



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-THIRD LEGISLATURE

Bill 84

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

Introduction

**Introduced by
Mr Clifford Lincoln
Minister of the Environment**

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EXPLANATORY NOTES

The object of this bill is to regulate the use of tobacco in certain public places to ensure better protection of the health and well-being of non-smokers.

To that end, the bill provides a first scope of application under the immediate responsibility of the persons who are the highest authority in any of the public bodies to which the Act is applicable.

A second scope of application is entrusted to the municipalities which will be responsible for the enforcement of this Act in their territories with respect to premises mentioned in the Act or determined by municipal by-law.

The bill also includes various rules regarding the rights of smokers and non-smokers with respect to premises shared by both.

Finally, the bill provides certain powers of inspection and certain measures of control designed to protect the rights granted to non-smokers under this Act.

Bill 84

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THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

APPLICATION AND INTERPRETATION

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.

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

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

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.

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.

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.

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.

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 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), the schools governed by the Specialized Schools Act (R.S.Q., chapter E-10), 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.

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

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, smoking is prohibited

(1) in a room or at a counter where services are being provided to persons who are present;

(2) in a library, a laboratory, a conference room, a classroom, a meeting room 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.

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

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.

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

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.

The person contemplated in the first paragraph may, in writing and to the extent he indicates, delegate his functions to any other person within the public body.

DIVISION II

PUBLIC TRANSPORTATION

12. Smoking is prohibited in buses, ambulances or subway cars.

13. 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.

Smoking is prohibited in sections reserved for non-smokers.

DIVISION III

MISCELLANEOUS PLACES

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

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

15. 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).

16. Smoking is prohibited in the waiting room of a health professional's consulting office within the meaning of the Professional Code (R.S.Q., chapter C-26) or of 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

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

18. 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.

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

CHAPTER IV

POSTING OF SIGNS

19. 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.

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

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

CHAPTER V

INSPECTION

22. 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.

23. An inspector may, to ascertain whether this Act or a regulation made under section 18 is being complied with, enter at any reasonable time, any premises referred to in the Act or the regulations and inspect it.

24. The inspector shall, on request, identify himself and show a certificate attesting his capacity.

25. No person may hinder the action of an inspector in the performance of his duties.

CHAPTER VI

OFFENCES AND PENALTIES

26. Any person who contravenes any of sections 8, 9, 12, the second paragraph of section 13 or any of sections 14 to 16 is guilty of an offence and liable to a fine of not less than \$20 nor more than \$200.

27. Any person who contravenes the first paragraph of section 13, any of sections 19 to 21 or section 25 is guilty of an offence and liable to a fine of not less than \$50 nor more than \$1 000.

28. Subject to sections 29 to 31, penal proceedings under this Act are instituted in accordance with the Summary Convictions Act (R.S.Q., chapter P-15).

29. Proceedings begin by handing a notice of contravention to the person or by the service of a notice of contravention. The notice of contravention constitutes an information.

Service of the notice of contravention is made according to any of the modes provided in the Summary Convictions Act (R.S.Q., chapter P-15).

30. 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.

31. 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.

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.

32. Any person prosecuted for smoking in a public place, contrary to a provision of this Act or a regulation under section 18, may be acquitted if he proves there was no sign indicating that smoking was prohibited.

33. Where a local municipality institutes proceedings or issues a notice of contravention to a contravener for a contravention against this Act committed within its territory, the fines collected shall be paid to the municipality.

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

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

CHAPTER VII

FINAL PROVISIONS

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

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

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