

# **Tobacco Access Act**

CHAPTER 14 OF THE ACTS OF 1993

*as amended by*

1999, c. 12; 2006, c. 47; 2014, c. 58, ss. 2, 3; 2015, c. 26



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CHAPTER 14 OF THE ACTS OF 1993  
amended 1999, c. 12; 2006, c. 47; 2014, c. 58, ss. 2, 3; 2015, c. 26

**An Act to Restrict the Access to  
Tobacco and Tobacco Products**

title amended 1999, c. 12, s. 1.

**NOTE** - Section 8 of this Act is subject to proclamation. See Section 14.

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(The table of contents is not part of the statute)

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**Short title**

**1** This Act may be cited as the *Tobacco Access Act*. 1993, c. 14, s. 1.

**Purpose of Act**

**2** The purpose of this Act is to protect the health of Nova Scotians, and in particular young persons, by

- (a) restricting their access to tobacco and tobacco products; and
- (b) protecting them from inducements to use tobacco,

in light of the risks associated with the use of tobacco. 1993, c. 14, s. 2; 1999, c. 12, s. 2.

**Interpretation**

3 In this Act,

(a) “electronic cigarette” means a vaporizer or inhalant-type device, whether called an electronic cigarette or any other name, containing a power source and heating element designed to heat a substance and produce a vapour intended to be inhaled and includes all components used in conjunction with the device, including the e-liquid, cartridge and any other component that may be sold separately from the device itself;

(aa) “employee” of a vendor includes any servant or agent of the vendor;

(b) “enforcement officer” means a person designated pursuant to this Act as an enforcement officer and includes a member of a municipal police force within the meaning of the *Police Act* and a member of the Royal Canadian Mounted Police;

(ba) “flavoured tobacco” means tobacco that

(i) has a characterizing scent or flavour, other than tobacco, that is noticeable before or during use, or both,

(ii) by its packaging, labelling, advertising or otherwise, is represented as being flavoured, or

(iii) is designated under the regulations as being flavoured,

but does not include tobacco exempted by the regulations;

(c) “Minister” means the Minister of Health;

(ca) “pharmacy” means a pharmacy as defined by the *Pharmacy Act*;

(d) “self-service tobacco display” means a retail display of tobacco or tobacco products where a customer has access to the tobacco or tobacco products without the intervention of the vendor or an employee of the vendor;

(e) “tobacco” means tobacco as defined by the *Revenue Act* and electronic cigarettes;

(f) “tobacco product” means a cigarette paper, cigarette tube, cigarette filter, cigarette maker, cigarette holder or pipe;

(g) “tobacco vending machine” includes any automatic machine that dispenses tobacco, or a tobacco product whether or not the machine dispenses any other product;

(h) “vendor” means a vendor within the meaning of the *Revenue Act*. 1993, c. 14, s. 3; 1999, c. 12, s. 3; 2014, c. 58, s. 2; 2015, c. 26, s. 1.

**Enforcement officers**

4 The Minister may designate persons or classes of persons to act as enforcement officers for the purpose of this Act and the regulations. 1993, c. 14, s. 4.

**Prohibitions**

**5** (1) No vendor or employee of a vendor shall sell or give tobacco or a tobacco product to a person under the age of nineteen years.

(2) No person shall

(a) purchase tobacco or a tobacco product on behalf of, or for the purpose of resale; or

(b) give tobacco or a tobacco product,

to a person under the age of nineteen years.

(2A) No vendor or employee of a vendor that displays tobacco or tobacco products in an establishment shall permit any person under the age of nineteen years to enter or be in that establishment.

(3) It is not a defence to a prosecution pursuant to subsection (1) for the vendor or other person to show that the person under the age of nineteen years appeared to be above that age.

(4) A vendor or an employee of a vendor shall require a person appearing to the vendor or employee to be under the age of nineteen years to provide proof of age before selling tobacco to that person and to carry out such procedures as may be prescribed by the regulations. 1993, c. 14, s. 5; 1999, c. 12, s. 4; 2006, c. 47, s. 1.

**Vending machines and displays**

**6** No person shall locate on any premises or in any place accessible to the public, or have on any such premises or in any such place owned by or in the possession or control of that person, a tobacco vending machine or a self-service tobacco display. 1993, c. 14, s. 6.

**Prohibitions**

**7** No person shall sell or offer for sale

(a) cigarettes in packages of fewer than twenty cigarettes;

(b) unpackaged cigarettes;

(c) flavoured tobacco; or

(d) flavoured cigarette papers. 1999, c. 12, s. 5; 2015, c. 26, s. 2.

**Products appearing to be tobacco products**

**8** No person shall sell or offer for sale any product, including a confectionery, designed to appear as a cigarette or other form of tobacco or as a tobacco product. 1993, c. 14, s. 8.

**Signs and promotional materials**

**9 (1)** A vendor shall display signs in such form and manner and disclosing such information relating to the sale of tobacco and the effect of tobacco on health as may be prescribed by the regulations.

**(2)** No person shall display or permit the display of any sign or material promoting or advertising the sale of or otherwise respecting tobacco or tobacco products except as prescribed by the regulations. 1993, c. 14, s. 9; 2006, c. 47, s. 2.

**Packaging**

**9A** All packaging containing tobacco or tobacco products must comply with such conditions as may be prescribed by the regulations, including the content and form of information to be displayed on it. 2006, c. 47, s. 3.

**Displaying and storing**

**9AA (1)** No vendor or employee of a vendor shall display or permit the display of tobacco or tobacco products except as prescribed by the regulations.

**(2)** No vendor or employee of a vendor shall store tobacco or tobacco products except as prescribed by the regulations. 2006, c. 47, s. 3.

**Prohibition respecting pharmacy**

**9B** No person shall sell tobacco in

- (a) a pharmacy;
- (b) an establishment where goods or services are sold or offered for sale to the public if
  - (i) a pharmacy is located within the establishment, or
  - (ii) the customers of a pharmacy can pass into the establishment directly or by use of a corridor or area used exclusively to connect the pharmacy and the establishment; or
- (c) an establishment designated by the regulations. 1999, c. 12, s. 7; 2006, c. 47, s. 4.

**Powers of enforcement officer**

**10** For the purpose of enforcing this Act and the regulations, an enforcement officer may

- (a) make test purchases, or take samples of tobacco, a tobacco product or a product designed to appear as a cigarette or other form of tobacco or as a tobacco product;
- (b) investigate any complaint of a contravention of this Act or the regulations and examine a vendor or employee of a vendor to determine if a contravention has occurred;

(c) from time to time and at all reasonable times, enter upon the business premises of a vendor or any other person if it is reasonably necessary to do so in order to determine whether or not this Act and the regulations are being complied with;

(d) do any other thing for the purpose of enforcing this Act and the regulations. 1993, c. 14, s. 10.

#### **Limitation of liability**

**11** No action lies against a person by reason of that person reporting a contravention or alleged contravention of this Act or the regulations unless the reporting is done falsely and maliciously. 1993, c. 14, s. 11.

#### **Offence and penalties**

**12 (1)** Every vendor who contravenes or whose employee contravenes subsection (1) of Section 5 is guilty of an offence and liable on summary conviction to

(a) for a first offence, a fine not exceeding two thousand dollars;

(b) for a second offence, a fine not exceeding five thousand dollars; or

(c) for a third or subsequent offence, a fine not exceeding ten thousand dollars.

**(2)** Upon conviction of a vendor, or an employee of a vendor, for a contravention of subsection (1) of Section 5, the judge shall make an order prohibiting the vendor or a successor to the vendor's business, or an employee of the vendor or the successor, from selling tobacco from the premises at which the contravention took place or any premises to which the business is moved for

(a) in the case of a second offence, seven consecutive days;

(b) in case of third offence, not less than three consecutive months and not more than six consecutive months; and

(c) in the case of a fourth or subsequent offence, not less than twelve consecutive months and not more than twenty-four consecutive months.

**(3)** Subject to subsections (1) and (2) and Section 12A, every person who contravenes this Act or the regulations is guilty of an offence and liable on summary conviction to a fine not exceeding two thousand dollars.

**(4)** In a prosecution for a contravention of clause (c) or (d) of Section 7, an indication on a container or package that the contents of the container or package are flavoured tobacco or flavoured cigarette papers is proof, in the absence of evidence to the contrary, that the contents are flavoured tobacco or flavoured cig-

arette papers, as the case may be. 1993, c. 14, s. 12; 1999, c. 12, s. 8; 2014, c. 58, s. 3; 2015, c. 26, s. 3.

### **Offence and penalties respecting certain establishments**

**12A** Every vendor who contravenes or whose employee contravenes Section 9AA, every owner of a pharmacy or establishment where goods and services are sold or offered for sale to the public who contravenes or whose employee contravenes Section 9B and every establishment designated in the regulations that sells tobacco or tobacco products or whose employee sells tobacco or tobacco products in that establishment is guilty of an offence and liable on summary conviction to

- (a) for a first offence, a fine not exceeding two thousand dollars;
- (b) for a second offence, a fine not exceeding five thousand dollars; or
- (c) for a third offence or subsequent offence, a fine not exceeding ten thousand dollars. 1999, c. 12, s. 9; 2006, c. 47, s. 5.

### **Regulations**

- 13 (1)** The Governor in Council may make regulations
- (a) prescribing any matter that this Act authorizes to be prescribed by the regulations;
    - (aa) designating tobacco as flavoured tobacco;
    - (ab) exempting certain types and flavours of tobacco from the definition of “flavoured tobacco”;
    - (ac) designating establishments for the purpose of Section 9B;
    - (b) defining any word or expression used in this Act and not defined in this Act;
    - (c) further defining any word or expression defined in this Act;
    - (d) respecting any matter that the Governor in Council deems necessary or advisable to carry out the intent and purpose of this Act.

**(1A)** A regulation may apply to all vendors or to a class of vendors and there may be different regulations for different classes of vendors.

**(2)** The exercise by the Governor in Council of the authority contained in subsection (1) shall be regulations within the meaning of the *Regulations Act*. 1993, c. 14, s. 13; 2006, c. 47, s. 6; 2015, c. 26, s. 4.



**Proclamation**

**14** This Act comes into force on and not before such day as the Governor in Council orders and declares by proclamation. 1993, c. 14, s. 14.

Proclaimed (except Section 8) - March 29, 1994  
In force (except Section 8) - April 15, 1994

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