

PROVINCE OF BRITISH COLUMBIA
ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No.

826

Approved and Ordered NOV 26 2007



~~Lieutenant Governor~~
Administrator

Executive Council Chambers, Victoria

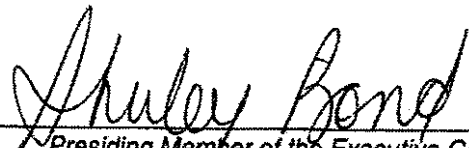
On the recommendation of the undersigned, the ~~Lieutenant Governor~~ ^{Administrator}, by and with the advice and consent of the Executive Council, orders that, effective March 31, 2008,

- 1 The following provisions of the Tobacco Sales (Banning Tobacco and Smoking in Public Places) Amendment Act, 2007, S.B.C. 2007, c. 12, are brought into force:
 - (a) section 3, insofar as it enacts sections 2.1, 2.3 and 2.4 of the Tobacco Control Act, R.S.B.C. 1996, c. 1996, c. 451;
 - (b) section 4;
 - (c) section 5 (a).

- 2 The Tobacco Control Regulation, B.C. Reg. 232/2007, is amended as set out in the attached Schedule.



Minister of Health



Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section:- Tobacco Sales (Banning Tobacco and Smoking in Public Places) Amendment Act, 2007, S.B.C. 2007, c. 12, section 13

Tobacco Control Act, R.S.B.C. 1996, c. 1996, c. 451, s. 2.1, 2.3, 2.4, 11 (2) (a), (j), (3), (4).

Other (specify):- oic 478/2007

October 30, 2007

R 1111/2004/3

SCHEDULE

- 1 *The Tobacco Control Regulation, B.C. Reg. 232/2007, is amended by adding the following headings before section 1:*

PART 1 – DEFINITIONS AND PROHIBITIONS

Division 1 – Definitions .

- 2 *The following heading is added before section 2:*

Division 2 – General Prohibitions .

- 3 *The following Division is added after section 4:*

Division 3 – Specific Prohibitions

Definitions respecting where tobacco not to be sold

- 4.1 For the purposes of section 2.1 of the Act:

“**building or structure**” includes part of a building or structure;

“**campus**” means property or part of a property that is

- (a) owned or leased by, or operated under the authority of, a public university or other public post-secondary institution, and
- (b) used primarily for the purposes of
 - (i) delivering educational programs or other learning programs,
 - (ii) research,
 - (iii) providing student services, or
 - (iv) providing services by affiliated student organizations,

and includes real property and improvements, personal property and, if the property includes common areas between improvements, the common areas;

“**public body**” means the following bodies:

- (a) a municipality;
- (b) a regional district;
- (c) the trust council, the executive committee, a local trust committee and the trust fund board, as these are defined in the *Islands Trust Act*;
- (d) a library board as defined in the *Library Act*;
- (e) any board, committee, commission, panel, agency or corporation that is created or owned by a body referred to in paragraphs (a) to (d) and all the members or officers of which are appointed or chosen by or under the authority of that body;
- (f) the Park Board referred to in section 485 of the *Vancouver Charter*.

Exemptions respecting where tobacco not to be sold

4.11 The following classes of places are exempt from section 2.1 of the Act:

- (a) land, or a building or structure, that is used by health care providers to deliver health care services, but is not owned or leased by a regional health board under the *Health Authorities Act*;
- (b) space in a building or structure that is leased by
 - (i) the government, or
 - (ii) a Crown corporation or agency,but is sub-leased to a person who is not government or a Crown corporation or agency;
- (c) a building or structure that is owned or leased for investment purposes by a Crown corporation or agency, but is not used in conjunction with delivering a public service.

Interpretation respecting no smoking in or near certain places

- 4.2** (1) For the purposes of section 2.3 of the Act, a “workplace” means any place in which a person performs services in return for compensation, and includes any places that are used in conjunction with the workplace such as a bathroom, meeting room or building or structure used for taking breaks.
- (2) If a workplace is located in a private dwelling, section 2.3 of the Act applies during any period in which a person performs services in return for compensation.
- (3) For the purposes of section 2.3 of the Act, a building, structure, vehicle or any other place is fully or substantially enclosed if
- (a) it has a roof or other covering, and
 - (b) more than 50% of the nominal wall space is enclosed by any material that does not permit air to flow easily through it.
- (4) For the purposes of subsection (3), the “nominal wall space” is the area determined by calculating the length, in metres, of the perimeter of the building, structure, vehicle or place, and multiplying it by 2.7 metres.

Other places where smoking not permitted

4.21 For the purposes of section 2.3 (1) (a) (iii) of the Act, the following places are prescribed as places in which a person must not smoke tobacco or hold lighted tobacco:

- (a) common areas of apartment buildings, condominiums and dormitories;
- (b) transit shelters.

No smoking near doorways, windows or air intakes

4.22 (1) For the purposes of section 2.3 (1) (b) of the Act, the prescribed distance from a doorway, window or air intake in which a person must not smoke tobacco, or hold lighted tobacco, is 3 metres.

- (2) A transit shelter is exempt from section 2.3 (1) (b) of the Act.

- (3) A patio used in conjunction with a public place is exempt from section 2.3 (1) (b) of the Act if all of the following conditions are met:
- (a) the predominant use of the public place is
 - (i) to sell either food or beverages, or both, including alcoholic beverages, or
 - (ii) as a casino or bingo hall;
 - (b) the patio is not fully or substantially enclosed within the meaning of section 4.2 (3) of this regulation;
 - (c) any doorway between the patio and the public place is closed at all times while the patio is in use, except when used for entering or exiting the patio;
 - (d) any window or air intake between the patio and the public place is closed at all times while the patio is in use.
- (4) A manager, owner or lessee of, or an employer at, a public place is exempt from liability under section 2.3 (3) or (4) of the Act, as applicable, in respect of any portion of the 3 metre area described in subsection (1) of this section over which the manager, owner, lessee or employer has no control, if a person smokes tobacco or holds lighted tobacco within that portion but that person is not
- (a) in the control of the manager, owner or lessee, or
 - (b) an employee of the employer.

Exemptions from smoking bans

- 4.23** (1) In this section, “**person in care or resident**” means a person who is
- (a) a person in care or a resident within the meaning of the *Community Care and Assisted Living Act*, or
 - (b) a patient of
 - (i) a hospital providing extended care within the meaning of paragraph (c) of the definition of “hospital” in section 1 of the *Hospital Act*, or
 - (ii) a private hospital within the meaning of Part 2 of that Act.
- (2) The following persons are exempt from section 2.3 (1) (a) of the Act:
- (a) a person in care or resident who smokes tobacco, or holds lighted tobacco, in a room designated for tobacco use within a community care facility, assisted living residence or hospital;
 - (b) a person who is registered as a guest under the *Hotel Guest Registration Act*, if the guest is smoking tobacco, or holding lighted tobacco, in the room or building in which the guest and the guest’s party, if any, have been assigned exclusive accommodation.

Definitions for sections 4.31 to 4.32

4.3 In sections 4.31 to 4.32:

“**minor**” means a person who is under 19 years of age;

“**retail establishment**” means the location at which a retailer deals in, sells, offers to sell or distributes tobacco.

Limits on advertising

- 4.31 (1) A retailer must not, on the premises of a retail establishment, display tobacco products, or advertise or promote the use of tobacco, in any manner by which the tobacco products or the advertisement or promotion
- (a) may reasonably be seen or accessed by a minor inside the retail establishment, or
 - (b) are clearly visible to a person outside the retail establishment.
- (2) For the purposes of subsection (1), “**advertise or promote the use of tobacco**” means to advertise or promote the use of tobacco by any means, including by
- (a) displaying on a sign, video, clothing or other tangible object
 - (i) the name of a tobacco brand or product manufacturer,
 - (ii) an abbreviation or other thing that would reasonably identify the name of a tobacco brand or product manufacturer, or
 - (iii) a graphic, design or symbol that is commonly associated with the name of a tobacco brand or product manufacturer, or
 - (b) making available any sign, video, clothing or other tangible object that displays any of the things set out in paragraph (a).

Some signs permitted

- 4.32 (1) Despite section 4.31, a retailer may advertise on the premises of a retail establishment the types of tobacco products for retail by means of a sign that meets all of the following criteria:
- (a) the sign must not be larger than 968 cm²;
 - (b) the background of the sign must be white only;
 - (c) the text of the sign must be black only;
 - (d) the letters in the text of the sign must not be higher than 5 cm;
 - (e) except for the “\$” symbol in front of a price, the sign must not contain any graphic or design, or any symbol that is not an alpha-numeric character;
 - (f) the sign must not include the name of a tobacco brand or product manufacturer;
 - (g) the sign must not include any abbreviation, or other thing that would reasonably identify the name of a tobacco brand or product manufacturer;
 - (h) the sign may advertise only
 - (i) the types of tobacco products for sale, and
 - (ii) the prices of, or a price range for, those types of tobacco products.
- (2) In respect of the signs described in subsection (1), a retailer must not do any of the following:
- (a) have a sign that contravenes any of the requirements of subsection (1);
 - (b) have more than 3 signs on the premises of the retail establishment, including more than one sign at each point-of-sale system.

4 The following heading is added before section 6:

PART 2 – ADMINISTRATIVE PENALTIES .

5 Section 6 (1) is amended by adding the following paragraph:

(a.1) section 2.4 [prohibitions on display or promotion of tobacco products]; .

6 Section 13 (1) (c) is amended by striking out “section 2 (2) or 2 (3) of the Act” and substituting “section 2 (2) or (3) or 2.4 of the Act”.

7 Schedule 2 is amended by adding, after item 4, the following item under the headings indicated:

Item	Contravention	Monetary Penalty		
		First Contravention	Second Contravention	Subsequent Contravention
	Advertising			
4.1	Breach of section 2.4 [displaying tobacco products, or advertising or promoting tobacco use, in a manner prohibited by the regulations] of the Act	\$0 – \$3 000	\$1 000 – \$4 000	\$4 000 – \$5 000

7 Schedule 3 is amended by adding, after item 4, the following item under the headings indicated:

Item	Contravention	Prohibition Period (days)		
		First Contravention	Second Contravention	Subsequent Contravention
	Advertising			
4.1	Breach of section 2.4 [displaying tobacco products, or advertising or promoting tobacco use, in a manner prohibited by the regulations] of the Act	0 – 30	30 – 90	90 – 180