

1986, chapter 13

**AN ACT RESPECTING THE PROTECTION
OF NON-SMOKERS IN CERTAIN PUBLIC PLACES**

Bill 84

Introduced by Mr Clifford Lincoln, Minister of the Environment

Introduced 14 May 1986

Passage in principle 6 June 1986

Passage 18 June 1986

Assented to 18 June 1986

Coming into force: 1 January 1987

Act amended:

Railway Act (R.S.Q., chapter C-14)



CHAPTER 13

An Act respecting the protection of non-smokers in certain public places

[Assented to 18 June 1986]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

APPLICATION AND INTERPRETATION

Object **1.** The object of this Act is to regulate the use of tobacco in certain public places with a view to ensuring better protection for the health and well-being of non-smokers.

“smoking” **2.** In this Act, “smoking” means the fact of having lighted tobacco in one’s possession.

**Public
bodies** **3.** For the purposes of this Act, public bodies include government agencies, municipal bodies, school bodies and health and social services establishments.

**Public
bodies** For the purposes of this Act, the following persons and bodies are classified as public bodies: the Lieutenant-Governor, the National Assembly, any agency whose members are appointed by the National Assembly and any person appointed by the National Assembly to a position coming under its authority, together with the personnel under that person’s direction.

**Government
agencies** **4.** Government agencies include the Government, the Conseil exécutif, the Conseil du trésor, the departments, the agencies not referred to in section 5, 6 or 7 to which the Government or a minister appoints the majority of the members, to which, by law, the personnel

is appointed or remunerated in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1) or whose capital stock forms part of the public domain.

Government
agencies

For the purposes of this Act, the following bodies are classified as government agencies: the regional health and social service councils established under the Act respecting health services and social services (R.S.Q., chapter S-5) and the Corporation d'hébergement du Québec.

Municipal
bodies

5. Municipal bodies include local municipalities, whether incorporated by general law or special Act, regional county municipalities, the Communauté urbaine de Montréal, the Communauté urbaine de Québec, the Communauté régionale de l'Outaouais and the various bodies established as agencies of any of those municipalities or otherwise coming under their authority.

School
bodies

6. School bodies include the regional school boards, the school boards, the corporations of school trustees and the schools governed by the Education Act (R.S.Q., chapter I-14), the Conseil scolaire de l'Île de Montréal, the general and vocational colleges, and the University of Québec and its constituent universities, research institutes and superior schools.

School
bodies

School bodies also include the institutions declared to be of public interest or recognized for purposes of grants under the Act respecting private education (R.S.Q., chapter E-9) and institutions of higher education of which more than one-half of the operating expenditures are paid out of appropriations shown in the budget estimates laid before the National Assembly.

Health and
social serv-
ices estab-
lishments

7. Health and social services establishments include public establishments referred to in section 10 or 11 of the Act respecting health services and social services (R.S.Q., chapter S-5) and hospital centres that are private establishments under agreement within the meaning of the said Act.

CHAPTER II

PROTECTION OF NON-SMOKERS

DIVISION I

PUBLIC BODIES

Prohibition

8. In premises occupied by a government agency, a municipal body, a school body or any agency or body referred to in the second paragraph

of section 3 of which the agency or body is the owner or lessee, smoking is prohibited

(1) in a room or at a counter intended to provide services to persons who may be on the premises;

(2) in a library, a laboratory, a conference room, a classroom, or in a room where a seminar is being conducted;

(3) in an elevator;

(4) in any area designated by the person who is the highest authority within the public body.

Prohibition **9.** Smoking is prohibited in premises occupied by a health and social services establishment.

Exceptions Notwithstanding the foregoing, the prohibition does not apply to

(1) quarters restricted to the personnel;

(2) a smoking room;

(3) any area designated by the person who is the highest authority within the establishment.

Annual report **10.** A public body required by law to produce an annual report of activities shall, under a special heading, report on the application of this Act in the premises occupied by it.

Assessment In the report of the activities of his department that the Minister of the Environment tables every year before the National Assembly, the Minister shall present an assessment of the application of this Act by all public bodies.

Enforcement **11.** The person who is the highest authority within a public body shall take every appropriate measure to ensure that this Act is enforced in premises occupied by the public body.

Delegation The person contemplated in the first paragraph may, in writing and to the extent he indicates, delegate his functions to persons holding office within the public body.

DIVISION II

PUBLIC TRANSPORTATION

Ambulances, subway cars and school buses **12.** Smoking is prohibited in ambulances, in subway cars or in buses used for the transportation of schoolchildren or handicapped

persons, or in buses used for urban transportation or for transportation to and from airports.

Buses **13.** The operator of an intercity or tourist transportation service by bus shall provide, in the vehicles used to provide that service, a section reserved for non-smokers that includes not less than 70% of the seats placed at the disposal of the public.

Prohibition Smoking is prohibited in sections reserved for non-smokers.

Intercity buses From 1 January 1989, smoking is to be prohibited in any intercity bus covering a distance of 300 kilometres or less.

Chartered buses This section does not apply to a transportation service by chartered bus where that service is reserved exclusively for the members of a determinate group of persons.

Ferry-boats and trains **14.** The operator of a transportation service by ferry-boat or train shall provide, on the ferry-boats or cars, a section reserved for non-smokers that includes not less than 50% of the seats placed at the disposal of the public.

Prohibition Smoking is prohibited in sections reserved for non-smokers.

DIVISION III

MISCELLANEOUS PLACES

Enclosed premises **15.** Smoking is prohibited in enclosed premises used for religious, sports, judicial, cultural or artistic activities while those activities are in progress.

Exception Notwithstanding the foregoing, smoking is permitted in premises referred to in the first paragraph when the activities are reserved exclusively for the members of a determinate group of persons.

Child care centres **16.** Smoking is prohibited in premises used to provide child day care in day care centres, stop over centres or nursery schools or in school premises within the meaning of the Act respecting child day care (R.S.Q., chapter S-4.1).

Consulting offices **17.** Smoking is prohibited in the waiting room of the private consulting office of a health professional governed by the Professional Code (R.S.Q., chapter C-26) or in a laboratory referred to in paragraph b of section 1 of the Public Health Protection Act (R.S.Q., chapter P-35).

CHAPTER III

POWERS AND DUTIES OF MUNICIPALITIES

Enforce-
ment

18. Every local municipality shall see to the enforcement of the provisions of this Act within its territory, except as regards premises occupied by another public body.

Powers

19. A local municipality may, by by-law,

(1) prohibit smoking in any other class of premises situated in its territory;

(2) prescribe any other measure not contrary to this Act in relation to the protection of non-smokers and the posting of signs in that respect.

Applicable
provisions

Chapters IV, V and VI of this Act apply to all premises contemplated in a by-law made under the first paragraph.

CHAPTER IV

POSTING OF SIGNS

Signs

20. The occupant or operator, as the case may be, of premises where smoking is prohibited shall indicate such prohibition by means of a sign posted in a conspicuous place.

Non-
smokers
section

21. The operator of a transportation service by ferry-boat or by train or of an intercity or tourist transportation service by bus shall identify the section reserved for non-smokers by means of a sign posted in a conspicuous place.

Signs

22. No person may remove or damage any sign posted in accordance with the provisions of this Act.

CHAPTER V

INSPECTION

Inspectors

23. For the application of this Act, the persons authorized to act as inspectors shall be

(1) a peace officer;

(2) a person authorized for that purpose by a municipality or, in the case of a public body, a person authorized by the person who is the highest authority within the public body.

- Powers** **24.** An inspector may, to ascertain whether this Act or a by-law made under section 19 is being complied with, enter at any reasonable time any premises referred to in the Act or the by-law and inspect it.
- Identification** **25.** The inspector shall, on request, identify himself and show a certificate attesting his capacity.
- Prohibition** **26.** No person may hinder the action of an inspector in the performance of his duties.

CHAPTER VI

OFFENCES AND PENALTIES

- Offences and penalties** **27.** Any person who contravenes any of sections 8, 9, 12, either of the second and third paragraphs of section 13, the second paragraph of section 14 or any of sections 15 to 17 is guilty of an offence and liable to a fine of not less than \$20 nor more than \$200.
- Offences and penalties** **28.** Any person who contravenes the first paragraph of section 13 or 14, any of sections 20 to 22 or section 26 is guilty of an offence and liable to a fine of not less than \$50 nor more than \$1 000.
- Penal proceedings** **29.** Subject to sections 30 to 32, penal proceedings under this Act are instituted in accordance with the Summary Convictions Act (R.S.Q., chapter P-15).
- Notice** **30.** Proceedings may begin by actual delivery of a notice of contravention by an inspector. The notice constitutes an information.
- Notice** **31.** The notice of contravention shall describe the violation alleged, specify the minimum fine applicable and indicate to the contravener that he may pay the fine and an amount of \$5 as costs within 10 days at the place specified, and may contain any other relevant information.
- Payment** **32.** If the contravener pays the required amount at the place and within the time indicated, he is considered to have pleaded guilty. The payment shall not, however, be considered to be an admission of civil liability.
- Summons** Failing the payment referred to in the first paragraph, the notice of contravention shall be brought before a justice of the peace who, if he believes there is cause therefor, shall issue a summons.

Reasonable
excuse

33. The absence of a sign to prohibit smoking in a place where smoking is prohibited constitutes a reasonable excuse that may be invoked by a person prosecuted for smoking in that place contrary to a provision of this Act or a by-law under section 19.

Fines

34. Where a local municipality institutes proceedings for a contravention against this Act committed within its territory, the fines collected shall be paid to the municipality.

Proceedings

35. Proceedings may be instituted by a local municipality before any Municipal Court having jurisdiction in the territory in which the contravention was committed.

Costs

The costs shall belong to the municipality to which the Municipal Court having heard the matter is attached.

CHAPTER VII

FINAL PROVISIONS

Minister
responsible

36. The Minister of the Environment is responsible for the administration of this Act.

c. C-14, s.
143, am.

37. Subsection 2 of section 143 of the Railway Act (R.S.Q., chapter C-14) is repealed.

Coming into
force

38. This Act comes into force on 1 January 1987.