



NATIONAL ASSEMBLY

FIRST SESSION

FORTY-FIRST LEGISLATURE

Bill 44

(2015, chapter 28)

An Act to bolster tobacco control

Introduced 5 May 2015
Passed in principle 23 September 2015
Passed 26 November 2015
Assented to 26 November 2015

Québec Official Publisher
2015

EXPLANATORY NOTES

This Act amends the Tobacco Act to further restrict tobacco use both in enclosed spaces and outdoors. It prohibits smoking in motor vehicles in which a minor under 16 years of age is present, in outdoor play areas intended for children, on the grounds of vacation camps and at skating rinks that are used by minors, and on terraces. It also prohibits smoking within a nine-metre radius from any door, air vent or window communicating with enclosed spaces to which the public has admittance.

The Act extends the scope of the Tobacco Act by including electronic cigarettes among the products considered to be tobacco. However, it allows the operator of a specialized retail outlet for electronic cigarettes to display such cigarettes subject to certain conditions, including the condition that they be visible only from the inside of the retail outlet. It also sets rules for tobacco use in certain places, in particular by determining standards for outdoor smoking shelters.

Standards applicable to the tobacco trade are tightened by, among other things, prohibiting the retail sale or distribution of tobacco products having a flavour or aroma other than that of tobacco, prohibiting adults from purchasing tobacco for minors and prohibiting tobacco product manufacturers or distributors from offering rebates related to the sale of a tobacco product to tobacco retail outlet operators.

The Act prescribes standards for tobacco product packaging in connection with the health warning that must be displayed on it by, among other things, setting a minimum surface area and requiring that such packaging contain a maximum quantity of the product.

In addition, new penal provisions are enacted, the amounts of fines already prescribed by the Tobacco Act are increased and certain other penal provisions are reinforced by making employers and the directors and officers of legal persons, partnerships and associations more accountable.

Lastly, the Act contains the amending, transitional and final provisions necessary for its implementation.

LEGISLATION AMENDED BY THIS ACT:

- Act respecting the Société des loteries du Québec (chapter S-13.1);
- Tobacco Act (chapter T-0.01).

REGULATION AMENDED BY THIS ACT:

- Regulation under the Tobacco Act (chapter T-0.01, r. 1).

Bill 44

AN ACT TO BOLSTER TOBACCO CONTROL

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

TOBACCO ACT

1. The title of the Tobacco Act (chapter T-0.01) is replaced by the following title:

“Tobacco Control Act”.

2. Section 1 of the Act is amended by inserting “, electronic cigarettes and any other devices of that nature that are put to one’s mouth to inhale any substance that may or may not contain nicotine, including their components and accessories,” after “containing tobacco”.

3. Section 1.1 of the Act is replaced by the following section:

“**1.1.** For the purposes of this Act, unless the context indicates otherwise, “smoking” also covers the use of an electronic cigarette or of any other device of that nature;

“tobacco” also includes the following accessories: cigarette tubes, rolling paper and filters, pipes, including their components, and cigarette holders.”

4. Section 2 of the Act is amended

(1) by replacing paragraph 2 by the following paragraph:

“(2) premises or buildings placed at the disposal of an educational institution;”;

(2) by striking out paragraph 3;

(3) by replacing “six” in paragraph 7 by “two”;

(4) by inserting the following paragraph after paragraph 10:

“(10.1) motor vehicles in which a minor under 16 years of age is present;”.

5. Section 2.1 of the Act is amended by replacing paragraph 3 by the following:

“(3) on grounds placed at the disposal of an educational institution governed by the Education Act (chapter I-13.3), the Education Act for Cree, Inuit and Naskapi Native Persons (chapter I-14) or the Act respecting private education (chapter E-9.1) and providing preschool education services, elementary and secondary school instructional services, educational services in vocational training or educational services to adults in general education;

“(4) on the grounds of a childcare centre or day care centre;

“(5) on terraces and in other outdoor areas operated as part of a commercial activity and that are set up for rest, relaxation or the consumption of products;

“(6) in outdoor play areas intended for children that are open to the public, including splash pads, wading pools and skateparks;

“(7) on sports fields and playgrounds, including areas reserved for spectators, that are used by minors and open to the public;

“(8) on the grounds of vacation camps as well as at skating rinks and outdoor pools that are used by minors and open to the public.

Smoking is also prohibited within nine metres of any part of the perimeter of a place referred to in subparagraph 6 of the first paragraph. However, if that distance exceeds the boundaries of the grounds on which the place is situated, smoking is prohibited only up to those boundaries.

The Government may, by regulation, determine other places where smoking is prohibited.”

6. Section 2.2 of the Act is amended by replacing the first sentence of the first paragraph by the following sentence: “Smoking is prohibited outdoors within a nine-metre radius from any door, air vent or openable window communicating with a place referred to in paragraphs 1 to 6.2, 7.2 to 9, 11 and 12 of section 2.”

7. Section 3 of the Act is amended

(1) by replacing the first paragraph by the following paragraph:

“**3.** The operator of a place referred to in paragraph 1, 7, 7.1 or 7.2 of section 2 may set up a closed smoking room in the place.”;

(2) by inserting “living or” after “persons” in the second paragraph.

8. The Act is amended by inserting the following section after section 3:

“3.1. The operator of a place referred to in section 2, except one referred to in paragraph 1 or 2 of that section, a childcare centre or a day care centre, may set up a smoking shelter on its grounds if

(1) it is used only for tobacco smoking;

(2) no other activities take place in it;

(3) it is located outside a nine-metre radius from any door, air vent or openable window communicating with a place referred to in this paragraph.

The operator of a tobacco retail outlet, within the meaning of subparagraph 1 of the second paragraph of section 14.1, may not set up a smoking shelter on the grounds of the outlet or directly or indirectly contribute to or participate in its being set up.”

9. The Act is amended by inserting the following section before section 5:

“4.1. A tobacco product manufacturer that operates a research centre may set up a room where tobacco may be used for research purposes.

Only persons who are research subjects may smoke in the room as part of research.

The standards prescribed in the third paragraph of section 3 apply to the room.

The tobacco product manufacturer must inform the Minister before beginning to use the room.”

10. Section 5 of the Act is amended

(1) by inserting the following subparagraph after subparagraph 1 of the first paragraph:

“(1.1) for persons admitted by an institution operating a general and specialized hospital centre who may, for medical purposes, use a product considered to be tobacco, to the extent provided by government regulation;”;

(2) by replacing “40%” in the second paragraph by “20%”.

11. The Act is amended by inserting the following section after section 5:

“5.1. Health and social services institutions must adopt a tobacco control policy geared to establishing a smoke-free environment and send it to the Minister. The same is true of college- or university-level educational institutions. The policy must take into account the policy directions communicated by the Minister.

The executive director of an institution or the person holding the equivalent position must report to the board of directors, or the equivalent, every two years on the application of the policy. The institution must send the report to the Minister within 60 days of filing it with the board of directors or the equivalent.”

12. The Act is amended by inserting the following section after section 8.1:

“**8.1.1.** The operator of a cigar room must post the certification notice issued by the Minister in the cigar room in a place accessible to all so that it is visible at all times.”

13. Section 10 of the Act is amended by inserting “or a regulation made under the third paragraph of section 2.1” after “chapter” in the first paragraph.

14. Section 11 of the Act is amended

(1) by inserting “or a regulation made under the third paragraph of section 2.1” after “chapter” in the first paragraph;

(2) by replacing the second paragraph by the following paragraph:

“In penal proceedings for an offence under the first paragraph, proof that a person smoked in an area where smoking is prohibited is sufficient to establish that the operator of the place or business tolerated a person smoking in that area unless it is established that the operator exercised due diligence and took all necessary precautions to prevent its commission, in particular, by posting clearly visible notices stipulating that smoking is prohibited and by having no ashtrays.”

15. The Act is amended by inserting the following section after section 11:

“**11.1.** Sections 10 and 11 do not apply to a motor vehicle referred to in paragraph 10.1 of section 2.”

16. Section 12 of the Act is amended

(1) by inserting “, smoking shelters, rooms referred to in section 4.1 or 35” after “smoking rooms” in paragraph 1;

(2) by replacing paragraph 2 by the following paragraph:

“(2) the ventilation system in smoking rooms, rooms referred to in section 4.1 or 35 or cigar rooms;”.

17. Section 13.1 of the Act is replaced by the following section:

“**13.1.** A person who wishes to purchase tobacco or to be admitted to a cigar room or to a specialized retail outlet whose operator is exempt from the

application of section 20.2 is required to provide proof of age on the business operator's or an employee's request.

When required to provide proof of age, such a person must produce photo identification issued by a government, a government department or a public body showing the person's name and date of birth.

The business operator or employee must refuse to sell tobacco to a person or to give the person access to a cigar room or a specialized retail outlet whose operator is exempt from the application of section 20.2 if the operator or employee considers that the identification the person produces cannot prove the person's identity."

18. The Act is amended by inserting the following section after section 13.1:

"13.2. Minors may not, in a tobacco retail outlet within the meaning of subparagraph 1 of the second paragraph of section 14.1, purchase a tobacco product for themselves or others or falsely represent themselves as being of full age in order to purchase tobacco.

The prohibition under the first paragraph does not apply to a minor acting as part of a test to ascertain compliance with section 13."

19. The Act is amended by inserting the following section after section 14.3:

"14.4. It is prohibited for a person of full age to purchase tobacco for a minor."

20. Section 17 of the Act is amended by replacing subparagraph 7 of the first paragraph by the following subparagraph:

"(7) in premises where the main business carried on is that of restaurateur within the meaning of the Food Products Act (chapter P-29)."

21. The Act is amended by inserting the following section after section 17.1:

"17.2. It is prohibited to rent out electronic cigarettes or any other devices of that nature or water pipes, including their components and accessories."

22. Section 20.2 of the Act is amended by replacing "tobacco retail outlet" and "retail outlet" in the first and second paragraphs, respectively, by "business".

23. Section 20.3 of the Act is amended by adding the following paragraph at the end:

"The operator of a retail outlet that is covered by the second paragraph may not admit a minor to or allow the presence of a minor in the retail outlet."

24. The Act is amended by inserting the following sections after section 20.3:

“20.3.1. The operator of a specialty tobacco retail outlet referred to in the second paragraph of section 20.3 must post the certification notice issued by the Minister in the retail outlet in a place accessible to all so that it is visible at all times.

“20.3.2. The Government may, to the extent provided by regulation, exempt the operator of a specialized retail outlet for electronic cigarettes from the application of section 20.2, but only for electronic cigarettes and other devices of that nature that the operator sells, including their components and accessories.

The operator exempt from the application of section 20.2 may not admit a minor to or allow the presence of a minor in the retail outlet.

Within 30 days after the commencement of the operations of such a retail outlet, the operator must send a written notice stating the name and address of the retail outlet to the Minister. Such a notice must also be sent to the Minister within 30 days of any change of name or address or of the discontinuance of the activities of the retail outlet.”

25. Section 20.4 of the Act is amended

(1) by inserting “, including an operator of a cigar room,” after “tobacco retail outlet”;

(2) by adding the following paragraph at the end:

“The warning may vary according to the type of retail outlet.”

26. The Act is amended by inserting the following section after section 21:

“21.1. A manufacturer or distributor of tobacco products is prohibited from offering rebates, gratuities or any other form of benefit related to the sale or the retail price of a tobacco product to operators of tobacco retail outlets, including their employees.

For the purposes of this section, a manufacturer or distributor of tobacco products includes the mandatary or representative of the manufacturer or distributor or a person or partnership that is controlled by or that controls the manufacturer or distributor.”

27. Section 24 of the Act is amended by inserting the following subparagraph after subparagraph 2 of the first paragraph:

“(2.1) concerns a tobacco product whose sale or distribution is prohibited by section 29.2;”.

28. Section 26 of the Act is amended by replacing “the tobacco industry” in the second paragraph by “a tobacco product manufacturer or distributor”.

29. Section 27 of the Act is amended by inserting the following paragraph after the first paragraph:

“In addition, it is prohibited to sell or give electronic cigarettes or other devices of that nature, including their components and accessories as well as their packaging, or to supply them as part of an exchange if a name, logo, brand element, design, image or slogan that is directly associated with any other tobacco product, a brand of any other tobacco product or a manufacturer of any other tobacco product, except a colour, appears on them.”

30. Section 28 of the Act is amended

(1) by adding the following sentence at the end of the first paragraph: “In exercising that power, the Government determines the standards relating to the portion of the display area of the tobacco product packaging where the health warning must be displayed in accordance with the labelling standards adopted under the Tobacco Act (Statutes of Canada, 1997, chapter 13).”;

(2) by striking out the fourth paragraph.

31. Section 29 of the Act is amended by striking out the second sentence of the second paragraph.

32. The Act is amended by inserting the following sections after section 29.1:

“29.2. It is prohibited to sell, offer for sale or distribute a tobacco product that has a flavour or aroma other than that of tobacco, including a menthol, fruit, chocolate, vanilla, honey, candy or cocoa flavour or aroma, or whose packaging suggests it is such a product.

“29.3. Section 29.2 does not apply to electronic cigarettes or any other devices of that nature or to their components or accessories. The Government may, to the extent provided by regulation, render the provisions of that section applicable to electronic cigarettes or such devices.

Nor does it apply to tobacco products that are manufactured in Québec and intended only for export.”

33. The heading of Chapter VII of the Act is replaced by the following heading:

“INSPECTION, SEIZURE AND INVESTIGATION”.

34. Section 34 of the Act is amended

(1) by replacing “13, 14.1 to 14.3 and 16 to 19” in paragraph 11 by “14.1 to 14.4 and 19, subparagraph 2 of the first paragraph of section 21 and section 29.2 in a tobacco retail outlet and with sections 13, 16 to 18 and subparagraphs 1 and 3 of the first paragraph of section 21 in any place to which those provisions apply;”;

(2) by adding the following after paragraph 11:

“(12) require any person present in a tobacco retail outlet or leaving an outlet to provide proof of age by producing the identification referred to in the second paragraph of section 13.1.

Before requiring proof of age from a person referred to in subparagraph 12 of the first paragraph, an inspector must be reasonably convinced that the person purchased a tobacco product.”

35. Section 35 of the Act is amended by adding the following paragraphs at the end:

“The Minister may authorize an analyst to set up a room where tobacco may be used to conduct the analysis or examination requested.

Only the persons identified by the analyst may smoke in the room as part of the analysis or examination.

The standards prescribed in the third paragraph of section 3 apply to the room.”

36. The Act is amended by inserting the following section after section 38:

“38.0.1. The Minister may designate a person to investigate any matter relating to the application of this Act.

An investigator must, on request, provide identification and produce a certificate of authority signed by the Minister.”

37. Section 38.1 of the Act is amended by replacing “or analyst” by “, analyst or investigator”.

38. The Act is amended by inserting the following section after section 38.1:

“38.2. A member of a police force governed by the Police Act (chapter P-13.1) may enforce paragraph 10.1 of section 2 throughout the territory in which that member provides police services and, for that purpose, may stop a motor vehicle if the member has reasonable grounds to believe that a person is smoking in the vehicle while a minor under 16 years of age is present in it.”

39. Section 42 of the Act is replaced by the following section:

“42. Anyone who smokes in a place where smoking is prohibited under Chapter II, a regulation made under the third paragraph of section 2.1 or the fourth paragraph of section 59 is liable to a fine of \$250 to \$750 and, for a subsequent offence, to a fine of \$500 to \$1,500.”

40. Section 43 of the Act is replaced by the following section:

“43. The operator of a place or business referred to in Chapter II or in a regulation made under the third paragraph of section 2.1 who contravenes the use, installation, construction or layout standards prescribed in sections 3 to 8.2 or the provisions of a regulation made under paragraph 1 or 2 of section 12 the violation of which constitutes an offence is liable to a fine of \$1,000 to \$50,000 and, for a subsequent offence, to a fine of \$2,000 to \$100,000.”

41. Section 43.1 of the Act is amended by replacing “\$500 to \$2,000 and, for a subsequent offence, to a fine of \$1,000 to \$6,000” by “\$2,500 to \$62,500 and, for a subsequent offence, to a fine of \$5,000 to \$125,000”.

42. The Act is amended by inserting the following section after section 43.1:

“43.1.1. The operator of a place or business referred to in Chapter II who

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

(2) contravenes section 11,

is liable to a fine of \$500 to \$12,500 and, for a subsequent offence, to a fine of \$1,000 to \$25,000.”

43. Section 43.2 of the Act is replaced by the following section:

“43.2. The operator of a tobacco retail outlet who sells tobacco to a minor in contravention of section 13 is liable to a fine of \$2,500 to \$62,500 and, for a subsequent offence, to a fine of \$5,000 to \$125,000.

In addition, an employee of the operator of a tobacco retail outlet who makes such a sale is liable to a fine of \$500 to \$1,500 and, for a subsequent offence, to a fine of \$1,000 to \$3,000.

Anyone other than a person referred to in the first or second paragraph who sells tobacco to a minor in contravention of section 13 is liable to a fine of \$2,500 to \$125,000 and, for a subsequent offence, to a fine of \$5,000 to \$250,000.”

44. The Act is amended by inserting the following section after section 43.2:

“43.2.1. A minor who contravenes section 13.2 is guilty of an offence and is liable to a fine of \$100.

In proceedings under this section, the burden is on the defendant to prove that he or she was of full age at the time.”

45. Section 43.3 of the Act is amended by replacing “\$2,000 to \$25,000 and, for a subsequent offence, to a fine of \$4,000 to \$50,000” by “\$2,500 to \$125,000 and, for a subsequent offence, to a fine of \$5,000 to \$250,000”.

46. Section 43.4 of the Act is amended by replacing “\$500 to \$2,000 and, for a subsequent offence, to a fine of \$1,000 to \$6,000” by “\$2,500 to \$62,500 and, for a subsequent offence, to a fine of \$5,000 to \$125,000”.

47. Section 43.5 of the Act is amended

(1) by replacing “\$500 to \$2,000 and, for a subsequent offence, to a fine of \$1,000 to \$6,000” in the first paragraph by “\$2,500 to \$62,500 and, for a subsequent offence, to a fine of \$5,000 to \$125,000”;

(2) by replacing “\$100 to \$300 and, for a subsequent offence, to a fine of \$200 to \$600” in the second paragraph by “\$500 to \$1,500 and, for a subsequent offence, to a fine of \$1,000 to \$3,000”.

48. The Act is amended by inserting the following section after section 43.5:

“43.6. A person of full age who contravenes section 14.4 is liable to a fine of \$500 to \$1,500 and, for a subsequent offence, to a fine of \$1,000 to \$3,000.”

49. Section 44 of the Act is replaced by the following section:

“44. The operator of a tobacco retail outlet who contravenes the first paragraph of section 15 or section 17.2 is liable to a fine of \$1,000 to \$25,000 and, for a subsequent offence, to a fine of \$2,000 to \$50,000.”

50. Section 45 of the Act is amended by replacing “\$100 to \$1,000 and, for a subsequent offence, to a fine of \$200 to \$3,000” by “\$500 to \$1,500 and, for a subsequent offence, to a fine of \$1,000 to \$3,000”.

51. Section 46 of the Act is amended by replacing “\$300 to \$2,000 and, for a subsequent offence, to a fine of \$600 to \$6,000” by “\$2,500 to \$62,500 and, for a subsequent offence, to a fine of \$5,000 to \$125,000”.

52. Section 48 of the Act is amended by replacing “\$2,000 to \$25,000 and, for a subsequent offence, to a fine of \$4,000 to \$50,000” by “\$2,500 to \$125,000 and, for a subsequent offence, to a fine of \$5,000 to \$250,000”.

53. Section 48.1 of the Act is amended by replacing “\$100 to \$300 and, for a subsequent offence, to a fine of \$200 to \$600” by “\$500 to \$1,500 and, for a subsequent offence, to a fine of \$1,000 to \$3,000”.

54. Section 49 of the Act is amended by replacing “\$300 to \$2,000 and, for a subsequent offence, to a fine of \$600 to \$6,000” by “\$1,000 to \$25,000 and, for a subsequent offence, to a fine of \$2,000 to \$50,000”.

55. Section 49.1 of the Act is repealed.

56. Section 49.2 of the Act is amended by replacing “\$300 to \$2,000 and, for a subsequent offence, to a fine of \$600 to \$6,000” by “\$1,000 to \$25,000 and, for a subsequent offence, to a fine of \$2,000 to \$50,000”.

57. Section 49.3 of the Act is replaced by the following section:

“49.3. The operator of a tobacco retail outlet who contravenes the provisions of section 8.1.1, 20.3.1, 20.4 or 20.5 or of a regulation made under section 20.7 the violation of which constitutes an offence is liable to a fine of \$1,000 to \$25,000 and, for a subsequent offence, to a fine of \$2,000 to \$50,000.”

58. The Act is amended by inserting the following section after section 49.3:

“49.4. The operator of a specialized retail outlet who contravenes the fourth paragraph of section 20.3 or the second paragraph of section 20.3.2 is liable to a fine of \$2,500 to \$62,500 and, for a subsequent offence, to a fine of \$5,000 to \$125,000.

The operator of a specialized retail outlet for electronic cigarettes who contravenes the third paragraph of section 20.3.2 is liable to a fine of \$1,000 to \$25,000 and, for a subsequent offence, to a fine of \$2,000 to \$50,000.”

59. Section 50 of the Act is amended

(1) by replacing “\$500 to \$3,000 and, for a subsequent offence, to a fine of \$1,000 to \$8,000” in the first paragraph by “\$2,500 to \$62,500 and, for a subsequent offence, to a fine of \$5,000 to \$125,000”;

(2) by replacing “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” in the second paragraph by “of section 21 or 21.1 is liable to a fine of \$5,000 to \$500,000 and, for a subsequent offence, to a fine of \$10,000 to \$1,000,000”.

60. Section 51 of the Act is amended by replacing “\$2,000 to \$300,000 and, for a subsequent offence, to a fine of \$5,000 to \$600,000” by “\$5,000 to \$500,000 and, for a subsequent offence, to a fine of \$10,000 to \$1,000,000”.

61. Section 52 of the Act is replaced by the following section:

“52. The operator of a business who contravenes the provisions of section 27 is liable to a fine of \$2,500 to \$62,500 and, for a subsequent offence, to a fine of \$5,000 to \$125,000.

A manufacturer or distributor of tobacco products who contravenes the provisions of section 27 is liable to a fine of \$5,000 to \$500,000 and, for a subsequent offence, to a fine of \$10,000 to \$1,000,000.”

62. Section 53 of the Act is amended

(1) by replacing “\$1,000 to \$300,000 and, for a subsequent offence, to a fine of \$5,000 to \$600,000” in the first paragraph by “\$5,000 to \$500,000 and, for a subsequent offence, to a fine of \$10,000 to \$1,000,000”;

(2) by replacing “to a fine of \$1,000 to \$5,000 and, for a subsequent offence, to a fine of \$2,000 to \$10,000” in the second paragraph by “to the fines prescribed in the first paragraph”.

63. The Act is amended by inserting the following section after section 53:

“53.1. Whoever contravenes section 29.2 or a regulation made under section 29.3 and whose violation constitutes an offence is liable to a fine of \$2,500 to \$125,000 and, for a subsequent offence, to a fine of \$5,000 to \$250,000.

However, a manufacturer or distributor of tobacco products is liable to a fine of \$5,000 to \$500,000 and, for a subsequent offence, to a fine of \$10,000 to \$1,000,000.”

64. Section 54 of the Act is amended by replacing “\$1,000 to \$5,000 and, for a subsequent offence, to a fine of \$2,000 to \$15,000” by “\$1,000 to \$100,000 and, for a subsequent offence, to a fine of \$2,000 to \$200,000”.

65. Section 54.1 of the Act is amended

(1) by replacing “\$300 to \$2,000 and, for a subsequent offence, to a fine of \$600 to \$6,000” in the first paragraph by “\$500 to \$12,500 and, for a subsequent offence, to a fine of \$1,000 to \$25,000”;

(2) by replacing “\$1,000 to \$5,000 and, for a subsequent offence, to a fine of \$2,000 to \$15,000” in the second paragraph by “\$1,000 to \$50,000 and, for a subsequent offence, to a fine of \$2,000 to \$100,000”.

66. Section 55 of the Act is replaced by the following section:

“55. The operator of a tobacco retail outlet who contravenes section 36 or 37 is liable to a fine of \$2,500 to \$62,500 and, for a subsequent offence, to a fine of \$5,000 to \$125,000.

Anyone other than the operator of a tobacco retail outlet who contravenes section 36 or 37 is liable to a fine of \$2,500 to \$125,000 and, for a subsequent offence, to a fine of \$5,000 to \$250,000. However, a tobacco product manufacturer or distributor is liable to a fine of \$5,000 to \$500,000 and, for a subsequent offence, to a fine of \$10,000 to \$1,000,000.”

67. Section 57.1 of the Act is replaced by the following sections:

“57.1. In any penal proceedings relating to an offence under this Act or its regulations, proof that the offence was committed by a representative, mandatary or employee of any party is sufficient to establish that it was committed by that party, unless the party establishes, subject to section 14, that it exercised due diligence and took all necessary precautions to prevent its commission.

“57.1.1. If a legal person or a representative, mandatary or employee of a legal person, partnership or association without legal personality commits an offence under this Act or the regulations, the directors or officers of the legal person, partnership or association are presumed to have committed the offence unless they establish that they exercised due diligence and took all necessary precautions to prevent its commission.

For the purposes of this section, in the case of a partnership, all partners, except special partners, are presumed to be directors of the partnership unless there is evidence to the contrary appointing one or more of them, or a third person, to manage the affairs of the partnership.”

68. Section 59 of the Act is amended

(1) by replacing subparagraph 1 of the first paragraph by the following subparagraph:

“(1) the operator was found guilty more than once of an offence under any of sections 13, 14.2 and 14.3 within five years;”;

(2) by replacing the second paragraph by the following paragraph:

“The prohibition to sell tobacco under subparagraph 1 of the first paragraph applies for three months or one year according to whether, in the five years preceding a finding of guilty for an offence under any of sections 13, 14.2 and 14.3, the operator was found guilty of a single offence or of two or more offences under any of those sections.”;

(3) by inserting “du premier alinéa” after “paragraphe 2°” in the third paragraph in the French text.

69. Section 77 of the Act is amended by replacing the first paragraph by the following paragraph:

“77. The Minister must, not later than 26 November 2020, report to the Government on the implementation of this Act, and subsequently every five years, report to the Government on the carrying out of this Act.”

ACT RESPECTING THE SOCIÉTÉ DES LOTERIES DU QUÉBEC

70. Section 25.1 of the Act respecting the Société des loteries du Québec (chapter S-13.1) is amended by replacing the third paragraph by the following paragraph:

“The identification described in the second paragraph of section 13.1 of the Tobacco Control Act (chapter T-0.01) may be used for the purposes of the second paragraph.”

REGULATION UNDER THE TOBACCO ACT

71. The Regulation under the Tobacco Act (chapter T-0.01, r. 1) is amended by inserting the following section after section 1:

“1.1. An institution operating a general and specialized hospital centre may identify rooms where persons admitted may, for medical purposes, use marijuana, to the extent that those persons hold a medical document provided by a physician allowing them to legally obtain dried marijuana from an authorized producer.”

72. The Regulation is amended by inserting the following sections after section 6:

“6.1. The portion of each display area on tobacco product packaging on which a health warning must be displayed in accordance with the Tobacco Products Labelling Regulations (Cigarettes and Little Cigars) (SOR/2011-177) must have an even surface with a minimum surface area of 4,648 mm².

“6.2. A display area on tobacco product packaging on which a health warning is displayed must not be removable from the packaging.

“6.3. Tobacco product packaging on which a health warning is displayed must contain a maximum quantity of the product, given the circumference of the product unit and the interior volume of the packaging. No device may be placed or integrated inside the packaging to reduce the space for the product.

“6.4. The operator of a specialized retail outlet for electronic cigarettes is not subject to the application of section 20.2 of the Act for electronic

cigarettes and other devices of that nature that the operator sells, including their components and accessories, to the extent that the following conditions are met:

(1) the operator of the retail outlet sells only electronic cigarettes or other devices of that nature, including their components and accessories;

(2) the operator displays the electronic cigarettes or other devices of that nature, including their components, accessories and packaging, so that they are visible only from the inside of the retail outlet;

(3) no other activity takes place there.”

73. Section 7 of the Regulation is amended by replacing “6” by “6.3”.

TRANSITIONAL AND FINAL PROVISIONS

74. The operator of a retail outlet for electronic cigarettes in operation on 26 November 2015 has 30 days from that date to comply with section 6.4 of the Regulation under the Tobacco Act (chapter T-0.01, r. 1), enacted by section 72, and to send the Minister a written notice indicating the name and address of the retail outlet.

If the operator does not comply with section 6.4 of the Regulation within that time period, section 20.2 of the Tobacco Control Act (chapter T-0.01), as amended by section 22, then applies to the operator.

The operator of a specialized retail outlet for electronic cigarettes who fails to send a notice as required under the first paragraph is liable to the fine prescribed under section 49.4 of the Tobacco Control Act, enacted by section 58.

75. Despite section 29.2 of the Tobacco Control Act, enacted by section 32, the operator of a tobacco retail outlet may, until 26 August 2016, continue to sell or offer for sale tobacco products having a flavour or aroma other than that of tobacco.

76. The provisions of this Act come into force on 26 November 2015, except

(1) sections 4, 5 and 32, which come into force on 26 May 2016;

(2) sections 6, 19, 26 and 72 to the extent that it enacts sections 6.1 to 6.3 of the Regulation under the Tobacco Act, which come into force on 26 November 2016; and

(3) section 11, which comes into force on 26 November 2017.