



BILL NO. 233

Government Bill

*2nd Session, 63rd General Assembly
Nova Scotia
69 Elizabeth II, 2020*

**An Act to Amend Chapter 12
of the Acts of 2002,
the Smoke-free Places Act,
and Chapter 14 of the Acts of 1993,
the Tobacco Access Act**

CHAPTER 18
ACTS OF 2020

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
MARCH 10, 2020**

The Honourable Randy Delorey
Minister of Health and Wellness

*Halifax, Nova Scotia
Printed by Authority of the Speaker of the House of Assembly*

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**An Act to Amend Chapter 12
of the Acts of 2002,
the Smoke-free Places Act,
and Chapter 14 of the Acts of 1993,
the Tobacco Access Act**

Be it enacted by the Governor and Assembly as follows:

SMOKE-FREE PLACES ACT

1 Section 2 of Chapter 12 of the Acts of 2002, the *Smoke-free Places Act*, as amended by Chapter 59 of the Acts of 2005, Chapter 58 of the Acts of 2014, Chapter 3 of the Acts of 2018 and Chapter 9 of the Acts of 2019, is further amended by adding immediately after clause (ea) the following clause:

(eb) “patio” means an outdoor area that is used or operated as part of, or in conjunction with, a restaurant or a place licensed to serve alcoholic beverages;

2 (1) Subsection 5(3) of Chapter 12 is repealed and the following subsection substituted:

(3) No person shall smoke on a patio.

(2) Subsection 5(3A) of Chapter 12, as enacted by Chapter 59 of the Acts of 2005, is amended by

(a) **striking out “an outdoor area referred to in subsection (3)” in the second and third lines and substituting “a patio”; and**

(b) **striking out “in that area” in the last line and substituting “on that patio”.**

3 (1) Subsection 11(1) of Chapter 12 is amended by adding “or electronic cigarettes” immediately after “tobacco” in the second line.

(2) Subsection 11(2) of Chapter 12 is amended by adding “or electronic cigarettes” immediately after “tobacco” in the third and in the fourth lines.

(3) Subsection 11(3) of Chapter 12 is amended by adding “or electronic cigarettes” immediately after “tobacco” in the first line of clause (b).

(4) Section 11 of Chapter 12, as amended by Chapter 59 of the Acts of 2005, is further amended by adding immediately after subsection (6) the following subsection:

(6A) An item forfeited under subsection (6) may be disposed of as the Minister directs.

(5) Subsection 11(8) of Chapter 12 is amended by adding “or electronic cigarettes” immediately after “tobacco” in the second and in the fifth lines.

TOBACCO ACCESS ACT

4 Section 3 of Chapter 14 of the Acts of 1993, the *Tobacco Access Act*, as amended by Chapter 12 of the Acts of 1999, Chapter 58 of the Acts of 2014 and Chapter 26 of the Acts of 2015, is further amended by

(a) striking out “being flavoured” in the second line of subclause (ba)(ii) and substituting “having a characterizing flavour”; and

(b) striking out clause (e) and substituting the following clause:

(e) “tobacco” means tobacco in any form, intended to be consumed in any manner, and, for greater certainty, includes snuff, tobacco leaves, any extract of tobacco leaves and electronic cigarettes, but does not include any food, drug or device that contains nicotine to which the *Food and Drugs Act* (Canada) applies;

5 Section 7 of Chapter 14, as amended by Chapter 12 of the Acts of 1999 and Chapter 26 of the Acts of 2015, is further amended by

(a) striking out “or” at the end of clause (c);

(b) striking out the period at the end of clause (d) and substituting a semicolon; and

(c) adding immediately after clause (d) the following clauses:

(e) tobacco with a nicotine concentration above the amount prescribed in the regulations; or

(f) an electronic cigarette with a capacity above the amount prescribed in the regulations.

6 Chapter 14 is further amended by adding immediately after Section 10 the following Sections:

10A (1) An enforcement officer may seize without a warrant any thing that is produced to the enforcement officer or that is in plain view during an inspection that the enforcement officer believes may be used as evidence of an offence.

(2) An enforcement officer may remove the thing seized or detain it in the place where it is seized.

(3) An enforcement officer shall inform the person from whom the thing was seized of the reason for the seizure and shall give the person a receipt for it.

(4) Any thing seized pursuant to this Act or the regulations that is illegal to possess by the person from whom the thing was seized is forfeited to Her Majesty in right of the Province.

(5) Where a person is convicted of an offence under this Act, in addition to any penalty imposed, any thing seized pursuant to this Act or the regulations by means of or in relation to which the offence was committed is forfeited to Her Majesty in right of the Province.

(6) Any thing forfeited to Her Majesty in right of the Province pursuant to subsection (4) or (5) may be disposed of as the Minister directs.

10B A vendor or employee of a vendor shall

(a) give an enforcement officer all reasonable assistance to enable the enforcement officer to exercise the enforcement officer's powers and duties under this Act or the regulations; and

(b) furnish all information relative to the exercise of those powers and duties that the enforcement officer may reasonably require.

10C (1) Where an enforcement officer finds that a vendor or an employee of a vendor is not complying with a provision of this Act or the regulations, the enforcement officer may order the vendor or the employee of a vendor to comply with the provision and may require the order to be carried out immediately or within such period of time as the enforcement officer specifies.

(2) An order made pursuant to subsection (1) must indicate, generally, the nature and, where appropriate, the location of the non-compliance with this Act or the regulations.

7 Section 12 of Chapter 14, as amended by Chapter 12 of the Acts of 1999, Chapter 58 of the Acts of 2014 and Chapter 26 of the Acts of 2015, is further amended by adding immediately after subsection (4) the following subsections:

(5) In a prosecution for a contravention of clause (e) of Section 7, an indication on a container or package of tobacco of the nicotine concentration of the tobacco is proof, in the absence of evidence to the contrary, of the nicotine concentration of the tobacco.

(6) In a prosecution for a contravention of clause (f) of Section 7, an indication on an electronic cigarette or the packaging of an electronic cigarette of the maximum capacity of the electronic cigarette is proof, in the absence of evidence to the contrary, of the maximum capacity of the electronic cigarette.

8 Subsection 13(1) of Chapter 14, as amended by Chapter 47 of the Acts of 2006 and Chapter 26 of the Acts of 2015, is further amended by adding immediately after clause (ab) the following clauses:

(aba) prescribing a maximum nicotine concentration for tobacco, including different maximum concentrations for different forms of tobacco;

(abb) prescribing a maximum capacity for electronic cigarettes or components thereof, including different maximum capacities for different types or components of electronic cigarettes;

EFFECTIVE DATE

9 This Act has effect on and after April 1, 2020.
