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# NATIONAL ASSEMBLY

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SECOND SESSION

THIRTY-FIFTH LEGISLATURE

**Bill 444**

(1998, chapter 33)

**Tobacco Act**

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**Introduced 14 May 1998**

**Passage in principle 3 June 1998**

**Passage 17 June 1998**

**Assented to 17 June 1998**

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## EXPLANATORY NOTES

*This bill proposes a body of rules to regulate the use, sale, advertising and promotion of tobacco and tobacco products.*

*First, the bill prohibits smoking in certain enclosed spaces, such as premises used by health institutions, educational institutions and childcare services, in means of public transportation and in workplaces. In certain cases, however, it will be possible to provide ventilated smoking rooms and areas where smoking is permitted. The operators of restaurants of 35 seats or more where smoking is permitted will be required to set aside enclosed, ventilated smoking areas. The operator of a place where minors are not admitted pursuant to the Act respecting offences relating to alcoholic beverages will be able to permit smoking throughout the establishment, except if the operator holds a permit for the operation of a restaurant establishment under the Tourist Establishments Act.*

*The bill also restricts access to tobacco by young persons by prohibiting all sales of tobacco to minors, by requiring that all sales of tobacco by a business be dealt with by an employee and in the physical presence of both the vendor and the purchaser, by prohibiting the installation of tobacco vending machines except in places where minors are not admitted and, if the vending machine is equipped with remote electronic control, in restaurants operated under a restaurant sales permit or a restaurant service permit within the meaning of the Act respecting liquor permits, and by prohibiting the sale of cigarettes in packages containing less than 20 cigarettes.*

*In addition, the bill regulates all advertising and promotion involving tobacco products. It includes measures to prohibit certain types of tobacco advertising, such as advertising directed at minors and advertising that, directly or indirectly, associates the use of tobacco with a particular lifestyle. Under the bill, all direct and indirect sponsorship associated with the promotion of tobacco will be prohibited, as will the association of the logo, name or trademark of a tobacco product manufacturer with a sports, cultural or social facility, a facility operated by a health or social services institution or a research centre attached to a health or social services institution, or a sports, cultural or social event.*

*The bill will enable the Government to determine standards relating to the construction, ventilation and layout of smoking rooms and areas where smoking is permitted, the display of tobacco products in retail outlets, the packaging of tobacco products, the inclusion of warnings from the Minister concerning the harmful effects of tobacco on health, and the composition of tobacco products.*

*To facilitate the application of the law, the bill provides for the appointment of inspectors by either the Minister of Health and Social Services or a local municipality.*

*The bill also contains penal provisions, and provides that the operator of a business who is convicted of selling tobacco to a minor will be prohibited from selling tobacco.*

*The bill provides a transitional period for sponsorship contracts already in effect on the date of introduction of the bill, and specifies that the Government may grant subsidies to persons or bodies having proved to the Minister that they have renounced all sponsorship from the tobacco industry. The bill also specifies the times within which the operators of certain places will be required to comply with the requirements of the measures it introduces.*

*Lastly, the bill includes consequential amendments.*

**LEGISLATION REPLACED BY THIS BILL :**

– Act respecting the protection of non-smokers in certain public places (R.S.Q., chapter P-38.01).

**LEGISLATION AMENDED BY THIS BILL :**

– Tobacco Tax Act (R.S.Q., chapter I-2) ;

– Act respecting the Ministère de la Santé et des Services sociaux (R.S.Q., chapter M-19.2) ;

– Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) ;

– Act respecting the Québec sales tax (R.S.Q., chapter T-0.1).



## **Bill 444**

### **TOBACCO ACT**

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

#### **CHAPTER I**

##### **SCOPE**

**1.** This Act applies to harvested tobacco in any processed or unprocessed form, however presented. The term “tobacco” includes any product containing tobacco.

This Act is binding on the State.

#### **CHAPTER II**

##### **RESTRICTION ON THE USE OF TOBACCO IN CERTAIN PLACES**

**2.** Subject to sections 3 to 12, smoking is prohibited in the following enclosed spaces:

(1) facilities maintained by a health and social services institution governed by the Act respecting health services and social services (R.S.Q., chapter S-4.2) or the Act respecting health services and social services for Cree Native persons (R.S.Q., chapter S-5), and premises where services are provided by an intermediate resource referred to in the Act respecting health services and social services, except if the premises are situated in a dwelling;

(2) premises used by a school providing instruction at the elementary or secondary level governed by the Education Act (R.S.Q., chapter I-13.3) or the Education Act for Cree, Inuit and Naskapi Native Persons (R.S.Q., chapter I-14), and premises used by a private educational institution referred to in the Act respecting private education (R.S.Q., chapter E-9.1);

(3) premises used by a general and vocational college or a university;

(4) facilities operated by a childcare centre or other childcare service within the meaning of the Act respecting childcare centres and childcare services (S.Q. 1997, chapter 58), for the time during which childcare is provided if the facility is situated in a dwelling;

(5) enclosed spaces where activities of a sports or recreational, judicial, cultural or artistic nature are presented, or where conferences, conventions or other similar events are held;

(6) enclosed spaces where community or recreational activities intended for minors are held;

(7) the common areas of residential buildings comprising more than 12 dwellings, except those that are temporarily placed at the disposal of lessees or owners for their personal use;

(8) tourist establishments governed by the Tourist Establishments Act (R.S.Q., chapter E-15.1), except a room used by a natural person to hold a private reception for personal purposes;

(9) workplaces, except workplaces situated in a dwelling;

(10) means of public transportation, and taxis and vehicles used exclusively for work-related purposes except where all the occupants agree otherwise, as well as bus shelters;

(11) premises used for detention within the meaning of the Act respecting correctional services (R.S.Q., chapter S-4.01);

(12) all other enclosed spaces to which the public has admittance.

**3.** Closed smoking rooms may be set aside by the operator of a place or business in any of the places referred to in section 2, except those referred to in paragraphs 2, 4 and 6.

A smoking room may be used only for smoking and must be equipped with a negative pressure ventilation system which allows smoke to be evacuated directly to the outside of the building.

For the purposes of this Act, the term “operator of a place or business” includes a mandatary of the operator who manages the place or business.

**4.** An area where smoking is permitted may be set aside by the operator of a place or business in the following places:

(1) the common areas of shopping centres;

(2) games halls such as bowling alleys, pool halls and other amusement halls;

(3) marine passenger terminals, bus stations and railway passenger stations;

(4) waiting, rest and service areas in establishments where sports or recreational, cultural or artistic activities are presented or where conferences, conventions or other similar events are held;

(5) commercial establishments where food is consumed on the premises.

**5.** The operator of a place or business may identify rooms or areas where smoking is permitted

(1) for persons receiving services from an intermediate resource or for persons lodged by an institution and receiving services from a general and specialized hospital centre in a psychiatric unit or department or services from a residential and long-term care centre, from a rehabilitation centre or from a psychiatric hospital centre ;

(2) for any person except an employee in a tourist establishment.

**6.** The floor space of the areas, the number of the rooms or, in a tourist establishment, the number of the rooms or seats where smoking is permitted pursuant to sections 4 and 5 may not exceed 40% of the total floor space or the total number of rooms or seats available for all customers.

Furthermore, the operator of a place or business must, when setting aside such areas or rooms, maximize the protection provided to non-smokers, having regard to the total floor space, use and ventilation of the place.

**7.** The operator of a place or business of 35 seats or more who holds a permit for the operation of a restaurant establishment under the Tourist Establishments Act must, when setting aside areas where smoking is permitted, separate them from the areas where smoking is prohibited by means of partition walls that extend from floor to ceiling, and equip the smoking areas with a negative pressure ventilation system which allows smoke to be evacuated directly to the outside of the building. However, the opening that allows movement between the area where smoking is permitted and the area where smoking is prohibited need not be equipped with a door.

**8.** The operator of a State-owned casino or a bingo hall and the operator of a place or business to which minors are not admitted pursuant to the Act respecting offences relating to alcoholic beverages (R.S.Q., chapter I-8.1) may permit smoking throughout the establishment or bingo hall, except if the operator holds a permit for the operation of a restaurant establishment, in which case the provisions of section 7 apply to the part of the establishment or hall in which restaurant services are offered.

**9.** The warden of a house of detention may permit smoking in all the rooms used for detention within the meaning of the Act respecting correctional services except cafeterias, classrooms and meeting rooms, gymnasiums, rooms used for worship and libraries. Furthermore, the warden may permit smoking in rooms situated in a court house and used for detention.

The warden of a house of detention is an operator within the meaning of the third paragraph of section 3.

**10.** The operator of a place or business to which this chapter applies must post notices visible to the persons using the place or business, indicating the areas where smoking is prohibited.

No person may remove or deface such a notice.

**11.** The operator of a place or business to which this chapter applies shall not tolerate smoking in an area where smoking is prohibited.

**12.** The Government may make regulations determining the cases, conditions and circumstances in which and places where smoking is permitted even if prohibited under section 2.

The Government may also determine standards concerning

(1) the construction or the layout of smoking rooms and areas where smoking is permitted;

(2) the ventilation systems of smoking rooms and areas where smoking is permitted;

(3) the notices referred to in section 10.

### CHAPTER III

#### SALE OF TOBACCO

**13.** The operator of a business shall not sell or supply tobacco to a minor.

Any person wishing to purchase tobacco may be required to provide proof of age.

The Government may make regulations determining the documents that may be used as identification.

**14.** In proceedings for a contravention of section 13, no penalty may be imposed on the operator of a business who shows that a reasonable effort was made to verify the age of the person and that there were reasonable grounds to believe that the person was of full age.

**15.** The operator of a business must ensure that all tobacco is kept in such a way as to prevent customers from gaining access to the tobacco without the help of the business's personnel.

The operator must also post a notice in public view prohibiting the sale of tobacco to minors, and a warning attributed to the Minister concerning the harmful effects of tobacco on health as soon as the warning is provided by the Minister.



The Government may make regulations determining the standards governing the display of the notice.

No person may remove or deface such a notice.

The first paragraph does not apply to the operator of a duty free shop licensed as such under the Customs Act (Revised Statutes of Canada, 1985, chapter 1, 2nd Supplement).

**16.** The operator of a place or business may not cause an automatic vending machine designed for the sale of tobacco to be installed or left or kept in a place except a place or business where minors are not admitted pursuant to the Act respecting offences relating to alcoholic beverages or, where the machine is equipped with remote electronic control, in a place or business for which the operator holds a restaurant sales permit or a restaurant service permit within the meaning of the Act respecting liquor permits (R.S.Q., chapter P-9.1).

The operator must post on the vending machine a warning attributed to the Minister concerning the harmful effects of tobacco on health as soon as the warning is provided by the Minister.

In addition, the automatic vending machine must be installed in such a way that the operator of the place or business is able to monitor the use of the machine directly to ensure that no minor has access to it.

**17.** The sale of tobacco is prohibited

(1) on the grounds of or within a facility maintained by a health and social services institution;

(2) on the grounds of or within the premises of a school providing instruction at the elementary or secondary level;

(3) on the grounds of or within the facilities of a childcare centre or other childcare service.

**18.** It is prohibited to sell tobacco in a business if

(1) a pharmacy is located within the business;

(2) the customers of a pharmacy can pass into the business directly or by the use of a corridor or area used exclusively to connect the pharmacy with the business.

**19.** The operator of a business may not sell cigarettes except in a package that contains at least 20 cigarettes.

The Government may make regulations specifying any other tobacco product that may not be sold in a package containing less than the prescribed quantities or portions.

**20.** Subject to section 16, no sale of tobacco may be made except in the physical presence of the vendor and the purchaser.

This section does not apply to sales of tobacco between a manufacturer or distributor of tobacco products and a retailer.

#### **CHAPTER IV**

#### **PROMOTION, ADVERTISING AND PACKAGING**

**21.** The operator of a business and a manufacturer or a distributor of tobacco products may not

(1) supply or distribute tobacco free of charge or furnish tobacco for promotional purposes of any kind to consumers;

(2) reduce the retail price of tobacco on the basis of quantity, otherwise than as part of regular marketing operations, or offer or grant a rebate on the market price of tobacco to consumers;

(3) offer consumers a gift or rebate or a right to participate in a lottery, contest or game or any other form of benefit, as consideration for a purchase of tobacco or on presentation of proof of purchase of tobacco.

**22.** Any direct or indirect sponsorship that is associated in any manner whatsoever with the promotion of tobacco, a tobacco product, a brand of tobacco product or a manufacturer of tobacco products, is prohibited.

The first paragraph shall not prevent the tobacco industry from making gifts insofar as the gifts are made without any promotional association. The communication of information by the donor or donee concerning the nature of the gift and the name of the donor, otherwise than through an advertising or commercial message, shall not constitute a promotional association within the meaning of this paragraph.

The Government may, by regulation, prescribe the cases and circumstances in which a mode of communication shall constitute a promotional association within the meaning of the second paragraph.

**23.** No name, logo, brand element, design or slogan, except a colour, that is associated with tobacco, a tobacco product, a brand of tobacco product or a manufacturer of tobacco products, may be associated with a sports, cultural or social facility, a health and social services institution or a research centre attached to a health and social services institution.

Furthermore, no name, logo, brand element, design or slogan, except a colour, that is associated with tobacco, a tobacco product, a brand of tobacco product or a manufacturer of tobacco products, may be associated with a sports, cultural or social event, except in connection with a sponsorship referred to in section 22.

**24.** All direct or indirect advertising for the promotion of tobacco, a tobacco product, a brand of tobacco product or a manufacturer of tobacco products is prohibited where the advertising

- (1) is directed at minors ;
- (2) is false or misleading, or is likely to create an erroneous impression about the characteristics, health effects or health hazards of tobacco ;
- (3) directly or indirectly associates the use of tobacco with a particular lifestyle ;
- (4) contains testimonials or endorsements ;
- (5) uses a slogan ;
- (6) contains a text that refers to real or fictional persons, characters or animals ;
- (7) contains anything apart from text, with the exception of an illustration of the package or packaging of a tobacco product occupying not more than 10% of the surface area of the advertising material ;
- (8) is disseminated otherwise than in printed newspapers and magazines that have an adult readership of not less than 85% ;
- (9) is disseminated otherwise than by means of displays visible only from the inside of a tobacco retail outlet ;
- (10) contains no warning attributed to the Minister concerning the harmful effects of tobacco on health.

However, advertising that is intended to provide consumers with factual information about a tobacco product, including information about the price or the intrinsic characteristics of a tobacco product and about brands of tobacco products is permitted to the extent that it does not constitute advertising or a form of advertising prohibited under the first paragraph.

All advertising must be forwarded to the Minister upon being disseminated.

**25.** The Government may make regulations

- (1) determining standards relating to advertising and promotion ;

(2) prescribing standards relating to the display of tobacco in tobacco retail outlets and to the display of specialized publications about tobacco or about products associated with the use of tobacco, whatever the medium of the publication;

(3) determining standards relating to the appearance and placement of tobacco vending machines;

(4) determining standards relating to the displays permitted in tobacco retail outlets under subparagraph 9 of the first paragraph of section 24.

**26.** The provisions of section 24 and of the regulations made under section 25 do not apply to advertising carried by publications imported into Québec. In no case, however, may a person doing business in Québec disseminate advertising that is prohibited under the first paragraph of section 24 or by a regulation under section 25 in such a publication.

The provisions of the said section and regulations do not apply to advertising that is directed at the tobacco industry and does not reach consumers either directly or indirectly.

**27.** The affixing, on an object that is not a tobacco product, of a name, logo, brand element, design or slogan that is directly associated with tobacco, a tobacco product, a brand of tobacco product or a manufacturer of tobacco products, except colour, is considered to be advertising and is prohibited.

**28.** The Government may make regulations determining standards relating to tobacco containers, packaging and display. The standards may be prohibitive, and may vary according to the various tobacco products concerned.

The Government may also make regulations requiring a tobacco product manufacturer to print on packaging the information determined by the Government, and messages attributed to the Minister, as specified in the regulations, about the harmful effects of tobacco on health.

The use of a concept referred to in subparagraphs 1 to 6 of the first paragraph of section 24 on tobacco packaging and containers is prohibited.

In determining such standards, the Government shall harmonize the standards with those adopted under the Tobacco Act (Statutes of Canada, 1997, chapter 13) with regard to similar matters.

## CHAPTER V

### TOBACCO COMPOSITION

**29.** The Government may make regulations determining standards relating to the composition and characteristics of tobacco products manufactured in Québec for sale in Québec.

The standards may require, prohibit or restrict the use of certain substances or certain processes and vary according to the tobacco product concerned. In determining such standards, the Government shall harmonize the standards with those adopted under the Tobacco Act (Statutes of Canada, 1997, chapter 13) with regard to similar matters.

No distributor of tobacco products may sell a tobacco product in Québec that is not consistent with the standards prescribed by a regulation made under the first paragraph.

## CHAPTER VI

### REPORTS

**30.** The Government may make regulations determining standards relating to the reports that the Minister may require tobacco product manufacturers and distributors to file containing the information that the Minister considers necessary to protect public health and ensure compliance with this Act, and in particular

- (1) the volume of sales;
- (2) the range of tobacco and tobacco products marketed;
- (3) the sums invested in promotion and advertising;
- (4) any other information relating to the composition of the tobacco products marketed, in particular the ingredients and properties of such tobacco products.

The regulations shall prescribe the content, form and frequency of the reports, and the intervals at which and manner in which they must be filed, and may exempt certain categories of tobacco products, or certain persons whose tobacco sales are below the percentage of total tobacco sales determined by the Government, from such obligations.

**31.** Besides the reports required by section 30, the Minister may, at any time, require tobacco product manufacturers and distributors to file a report if a new form of tobacco, a new brand or new tobacco product, or a new distribution method for tobacco products is introduced on the market or if required, in the opinion of the Minister, for reasons of public health.

## CHAPTER VII

### INSPECTION AND SEIZURE

**32.** For the purposes of this Act, the Minister may appoint any person or designate any class of persons to perform the duties of inspector or analyst.

Except in respect of workplaces and public bodies, a local municipality may also appoint, for the purposes of Chapter II and Chapter III, any person or designate any class of persons to perform the duties of inspector or analyst. In such a case, the municipality must inform the Minister of the appointment or designation.

An inspector or analyst entering a place to inspect it under this chapter must, on request, provide the operator of the place with proof of identity and produce a certificate of appointment signed by the Minister, by a person designated by the Minister or by the clerk or the secretary-treasurer of the local municipality concerned.

The responsibilities of an inspector shall be specified in the act of appointment.

**33.** Every person authorized to act as an inspector or analyst under section 32 may, at any reasonable time, to ascertain compliance with this Act and the regulations under it, enter and inspect a place

- (1) referred to in section 2;
- (2) where tobacco is manufactured, tested, stored, packaged, labelled or sold;
- (3) where layouts, equipment or notices referred to in sections 3 to 8 or section 10 or in a regulation made under section 12 are to be found;
- (4) where any thing used in the manufacture, storage, packaging, labelling, promotion, sale or testing of tobacco is to be found;
- (5) where information relating to the manufacture, storage, packaging, labelling, promotion, sale or testing of tobacco is to be found.

**34.** During an inspection, a person acting pursuant to section 33 may

- (1) verify whether any person is smoking in a place where smoking is prohibited under section 2;
- (2) verify the layout of the place inspected to ascertain whether the places where smoking is permitted under sections 3 to 8 meet the requirements of sections 3 to 8 or of the regulations made under section 12, and for that purpose take air or other samples;
- (3) examine any tobacco found in the place inspected and any thing used in the manufacture, storage, packaging, labelling, promotion, sale or testing of tobacco;
- (4) open or cause to be opened, for examination, any container or package found in the place inspected that the person believes, on reasonable grounds, to contain tobacco;

(5) collect or cause to be collected, free of charge, samples of tobacco or other substances ;

(6) conduct any test or analysis or take any measurements ;

(7) require, for inspection, copying or the taking of extracts, the production of any book, account, register, record or document, where the person believes on reasonable grounds that it contains information relating to the application of this Act or the regulations ;

(8) verify whether the notices referred to in sections 10 and 15 meet the requirements of those sections or of the regulations made under subparagraph 3 of the second paragraph of section 12 ;

(9) verify whether the display of tobacco products and specialized publications on tobacco and consumer products associated with tobacco, whatever the medium, meets the requirements of section 15 and the regulations made under section 25 ;

(10) verify whether the placement of tobacco vending machines meets the requirements of section 16 and the regulations made under section 25 ;

(11) conduct tests to ascertain compliance with sections 13 and 16 to 20.

**35.** An inspector may submit any thing or sample referred to in section 34 to an analyst for analysis and examination; the analyst may issue a report setting out the results of the analysis and examination.

**36.** The operator of a place being inspected is required to assist the inspector or analyst in the performance of their respective duties.

**37.** No person may hinder in any way the performance of the duties of an inspector or analyst, mislead them by concealment or false statements, or refuse to provide them with any information or document to which they are entitled under this Act, or destroy any such information or document.

**38.** An inspector may, in the course of an inspection, seize forthwith any thing believed by the inspector on reasonable grounds to have been used or to have given rise to an offence under this Act or the regulations.

The rules established in Division IV of Chapter III of the Code of Penal Procedure, adapted as required, apply to the things seized.

## **CHAPTER VIII**

### **PROCEEDINGS**

**39.** Penal proceedings for an offence under this Act that was committed in its territory may be instituted by a local municipality before a municipal court.

**40.** The fine and costs imposed by the municipal court for an offence under this Act shall belong to the local municipality and shall be paid into its general fund, except the part of the costs remitted by the collector to any other prosecuting party that has incurred expenses in relation to the proceeding, and the costs remitted to the defendant pursuant to article 223 of the Code of Penal Procedure.

## CHAPTER IX

### PENAL PROVISIONS

**41.** The Government shall determine the provisions of a regulation made under this Act the violation of which constitutes an offence.

**42.** A person who smokes in a place where smoking is prohibited under Chapter II is liable to a fine of \$50 to \$300 and, for a subsequent offence, to a fine of \$100 to \$600.

**43.** The operator of a place or business referred to in Chapter II is liable to a fine of \$400 to \$4,000 and, for a subsequent offence, to a fine of \$1,000 to \$10,000, where that operator

(1) contravenes the installation, construction or layout standards prescribed in sections 3 to 8, or the provisions of a regulation made under subparagraph 1 or 2 of the second paragraph of section 12 the violation of which constitutes an offence;

(2) neglects to post the notice required under section 10, or contravenes the provisions of a regulation made under subparagraph 3 of the second paragraph of section 12 the violation of which constitutes an offence;

(3) contravenes the provisions of section 11.

**44.** The operator of a business who sells or supplies tobacco to a minor in contravention of section 13 or who contravenes the retail outlet display standards prescribed by the first paragraph of section 15 is liable to a fine of \$300 to \$2,000 and, for a subsequent offence, to a fine of \$600 to \$6,000.

An operator who neglects to post the notice or warning referred to in the second paragraph of section 15 or contravenes the provisions of a regulation made under the third paragraph of that section the violation of which constitutes an offence, is liable to a fine of \$200 to \$2,000 and, for a subsequent offence, to a fine of \$400 to \$4,000.

**45.** A person who removes or defaces a notice in contravention of the second paragraph of section 10 or the fourth paragraph of section 15 is liable to a fine of \$100 to \$1,000 and, for a subsequent offence, to a fine of \$200 to \$3,000.



**46.** The operator of a place or business who contravenes the provisions of section 16, the first paragraph of section 19 or the regulatory standards made pursuant to the second paragraph of the said section is liable to a fine of \$300 to \$2,000 and, for a subsequent offence, to a fine of \$600 to \$6,000.

**47.** A person who contravenes the provisions of section 17 is liable to a fine of \$300 to \$2,000 and, for a subsequent offence, to a fine of \$600 to \$6,000.

**48.** A person who contravenes the provisions of section 18 is liable to a fine of \$2,000 to \$25,000 and, for a subsequent offence, to a fine of \$4,000 to \$50,000.

**49.** A person who contravenes the provisions of section 20 is liable to a fine of \$1,000 to \$20,000 and, for a subsequent offence, to a fine of \$2,000 to \$50,000.

**50.** The operator of a business who contravenes the provisions of section 21 is liable to a fine of \$500 to \$3,000 and, for a subsequent offence, to a fine of \$1,000 to \$8,000.

A manufacturer or distributor of tobacco products who contravenes the provisions of section 21 is liable to a fine of \$2,000 to \$300,000 and, for a subsequent offence, to a fine of \$5,000 to \$600,000.

**51.** A person who contravenes the provisions of section 22, 23 or 26, the provisions of the first and third paragraphs of section 24, the provisions of the last paragraph of section 28 or the provisions of a regulation made under section 22, 25 or 28 the violation of which constitutes an offence is liable to a fine of \$2,000 to \$300,000 and, for a subsequent offence, to a fine of \$5,000 to \$600,000.

**52.** A person who contravenes the provisions of section 27 is liable to a fine of \$1,000 to \$200,000 and, for a subsequent offence, to a fine of \$2,000 to \$400,000.

**53.** A manufacturer of tobacco products who contravenes the provisions of a regulation made under the first paragraph of section 29 is liable to a fine of \$1,000 to \$300,000 and, for a subsequent offence, to a fine of \$5,000 to \$600,000.

A distributor of tobacco products who contravenes the provisions of the last paragraph of section 29 is liable to a fine of \$1,000 to \$5,000 and, for a subsequent offence, to a fine of \$2,000 to \$10,000.

**54.** A manufacturer or distributor of tobacco products who refuses or neglects to file with the Minister a report that the Minister may require under section 30 or 31, who knowingly provides the Minister with false or misleading information or who contravenes the provisions of a regulation made under

section 30 the violation of which constitutes an offence is liable to a fine of \$1,000 to \$5,000 and, for a subsequent offence, to a fine of \$2,000 to \$15,000.

**55.** A person who contravenes section 36 or 37 is liable to a fine of \$300 to \$2,000 and, for a subsequent offence, to a fine of \$600 to \$6,000.

**56.** Where a person is found guilty of an offence under this Act, the judge may impose an additional fine in addition to any other penalty, following an application by the prosecuting party appended to the statement of offence, equal to the amount of monetary benefit gained by the person as a result of the offence, even if the maximum fine is imposed under another provision.

**57.** Where the commission of an offence under sections 43 to 48 and 50 to 55 continues for more than one day, each day during which the offence continues shall constitute a separate offence.

## CHAPTER X

### ADMINISTRATIVE PROVISIONS

**58.** The Minister must keep a register, called the register of fines, containing information concerning each guilty plea entered by the operator of a business and each conviction entered against such an operator in connection with an offence under the provisions of sections 13 and 15.

**59.** Where, in connection with a single retail outlet, the operator of a business has been found guilty of the same offence under the provisions of section 13, the operator shall be prohibited from selling tobacco at that retail outlet

(1) for one month, in the case of a second offence ;

(2) for six months, in the case of a third offence ;

(3) for one year, in the case of a fourth or subsequent offence.

Where, in connection with a single retail outlet, the operator of a business has been found guilty of three contraventions of the provisions of section 15, the operator shall be prohibited from selling tobacco at that retail outlet for one month.

**60.** The Minister shall inform the Minister of Revenue of any prohibition from selling tobacco imposed on the operator of a business pursuant to section 59.

The Minister of Revenue shall then suspend, for the retail outlet concerned, the registration certificate provided for in the Act respecting the Québec sales tax (R.S.Q., chapter T-0.1) for the duration of the prohibition from selling tobacco.

**61.** A prohibition from selling tobacco at a retail outlet, imposed pursuant to section 59, shall take effect on the lapse of 15 days from the time when a notice of suspension is served by the Minister of Revenue under section 17.9.1 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31).

An operator of a business who is prohibited from selling tobacco pursuant to section 59 must remove all tobacco on display in the business and all tobacco advertising for the duration of the prohibition.

## CHAPTER XI

### AMENDING, TRANSITIONAL AND FINAL PROVISIONS

**62.** Section 3 of the Tobacco Tax Act (R.S.Q., chapter I-2), replaced by section 3 of chapter 47 of the statutes of 1995, is amended by replacing the first paragraph by the following :

**“3.** No person may engage in the retail sale of tobacco in an establishment in Québec unless a registration certificate has been issued to that person under Title I of the Act respecting the Québec sales tax (chapter T-0.1) and is in force at that time for that establishment with regard to retail sales of tobacco.”

**63.** The said Act is amended by inserting, after section 5.0.1 enacted by section 4 of chapter 47 of the statutes of 1995, the following :

**“5.0.2.** Where a registration certificate has been suspended pursuant to section 17.9.1 of the Act respecting the Ministère du Revenu (chapter M-31) with regard to retail sales of tobacco in a particular establishment, the certificate holder must post the notice of suspension served on the holder by the Minister in the establishment for the entire duration of the suspension.”

**64.** Section 7 of the said Act, replaced by section 5 of chapter 47 of the statutes of 1995, is amended by adding the following :

“Furthermore, where the registration certificate of a vendor has been suspended pursuant to section 17.9.1 of the Act respecting the Ministère du Revenu (chapter M-31) in respect of a particular establishment, no person may sell to that vendor tobacco intended for retail sale in that establishment, or deliver or cause tobacco to be delivered to that establishment.”

**65.** The Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) is amended by inserting, after section 17.9, the following :

**“17.9.1.** On receiving notice from the Minister of Health and Social Services pursuant to section 60 of the Tobacco Act (1998, chapter 33), the Minister shall suspend, with regard to retail sales of tobacco in an establishment within the meaning of the Tobacco Tax Act, the registration certificate issued to a person under the Act respecting the Québec sales tax.

The suspension shall take effect on the lapse of fifteen days from the date of service of the notice of suspension. Service of the notice may be effected by a peace officer, by a bailiff, or by registered mail.”

**66.** The Act respecting the Québec sales tax (R.S.Q., chapter T-0.1) is amended by inserting, after section 415, the following :

“**415.0.1.** A registration certificate issued pursuant to this Title to a person who engages in the retail sale of tobacco is deemed to have been issued in respect of each establishment within the meaning of the Tobacco Tax Act (chapter I-2) in which that person engages in that activity.”

**67.** Section 3 of the Act respecting the Ministère de la Santé et des Services sociaux (R.S.Q., chapter M-19.2) is amended by adding, after paragraph *l*, the following :

“(m) take the necessary steps to reduce tobacco dependence in the population.”

**68.** Notwithstanding paragraph 9 of section 2 and section 3, smoking is permitted in all workplaces in a non-ventilated smoking room until (*insert here the date occurring 18 months after the date of coming into force of paragraph 9 of section 2*). However, in a workplace with fewer than 50 employees, that date is deferred for a further 30 months.

**69.** Section 7 applies from (*insert here the date occurring 120 months after the date of coming into force of section 7*). However, section 7 applies from (*insert here the date occurring 24 months after the date of coming into force of section 7*) in the case of a new building or major renovations.

**70.** Section 9 applies from (*insert here the date occurring 12 months after the date of coming into force of section 9*).

**71.** Section 18 applies from 1 October 2000.

**72.** Sponsorship agreements entered into before 14 May 1998, or the signing of which constitutes the renewal of an agreement, that relate to the financing of an activity referred to in section 22 that is scheduled to take place on or before 1 October 2000 may be executed. However, the maximum amount that may be paid pursuant to each contract may not exceed the amount provided for in the contract on 11 June 1998.

In addition, under such contracts, material related to any promotion referred to in section 22 may be used on the site of the activity until 1 October 2003.

However, outside the site of the activity, such promotion may not occupy more than 10% of the surface area of any promotional material related to the activity until 1 October 2003.

The promotional material referred to in the third paragraph may appear only

- (1) in publications sent by mail and addressed to a named adult ;
- (2) in publications that have an adult readership of not less than 85% ;

(3) on posters placed in a place or business where minors are not admitted pursuant to the Act respecting offences relating to alcoholic beverages (R.S.Q., chapter I-8.1).

**73.** Section 23 applies to a contract in effect on 14 May 1998, from 1 October 2003.

**74.** The Government may, on such conditions as it may fix but only until 1 October 2003, grant a subsidy to persons and bodies who, on or before 1 October 2000, prove to the Minister that they have renounced all sponsorship under contracts referred to in the first paragraph of section 72.

The Government may, in particular, make the granting of subsidies dependent on the applicants agreeing to broadcast messages attributed to the Minister, as part of their activities, bearing on health or on the harmful effects of tobacco on health.

**75.** The last paragraph of section 28 does not apply to trademarks appearing on tobacco products on sale in Québec on 14 May 1998.

**76.** The Act respecting the protection of non-smokers in certain public places (R.S.Q., chapter P-38.01) is repealed.

Proceedings instituted on or before (*insert here the date occurring one day before the date of coming into force of this section*) shall be continued in accordance with the provisions of the Act respecting the protection of non-smokers in certain public places as it read on that date.

In addition, any offence committed before (*insert here the date occurring one day before the date of coming into force of this section*) but in respect of which no proceedings have been instituted on that date shall be prosecuted in accordance with the provisions of the Act respecting the protection of non-smokers in certain public places, as it read on that date.

**77.** The Minister must, not later than 1 October 2005, make a report to the Government on the implementation of this Act.

The report shall be laid by the Minister before the National Assembly within 15 days or, if the Assembly is not sitting, within 15 days of resumption. The competent committee of the National Assembly shall examine the report.

**78.** The Minister of Health and Social Services is responsible for the administration of this Act.

**79.** The provisions of this Act come into force on 17 December 1999 or on any earlier date or dates fixed by the Government, except the provisions of sections 1, 16 to 19, 21 to 31, 46 to 48, 50 to 54, 72 to 75, 77 and 78 which come into force on 1 October 1998.