigarette**’ means all or any of the following:

- (a) a product or device, whether or not it resembles a cigarette, containing an electronic or battery-powered heating element capable of vaporizing an e-substance for inhalation or release into the air;
- (b) a prescribed product or device similar in nature or use to a product or device described in clause (a);

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‘e-substance’ means a solid, liquid or gas that, on being heated, produces a vapour for use in an e-cigarette, regardless of whether the solid, liquid or gas contains nicotine;

‘enclosed public place’ means all or any part of a building or other enclosed place or conveyance to which the public has access as of right or by express or implied invitation, including:

- (a) an outdoor bus shelter;
- (b) a public building or facility, or any part of a public building or facility, that is rented out for private events;
- (c) a vehicle that:
 - (i) is used or made available for public transit or as a commercial vehicle; and
 - (ii) is used to transport members of the public;

but only during any period that the vehicle is made available for hire, including any break period;

- (d) a building, enclosed place or facility owned or leased by a private club that restricts admission to members and guests;
- (e) the common areas of a multi-unit residential building; and
- (f) any prescribed building, place, facility or vehicle or class of prescribed buildings, places, facilities or vehicles;

‘flavoured tobacco product’ includes a tobacco product that is represented as being flavoured, that contains a flavouring agent or that is presented by its packaging, by advertisement or otherwise as being flavoured, but does not include a little cigar that contains a prohibited additive within the meaning of the *Tobacco and Vaping Products Act* (Canada);

‘flavoured vapour product’ includes a vapour product that is represented as being flavoured, that contains a flavouring agent or that is presented by its packaging, by advertisement or otherwise as being flavoured;

‘furnish’ means to sell, lend, assign, give or send, with or without consideration, or to barter or deposit with another person for the performance of a service;

‘group family child care home’ means a group family child care home as defined in *The Child Care Act, 2014*;

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‘immediate family member’, with respect to an individual, means that individual’s:

- (a) spouse;
- (b) child or stepchild;
- (c) grandchild;
- (d) sister or brother;
- (e) niece or nephew;
- (f) parent or grandparent; or
- (g) guardian;

and includes a spouse of the individual’s child, stepchild, sister or brother and another individual with respect to whom the individual is a guardian;

‘licensed family child care home’ means a family child care home that is licensed pursuant to *The Child Care Act, 2014*;

‘little cigar’ includes any of the following products:

- (a) a tobacco product that is sold as a little cigar;
- (b) a tobacco product that:
 - (i) weighs less than 1.4 grams, or any other prescribed weight;
 - (ii) is in the form of a roll or a tube; and
 - (iii) has a wrapper that contains natural or reconstituted leaf tobacco;
- (c) a tobacco product that:
 - (i) has a cellulose, acetate or other type of filter;
 - (ii) is in the form of a roll or a tube; and
 - (iii) has a wrapper that contains natural or reconstituted leaf tobacco;
- (d) any other prescribed tobacco product;

‘minister’ means the member of the Executive Council to whom for the time being the administration of this Act is assigned;

‘ministry’ means the ministry over which the minister presides;

‘pharmacy’ means a pharmacy as defined in *The Pharmacy and Pharmacy Disciplines Act*;

‘prescribed’ means prescribed in the regulations;

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‘promote’ means to use any commercial act or practice that is intended or likely:

- (a) to encourage the purchase or use of:
 - (i) tobacco, a tobacco-related product or a vapour product; or
 - (ii) a brand of a product or device mentioned in subclause (i);
- (b) to create an awareness of or association with:
 - (i) tobacco, a tobacco-related product or a vapour product;
 - (ii) a brand of a product or device mentioned in subclause (i); or
 - (iii) a manufacturer or seller of a product or device mentioned in subclause (i);

‘proprietor’:

- (a) with respect to a place or premises, means a person who controls, governs or directs the activities carried on within the place or premises, and includes a person who is actually in charge of the place or premises at any particular time; and
- (b) with respect to a vehicle, means the registered owner of the vehicle or the operator in charge of the vehicle at any particular time;

‘retailer’ means a person who is engaged in a business that includes the sale of tobacco, tobacco-related products or vapour products to the public;

‘school or independent school’ means a school or an independent school as defined in *The Education Act, 1995*;

‘sell’ includes offer for sale and expose for sale;

‘tobacco’ means tobacco in any form in which it is used or consumed, and includes snuff and raw leaf tobacco, but does not include any food, drug or device that contains nicotine to which the *Food and Drugs Act* (Canada) applies;

‘tobacco enforcement officer’ means:

- (a) a person designated as a tobacco enforcement officer pursuant to section 16;
- (b) a member of a police service as defined in *The Police Act, 1990*; or
- (c) a member of the Royal Canadian Mounted Police;

‘tobacco-related product’ means a cigarette paper, a cigarette tube, a cigarette filter, a cigarette maker, a pipe or any other product used in association with tobacco that is prescribed;

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‘vapour product’ means any or all of the following:

- (a) an e-cigarette;
- (b) an e-substance;
- (c) a cartridge for or a component of an e-cigarette;

‘young person’ means a person under 19 years of age”.

New Part II heading

4 The heading for Part II is struck out and the following substituted:

**“PART II
Transactions involving Tobacco, Tobacco-related Products
or Vapour Products”.**

Section 4 amended

5(1) Subsection 4(2) is amended in the portion preceding clause (a) by striking out “18 years” and substituting “19 years”.

(2) Subsection 4(3) is amended by striking out “18 years” and substituting “19 years”.

Section 6 amended

6 Subsection 6(1) is repealed and the following substituted:

“(1) Subject to subsection (6), no person shall advertise or promote tobacco, tobacco-related products or vapour products in any place or premises to which the public has access as of right or by express or implied invitation if young persons are permitted access to the place or premises”.

New sections 11 and 11.1

7 Sections 11 and 11.1 are repealed and the following substituted:

“Prohibited areas re smoking or vaping

11(1) Subject to subsections (2) and (3), no person shall do any of the following:

- (a) smoke, use or consume tobacco, hold lighted tobacco or use or consume vapour products:
 - (i) in a school or independent school; or
 - (ii) on the school grounds surrounding a school or independent school;
- (b) smoke, hold lighted tobacco or use or consume vapour products:
 - (i) in an enclosed public place; or
 - (ii) within a prescribed distance from a doorway, window or air intake of an enclosed public place.

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- (2) Subsection (1) does not apply to the following:
- (a) a separate enclosed ventilated place that:
 - (i) is within:
 - (A) a facility designated as a special-care home pursuant to *The Provincial Health Authority Act*; or
 - (B) a personal care home as defined in *The Personal Care Homes Act* that offers care and accommodation to more than 10 persons; and
 - (ii) meets the prescribed requirements;
 - (b) a child care facility that is a group family child care home or a licensed family child care home during the times that no child care services are being provided in the facility;
 - (c) an enclosed public place while it is being used with the consent of the proprietor for traditional Aboriginal spiritual or cultural practices or ceremonies, if the use of tobacco or tobacco-related products is an integral part of the traditional Aboriginal spiritual or cultural practices or ceremonies being carried out in the place or premises;
 - (d) the place of business of a retailer of vapour products while the place of business is being used for the purpose of sampling a vapour product by a person who intends to purchase a vapour product from the retailer, but only if:
 - (i) no young persons are admitted to the place of business;
 - (ii) the place of business is not subject to a permit issued pursuant to *The Alcohol and Gaming Regulation Act, 1997* or the regulations made pursuant to that Act;
 - (iii) the place of business is fully enclosed by floor-to-ceiling walls, a ceiling and doors that separate the place of business from all adjacent areas in which the use of vapour products is prohibited; and
 - (iv) the proprietor of the place of business has taken reasonable steps to minimize the drifting of vapour from the place of business to areas in which the use of vapour products is prohibited;
 - (e) any prescribed place, premises or vehicle.
- (3) The proprietor of a retailer of vapour products and any employee of the retailer may use vapour products inside the retailer's place of business, but only:
- (a) for the purposes of sampling the vapour products for the purpose of sale; and
 - (b) when the retailer is not open to the public.

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“Proprietors to prohibit contraventions

11.1(1) For the purposes of complying with section 11, every proprietor of a place or premises to which section 11 applies shall ensure that:

- (a) subject to subsection (2), no ashtrays, matches, lighters or other things designed or used to facilitate smoking or vaping are provided in that place or premises; and
- (b) the signs required by section 13 are posted in accordance with that section.

(2) The prohibition in clause (1)(a) respecting ashtrays and lighters does not apply to a vehicle that is:

- (a) an enclosed public place; and
- (b) equipped by the manufacturer with ashtrays and lighters.

(3) If a person is contravening section 11, the proprietor shall:

- (a) inform the person that the person is committing an offence;
- (b) request the person to immediately:
 - (i) in the case of a school or independent school:
 - (A) stop smoking, using or consuming tobacco or holding lighted tobacco and to immediately extinguish any lighted tobacco; or
 - (B) stop vaping or using or consuming vapour products;
 - (ii) in the case of an enclosed public space:
 - (A) stop smoking or holding lighted tobacco and to immediately extinguish any lighted tobacco; or
 - (B) stop vaping or using or consuming vapour products; and
- (c) refuse to provide the person with any good or service that the proprietor customarily provides in that place or premises until the person ceases contravening section 11”.

Section 15 amended

8 Section 15 is amended by adding “11.1,” after “section 10.1, 11,”.

Section 16 amended

9 Subsection 16(2) is amended by striking out “his or her” and substituting “the tobacco enforcement officer’s”.

Section 17 amended

10(1) Subclause 17(2)(j)(i) is amended by striking out “his or her” and substituting “the person’s”.

(2) Subsection 17(4) is amended by adding “a child care facility that is” after “may enter”.

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Section 20 amended

11 Subsection 20(2) is amended by striking out “18 years” and substituting “19 years”.

New section 22

12 Section 22 is repealed and the following substituted:

“Convictions pursuant to *Tobacco and Vaping Products Act* (Canada)

22 If a retailer is convicted of an offence arising from a contravention of section 8 of the *Tobacco and Vaping Products Act* (Canada), the conviction pursuant to the *Tobacco and Vaping Products Act* (Canada) is deemed to be a conviction pursuant to subsection 20(1) for the purposes of determining any applicable penalty pursuant to subsection 20(1) or 23(2) for a contravention of section 4”.

Section 24 amended

13 Section 24 is amended:

(a) in the portion preceding clause (a) by striking out “subsection 23(1)” and substituting “subsection 23(2)”;

(b) in clause (a) by striking out “subclause 23(1)(a)(i)” and substituting “subclause 23(2)(a)(i)”;

(c) in clause (b) by striking out “subclause 23(1)(a)(ii)” and substituting “subclause 23(2)(a)(ii)”; and

(d) in clause (c) by striking out “subclause 23(1)(a)(iii)” and substituting “subclause 23(2)(a)(iii)”.

Section 25 amended

14 Subsection 25(2) is amended by striking out “12,”.

Section 30 amended

15 Section 30 is amended:

(a) by repealing clauses (a.01) to (b) and substituting the following:

“(a.01) prescribing other products or devices as e-cigarettes;

“(a.1) prescribing other buildings, places, facilities or vehicles or any class of buildings, places, facilities or vehicles as enclosed public places;

“(a.2) for the purposes of little cigars:

(i) prescribing any other weight for a tobacco product mentioned in subclause (b)(i) of the definition of ‘little cigar’;

(ii) prescribing other tobacco products as little cigars;

“(b) prescribing other products as a tobacco-related products”; and

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(b) by repealing clauses (g.1) to (i) and substituting the following:

“(g.1) for the purposes of subclause 11(1)(b)(ii), prescribing a distance from a doorway, window or air intake of an enclosed public place;

“(h) for the purposes of clause 11(2)(a), prescribing requirements for separate enclosed ventilated places within special-care homes or personal care homes;

“(i) for the purposes of clause 11(2)(e), prescribing places, premises or vehicles to which subsection 11(1) does not apply”.

Coming into force

16 This Act comes into force by order of the Lieutenant Governor in Council.

FOURTH SESSION

Twenty-ninth Legislature

SASKATCHEWAN

BILL

No. 147

An Act to amend *The Tobacco and Vapour Products
Control Act*

Received and read the

First time

Second time

Third time

And passed

Honourable Everett Hindley
