

BILL

No. 182

An Act to amend *The Tobacco Control Act* and to make consequential amendments to other Acts

(Assented to)

HER 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 Control Amendment Act, 2019*.

SS 2001, c T-14.1 amended

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

New long title

3 **The long title is struck out and the following substituted:**

“An Act to Control the Sale and Use of Tobacco, Tobacco-related Products and Vapour Products and to make consequential amendments to certain other Acts”.

Section 1 amended

4 **Section 1 is amended by striking out “*The Tobacco Control Act*” and substituting “*The Tobacco and Vapour Products Control Act*”.**

Section 2 amended

5 **Section 2 is amended:**

(a) **by adding the following clauses before clause (b):**

“(a.1) **‘e-cigarette’** means all or any of the following:

(i) 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;

(ii) a prescribed product or device similar in nature or use to a product or device described in subclause (i);

“(a.2) **‘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”;

(b) by adding the following clauses after clause (b):

“(b.1) **‘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);

“(b.2) **‘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”;

(c) in clause (g) by striking out “or tobacco-related products” and substituting “, tobacco-related products or vapour products”; and

(d) by adding the following clause after clause (k):

“(k.1) **‘vapour product’** means any or all of the following:

- (i) an e-cigarette;
- (ii) an e-substance;
- (iii) a cartridge for or a component of an e-cigarette”.

New section 4

6 Section 4 is repealed and the following substituted:

“Providing tobacco etc. to young persons prohibited

4(1) No person shall provide tobacco, a tobacco-related product or a vapour product to a young person.

(2) No person shall provide tobacco, a tobacco-related product or a vapour product to a person who appears to be a young person unless the person produces, as proof that the person is 18 years of age or older:

- (a) a photo identification card that forms part of a Saskatchewan driver’s licence;
- (b) a Canadian passport;
- (c) a certificate of Canadian citizenship that contains the person’s photograph;
- (d) a Canadian Forces identification card;
- (e) any other document that:
 - (i) is issued by the government of a province or territory of Canada, the Government of Canada or the government of a foreign country or state; and
 - (ii) contains the person’s photograph, date of birth and signature; or
- (f) a prescribed document.

(3) No person shall provide tobacco, a tobacco-related product or a vapour product to a person who produces a document mentioned in subsection (2) as proof that the person is 18 years of age or older if it appears that the document has been altered.

(4) Nothing in this section prevents a legal custodian of a young person from providing tobacco, a tobacco-related product or a vapour product to the young person in a place other than a public place or a place to which the public ordinarily has access.

(5) Nothing in this section prevents a person from giving tobacco or a tobacco-related product to a young person if the gift is made solely for use in traditional Aboriginal spiritual or cultural practices or ceremonies”.

New sections 5.1 and 5.2

7 The following sections are added after section 5:

“Sale of certain flavoured tobacco products prohibited

5.1 No person shall sell a prescribed flavoured tobacco product.

“Sale of certain flavoured vapour products prohibited

5.2(1) Subject to subsection (2), no person shall sell a flavoured vapour product.

(2) Subsection (1) does not apply to:

- (a) a prescribed flavoured vapour product; and
- (b) a prescribed person or class of persons”.

New section 6

8 Section 6 is repealed and the following substituted:

“Certain sales promotion practices prohibited

6(1) Subject to subsection (6), no person shall advertise or promote tobacco, tobacco-related products or vapour products in any place or premises in which tobacco, tobacco-related products or vapour products are sold if young persons are permitted access to the place or premises.

(2) No person shall advertise or promote tobacco, tobacco-related products or vapour products by means of an advertisement or promotional material placed in the windows of any place or premises in which tobacco, tobacco-related products or vapour products are sold if the advertisement or promotional material is placed so that it is visible from the outside of the place or premises.

(3) No retailer shall permit tobacco, tobacco-related products or vapour products to be displayed in the retailer’s business premises so that the tobacco, tobacco-related products or vapour products are visible to the public if young persons are permitted access to those premises.

(4) No retailer shall permit tobacco, tobacco-related products or vapour products to be displayed in the retailer’s business premises so that the tobacco, tobacco-related products or vapour products are visible to the public from the outside of the premises.

(5) No person shall advertise or promote tobacco, tobacco-related products or vapour products on an outdoor sign of any type, including:

- (a) a billboard or portable sign; or
- (b) a sign on a bench, vehicle, building or other structure.

(6) A place or premises mentioned in subsection (1) may display a sign that lists the tobacco, tobacco-related products or vapour products offered for sale and the prices of the tobacco, the tobacco-related products and vapour products, if the sign complies with any prescribed requirements”.

Section 7 amended**9(1) Subsection 7(1) is repealed and the following substituted:**

“(1) No person shall, at any place or premises in which tobacco, tobacco-related products or vapour products are sold at retail, display any sign respecting the legal age to purchase tobacco, tobacco-related products or vapour products in Saskatchewan or health warnings respecting tobacco, tobacco-related products or vapour products unless the sign:

- (a) is a sign supplied or approved by the ministry; or
- (b) is otherwise authorized pursuant to the *Tobacco and Vaping Products Act (Canada)*”.

(2) Subsection 7(2) is repealed and the following substituted:

“(2) No retailer shall fail to display in the retailer’s premises any sign supplied by the ministry respecting the legal age to purchase tobacco, tobacco-related products or vapour products in Saskatchewan or health warnings respecting tobacco, tobacco-related products or vapour products”.

Section 8 amended**10 Section 8 is amended:**

(a) in the portion preceding clause (a) by striking out “or tobacco-related products” and substituting “, tobacco-related products or vapour products”; and

(b) in subclause (f.1)(i) by striking out “department as defined in *The Government Organization Act*” and substituting “ministry as defined in *The Executive Government Administration Act*”.

Section 9 amended**11(1) Subsection 9(2) is amended:**

(a) in clause (a) by striking out “or tobacco-related products” and substituting “, tobacco-related products or vapour products”; and

(b) in clause (b) by striking out “or tobacco-related products” and substituting “, tobacco-related products or vapour products”.

(2) Subsection 9(3) is amended in the portion preceding clause (a) by striking out “or tobacco-related products” and substituting “, tobacco-related products or vapour products”.

Section 10.1 amended

12 Subsection 10.1(1) is amended by striking out “or hold lighted tobacco” and substituting “, hold lighted tobacco or use or consume vapour products”.

Section 11 amended**13(1) Subsection 11(2) is amended:**

(a) in clause (a) by striking out “or hold lighted tobacco” and substituting “hold lighted tobacco or use or consume vapour products”; and

(b) in clause (b) in the portion preceding subclause (i) by striking out “or hold lighted tobacco” and substituting “, hold lighted tobacco or use or consume vapour products”.

(2) The following clause is added after clause 11(3)(c):

“(c.1) subject to subsection (4), in the case of a retailer of vapour products, the retailer’s place of business, but only:

- (i) if no young persons are admitted to the place of business;
- (ii) subject to subsection (5), for the purposes of sampling a vapour product by persons who intend to purchase a vapour product from the retailer;
- (iii) if the retailer’s place of business is fully enclosed by floor-to-ceiling walls, a ceiling and doors that separate that place of business from any adjacent area in which the use of vapour products is prohibited; and
- (iv) if the proprietor of a retailer of vapour products where the use of vapour products is permitted pursuant to this Act and the regulations has taken reasonable steps to minimize the drifting of vapour into areas where the use of vapour products is prohibited”.

(3) The following subsections are added after subsection 11(3):

“(4) 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.

“(5) Subclause (3)(c.1)(ii) does not apply in the case of a retailer whose place of business is a permitted premises as defined in *The Alcohol and Gaming Regulation Act, 1997*”.

Section 11.1 amended**14 Clause 11.1(3)(a) is repealed and the following substituted:**

“(a) request the person to immediately:

- (i) stop smoking or holding lighted tobacco and to immediately extinguish the lighted tobacco;
- (ii) stop using or consuming vapour products; or
- (iii) 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 using or consuming vapour products”.

Section 13 amended

15(1) Subsection 13(1) is amended by striking out “or holding lighted tobacco” and substituting “, holding lighted tobacco or using or consuming vapour products”.

(2) Subsection 13(2) is amended by striking out “or holding lighted tobacco,” and substituting “holding lighted tobacco or using or consuming vapour products”.

Section 17 amended**16 Subsection 17(2) is amended:****(a) by repealing clause (a) and substituting the following:**

“(a) subject to subsections (3) and (4), at any reasonable time, enter and inspect any place or premises where:

(i) tobacco, tobacco-related products or vapour products are sold at retail or wholesale;

(ii) vending machines that dispense or are capable of dispensing tobacco, tobacco-related products or vapour products are located;

(iii) the sale of tobacco, tobacco-related products or vapour products is prohibited pursuant to this Act; or

(iv) smoking, using or consuming tobacco, holding lighted tobacco or using or consuming vapour products is prohibited pursuant to this Act”;

(b) in clause (c) by striking out “or tobacco-related products” and substituting “, tobacco-related products or vapour products”;

(c) in clause (g) by striking out “or tobacco-related products” and substituting “, tobacco-related products or vapour products”;

(d) in clause (h) by striking out “or tobacco-related products” and substituting “, tobacco-related products or vapour products”;

(e) by repealing clause (i) and substituting the following:

“(i) seize all or any of the following:

(i) tobacco, tobacco-related products or vapour products;

(ii) a vending machine that is capable of dispensing tobacco, tobacco-related products or vapour products;

(iii) the contents of a vending machine that is capable of dispensing tobacco, tobacco-related products or vapour products;

(iv) any other substance or thing that a tobacco enforcement officer believes, on reasonable grounds, constitutes evidence of a contravention of this Act or the regulations”; **and**

(f) in the portion of clause (j) preceding subclause (i) by striking out “or tobacco-related products” and substituting “, tobacco-related products or vapour products”.

Section 20 amended

17(1) Subsection 20(1) is amended in the portion preceding clause (a) by striking out “section 4, 5, 6, 7, 8 or 9” and substituting “section 4, 5, 5.1, 5.2, 6, 7, 8 or 9”.

(2) Subsection 20(2) is amended by striking out “or a tobacco-related product” and substituting “, a tobacco-related product or a vapour product”.

Section 23 amended**18(1) Subsection 23(2) is amended:**

(a) **in the portion of clause (a) preceding subclause (i) by striking out “or tobacco-related products” and substituting “, tobacco-related products or vapour products”; and**

(b) **in subclause (b)(ii) by striking out “or tobacco-related products” and substituting “, tobacco-related products or vapour products”.**

(2) Subsection 23(4) is amended by striking out “or tobacco-related products” and substituting “, tobacco-related products or vapour products”.

New section 28**19 Section 28 is repealed and the following substituted:****“Evidence**

28 In a prosecution for an offence pursuant to this Act, the trial judge may infer that any substance or object in question is tobacco, a tobacco-related product or a vapour product within the meaning of this Act from the fact that a witness describes it as tobacco, a tobacco-related product or a vapour product or by a name that is commonly applied to tobacco, a tobacco-related product or a vapour product”.

Section 29 amended

20 Subsection 29(1) is amended by striking out “or tobacco-related products” and substituting “, tobacco-related products or vapour products”.

Section 30 amended**21 Section 30 is amended:**

(a) **by adding the following clause after clause (a):**

“(a.01) for the purposes of clause 2(a.1), prescribing products or devices as vapour products”;

(b) **by adding the following clauses after clause (c.1):**

“(c.11) for the purposes of section 5.1, prescribing prohibited flavoured tobacco products;

“(c.12) for the purposes of section 5.2:

(i) prescribing prohibited flavoured vapour products to which subsection 5.2(1) does not apply;

(ii) prescribing persons or classes of person to whom subsection 5.2(1) does not apply”;

(c) **in clause (c.13) by striking out “or tobacco-related products” and substituting “, tobacco-related products or vapour products”; and**

(d) **in clause (d) by striking out “or tobacco-related products” and substituting “, tobacco-related products or vapour products”.**

SS 1994, c P-37.1 amended

22(1) *The Public Health Act, 1994* is amended in the manner set forth in this section.

(2) Subsection 46(3) is amended by striking out “or tobacco-related products as defined in *The Tobacco Control Act*” **and substituting** “, tobacco-related products or vapour products as defined in *The Tobacco and Vapour Products Control Act*”.

(3) Subsection 47(3) is amended by striking out “or tobacco-related products as defined in *The Tobacco Control Act*” **and substituting** “, tobacco-related products or vapour products as defined in *The Tobacco and Vapour Products Control Act*”.

(4) Subsection 48(3) is amended by striking out “or tobacco-related products as defined in *The Tobacco Control Act*” **and substituting** “, tobacco-related products or vapour products as defined in *The Tobacco and Vapour Products Control Act*”.

SS 2010, c 34 amended

23(1) Clauses 2(b.1) and (b.2) of *The Tobacco Control Act*, as enacted by clause 3(c) of *The Tobacco Control Amendment Act, 2010*, are repealed.

(2) Sections 5.1 and 5.2 of *The Tobacco Control Act*, as enacted by section 5 of *The Tobacco Control Amendment Act, 2010*, are repealed.

(3) Subsection 6(7) of *The Tobacco Control Act*, as enacted by subsection 6(2) of *The Tobacco Control Amendment Act, 2010*, is repealed.

(4) The amendment to subsection 20(1) of *The Tobacco Control Act*, as enacted by section 15 of *The Tobacco Control Amendment Act, 2010*, is repealed.

(5) Clauses 30(c.11), (c.12) and (c.14) of *The Tobacco Control Act*, as enacted by clause 17(b) of *The Tobacco Control Amendment Act, 2010*, are repealed.

Coming into force

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

FOURTH SESSION
Twenty-eighth Legislature
SASKATCHEWAN

B I L L

No. 182

An Act to amend *The Tobacco Control Act* and to
make consequential amendments to other Acts

Received and read the

First time

Second time

Third time

And passed

Honourable Jim Reiter
