

chapter L-6.2

TOBACCO CONTROL ACT



This Act was formerly entitled: “Tobacco Act”. The title of the Act was replaced by section 1 of chapter 28 of the statutes of 2015.

2015, c. 28, s. 1.

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REPEAL SCHEDULES

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, 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, and any other product or class of product considered to be tobacco under a government regulation.

This Act is binding on the State.

1998, c. 33, s. 1; 2005, c. 29, s. 1; 2015, c. 28, s. 2.

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.

2005, c. 29, s. 2; 2015, c. 28, s. 3.

CHAPTER II

RESTRICTION ON THE USE OF TOBACCO IN CERTAIN PLACES

1998, c. 33, s. 2.

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 the governance of the health and social services system (chapter G-1.021), by the Act respecting health services and social services for the Inuit and Naskapi (chapter S-4.2) or by the Act respecting health services and social services for Cree Native persons (chapter S-5);

(1.1) premises where services are provided by an intermediate resource to which the Act respecting the governance of the health and social services system or the Act respecting health services and social services for the Inuit and Naskapi apply, except if the premises are situated in a dwelling;

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

(3) *(paragraph repealed)*;

(4) facilities operated by a childcare centre or day care centre within the meaning of the Educational Childcare Act (chapter S-4.1.1) and private residences where home childcare services are provided, regardless of whether the educational childcare providers are recognized home educational childcare providers under that Act, during the hours childcare is provided, during the hours when childcare is provided;

(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, except if the activities are held in a dwelling;

(6.1) enclosed spaces where the activities held may be attended only by persons explicitly or implicitly invited or authorized by the host, whether or not an admission fee is charged and regardless of the purpose of the activities, except if the activities are held in a dwelling;

(6.2) enclosed spaces used by a non-profit legal person or by an association, circle or club, whether a legal person or not, to which only members and their guests have access, except if the enclosed spaces are situated in a dwelling;

(7) the common areas of residential buildings comprising two or more dwellings, whether or not the buildings are held in co-ownership;

(7.1) the common areas of private seniors' residences within the meaning of the Act respecting the governance of the health and social services system or the Act respecting health services and social services for the Inuit and Naskapi;

(7.2) enclosed spaces where prevention, assistance and support services, including temporary lodging services, are offered to persons in distress or persons in need of assistance, except if the services are offered in a dwelling;

(8) tourist accommodation establishments governed by the Tourist Accommodation Act (chapter H-1.01) and the buildings of outfitting operations within the meaning of the Act respecting hunting and fishing rights in the James Bay and New Québec territories (chapter D-13.1);

(8.1) enclosed spaces specially laid out where meals for consumption on the premises are ordinarily offered to the public in return for remuneration;

(8.2) establishments operating under a bar permit within the meaning of the Act respecting liquor permits (chapter P-9.1);

(8.3) casinos, bingo halls and other gambling facilities;

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

(10) means of public transportation, taxis, automobiles considered to be taxis within the meaning of section 4 of the Highway Safety Code (chapter C-24.2) and other vehicles carrying two or more persons that must be used in the course of employment;

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

(11) premises used for detention within the meaning of the Act respecting the Québec correctional system (chapter S-40.1);

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

1998, c. 33, s. 2; 2001, c. 42, s. 1; 2005, c. 29, s. 3; 2005, c. 47, s. 147; 2002, c. 24, s. 204; 2009, c. 22, s. 18; 2011, c. 27, s. 38; 2015, c. 28, s. 4; 2016, c. 7, s. 59; 2018, c. 19, s. 19; 2019, c. 18, s. 247; 2022, c. 9, s. 97; 2021, c. 30, s. 45; 2023, c. 34, s. 1094.

2.1. Smoking is prohibited

(1) in bus shelters;

(2) in tents, under big tops and in other similar facilities that are put up temporarily or permanently and are open to the public;

(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 day camps and 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.

2005, c. 29, s. 4; 2005, c. 47, s. 148; 2015, c. 28, s. 5; 2018, c. 19, s. 19.

2.2. 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. However, if the nine-metre radius anywhere extends beyond the boundaries of the grounds on which the place is situated, smoking is prohibited only up to those boundaries.

The smoking prohibition under the first paragraph does not apply outside premises where the services of an intermediary resource are offered if the premises are situated in a dwelling or outside private residences where home childcare is provided.

2005, c. 29, s. 4; 2015, c. 28, s. 6.

3. The operator of a place referred to in paragraph 1, 1.1, 7, 7.1 or 7.2 of section 2 may set up a closed smoking room in the place.

Subject to section 13 of the Cannabis Regulation Act (chapter C-5.3), the smoking room must be used only for tobacco use and only by persons living or lodged in the place.

The smoking room must be delimited by floor-to-ceiling partitions or walls so as to be fully enclosed, and must be equipped with a ventilation system that maintains negative air pressure at all times and exhausts smoke directly to the outside of the building. In addition, the smoking room door must be equipped with a properly functioning self-closing device.

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.

1998, c. 33, s. 3; 2005, c. 29, s. 5; 2015, c. 28, s. 7; 2018, c. 19, s. 19; 2023, c. 34, s. 1095.

3.1. The operator of a place referred to in section 2, except one referred to in paragraph 1, 1.1 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.

2015, c. 28, s. 8; 2023, c. 34, s. 1096.

4. *(Repealed).*

1998, c. 33, s. 4; 2001, c. 42, s. 2; 2005, c. 29, s. 6.

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 Santé Québec before beginning to use the room.

2015, c. 28, s. 9; 2023, c. 34, s. 1104.

5. The operator of a place may identify rooms 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;

(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) for persons temporarily lodged in a place referred to in paragraph 7.2 of section 2.

However, the number of rooms where smoking is permitted may not exceed 20% of the rooms available for all the clientele. Furthermore, the rooms where smoking is permitted must be grouped together so as to provide maximum protection to non-smokers given the total floor space, use and ventilation of the place. If rooms have already been identified for cannabis use under the first paragraph of section 14 of the Cannabis Regulation Act (chapter C-5.3), they must be the first ones identified for tobacco use.

This section shall not operate to prevent the operator of a place from setting certain conditions for the use of tobacco in a room where smoking is permitted or from prohibiting a person lodged in the place to smoke in such a room if the operator considers that the person's smoking would pose a threat to the person's own safety or the safety of others.

1998, c. 33, s. 5; 2001, c. 42, s. 3; 2005, c. 29, s. 7; 2015, c. 28, s. 10; 2019, c. 21, s. 28.

5.1. Santé Québec and any health and social services institution other than its own 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 a college- or university-level educational 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 college- or university-level educational institution must send the report to the Minister within 60 days of filing it with the board of directors or the equivalent.

The most senior officer of a health and social services institution must, every two years, report to Santé Québec's board of directors on the application of the policy referred to in the first paragraph.

2015, c. 28, s. 11; 2023, c. 34, s. 1097.

5.2. Not later than 31 March of each year, Santé Québec must report to the Minister on the application of the tobacco control policies at the national level.

2023, c. 34, s. 1098.

6. The operator of a tourist accommodation establishment or an outfitting operation may identify rooms where smoking is permitted.

The standards and requirements set out in the second paragraph of section 5 apply to such rooms.

1998, c. 33, s. 6; 2001, c. 42, s. 4; 2005, c. 29, s. 8.

7. *(Repealed).*

1998, c. 33, s. 7; 2001, c. 42, s. 5; 2005, c. 29, s. 9.

8. *(Repealed).*

1998, c. 33, s. 8; 2001, c. 42, s. 6; 2005, c. 29, s. 9.

8.1. Smoking cigars or pipe tobacco is permitted in a cigar room provided that

- (1) the cigar room is specially set up for cigar or pipe smoking;
- (2) the cigar room was in operation on 10 May 2005;

(3) cigar and pipe tobacco sales by the operator of the cigar room generated a gross income of \$20,000 or more for the operator for the taxation year preceding the taxation year in progress on 10 May 2005. However, if operation of the cigar room began after 10 May 2004, the taxation year in which cigar and pipe tobacco sales must have generated a gross income of \$20,000 or more is the year in progress on 10 May 2005;

(4) the operator of the cigar room sends the Minister, not later than 10 November 2006, a written notice stating the name and address of the cigar room, together with sufficient proof that the operator meets the conditions set out in this paragraph.

Not later than 1 November 2006, the operator of a cigar room must delimit the cigar room using floor-to-ceiling partitions or walls so that it is fully enclosed, and equip the cigar room with a ventilation system that maintains negative air pressure at all times and exhausts smoke directly to the outside of the building. The operator of the cigar room must also, not later than that date, equip the cigar room doors with a properly functioning self-closing device.

2005, c. 29, s. 10.

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.

2015, c. 28, s. 12.

8.2. The operator of a cigar room may not permit that meals be consumed by customers in the cigar room.

The operator of a cigar room may not admit a minor to or allow the presence of a minor in the cigar room.

2005, c. 29, s. 10.

9. The director of a correctional facility may permit smoking in all the rooms used for detention within the meaning of the Act respecting the Québec correctional system (chapter S-40.1) except cafeterias, classrooms and meeting rooms, gymnasiums, rooms used for worship and libraries.

The director of a correctional facility is an operator within the meaning of the fourth paragraph of section 3.

1998, c. 33, s. 9; 2005, c. 29, s. 11; 2002, c. 24, s. 204, s. 207.

10. The operator of a place or business to which this chapter or a regulation made under the third paragraph of section 2.1 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.

1998, c. 33, s. 10; 2015, c. 28, s. 13.

11. The operator of a place or business to which this chapter or a regulation made under the third paragraph of section 2.1 applies shall not tolerate smoking in an area where smoking is prohibited.

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.

1998, c. 33, s. 11; 2005, c. 29, s. 12; 2015, c. 28, s. 14.

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

2015, c. 28, s. 15.

12. The Government may make regulations determining standards relating to

(1) the construction or layout of smoking rooms, smoking shelters, rooms referred to in section 4.1 or 35 and cigar rooms;

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

(3) the notices referred to in section 10.

1998, c. 33, s. 12; 2005, c. 29, s. 13; 2015, c. 28, s. 16.

CHAPTER III

SALE OF TOBACCO, DISPLAYS AND SIGNS

2005, c. 29, s. 14.

DIVISION I

SALE OF TOBACCO

2005, c. 29, s. 14.

13. No one may sell tobacco to a minor.

1998, c. 33, s. 13; 2005, c. 29, s. 15.

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.

2005, c. 29, s. 16; 2015, c. 28, s. 17.

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.

2015, c. 28, s. 18.

14. In proceedings for a contravention of the second paragraph of section 8.2 or a contravention of section 13, no penalty may be imposed on a defendant 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.

1998, c. 33, s. 14; 2005, c. 29, s. 17.

14.1. Tobacco may not be sold retail except in a tobacco retail outlet, with both the operator of the retail outlet or an employee of the operator and the purchaser physically present.

For the purposes of this Act,

(1) a tobacco retail outlet is a fixed place permanently delimited by continuous floor-to-ceiling partitions or walls that is accessible only through an opening equipped with a door and in which tobacco is sold retail by the operator of the place;

(2) a person other than a tobacco farmer or a tobacco product manufacturer or distributor who is in possession of or holds a quantity of tobacco that exceeds the amount the person needs for personal consumption is presumed, in the absence of any evidence to the contrary, to engage in the retail sale of tobacco.

2005, c. 29, s. 18.

14.2. The operator of a tobacco retail outlet may not give tobacco to a minor.

2005, c. 29, s. 18.

14.3. The operator of a tobacco retail outlet may not sell tobacco to a person of full age if the operator knows the person is purchasing the tobacco for a minor.

2005, c. 29, s. 18.

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

2015, c. 28, s. 19.

15. The operator of a tobacco retail outlet 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 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).

1998, c. 33, s. 15; 2005, c. 29, s. 19.

16. The operator of a place or business may not have a tobacco vending machine installed, or leave or keep a tobacco vending machine in the place or business.

1998, c. 33, s. 16; 2005, c. 29, s. 20.

17. No tobacco retail outlet may be operated

- (1) on the grounds of or within a facility maintained by a health and social services institution;
- (2) on the grounds or within the premises or buildings placed at the disposal of a school, a vocational training centre, an adult education centre or a private educational institution;
 - (2.1) on the grounds or within the buildings of a general and vocational college or a university;
- (3) on the grounds of or within the facilities of a childcare centre or day care centre;
- (4) within premises where sports, recreational, cultural or artistic activities are presented, at the time they are presented;
- (5) within premises or buildings intended mainly for the presentation of sports, recreational, cultural or artistic activities or intended mainly as a place where members of the public may engage or take part in such activities;
- (6) in an establishment operating under a bar permit within the meaning of the Act respecting liquor permits (chapter P-9.1), other than a cigar room;
- (7) in premises where the main business carried on is that of restaurateur within the meaning of the Food Products Act (chapter P-29).

The Government may, by regulation, determine other places where operating a tobacco retail outlet is prohibited.

1998, c. 33, s. 17; 2005, c. 29, s. 21; 2005, c. 47, s. 149; 2015, c. 28, s. 20; 2016, c. 7, s. 60.

17.1. It is prohibited to supply tobacco to a minor on the grounds or within the premises or buildings placed at the disposal of a school or a private educational institution dispensing services specified in paragraphs 1 to 3 of section 1 of the Act respecting private education (chapter E-9.1), whether or not for a consideration.

2005, c. 29, s. 22.

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.

2015, c. 28, s. 21.

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.

1998, c. 33, s. 18.

19. The operator of a tobacco retail outlet 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.

1998, c. 33, s. 19; 2005, c. 29, s. 23.

20. The retail sale of tobacco is an activity that must be declared in the register kept in accordance with the Act respecting the legal publicity of enterprises (chapter P-44.1) within 30 days after the commencement of the operations of a tobacco retail outlet.

The discontinuance of that activity must be declared in the same register within 30 days after its occurrence.

1998, c. 33, s. 20; 2005, c. 29, s. 24; 2010, c. 7, s. 282.

20.1. *(Repealed).*

2005, c. 29, s. 24; 2010, c. 7, s. 264.

DIVISION II

DISPLAYS

2005, c. 29, s. 24.

20.2. The operator of a business may not display tobacco or tobacco packaging in public view.

However, the operator may, by means of a sign permitted under subparagraph 9 of the first paragraph of section 24, provide consumers with the names of the tobacco products sold at the business and their price as well as with any other factual information referred to in that section. The sign must comply with the other provisions of section 24.

2005, c. 29, s. 24; 2015, c. 28, s. 22.

20.3. Section 20.2 does not apply to the operator of a cigar room or a duty free shop.

Nor does it apply to the operator of a specialty tobacco retail outlet if the following conditions are met:

(1) the specialty tobacco retail outlet is and remains a tobacco retail outlet specially set up for the retail sale of tobacco;

(2) it is in operation on 10 May 2005;

(3) receipts derived by the operator of the specialty tobacco retail outlet from the retail sale of tobacco, accessories that may be used for tobacco smoking and specialized publications about such products in the 12 months before 31 May 2006 account for 75% of receipts from all sales made at that retail outlet in that period;

(4) the operator of the specialty tobacco retail outlet sends the Minister, not later than 30 June 2008, a written notice stating the name and address of the retail outlet, and sufficient proof that the operator meets the conditions set out in this paragraph.

However, the operator of a tobacco retail outlet that is covered by the first and second paragraphs must display tobacco and tobacco packaging in such a way that it is visible only from the inside of the retail outlet.

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.

2005, c. 29, s. 24; 2015, c. 28, s. 23.

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 Santé Québec in the retail outlet in a place accessible to all so that it is visible at all times.

2015, c. 28, s. 24; 2023, c. 34, s. 1104.

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 Santé Québec. Such a notice must also be sent to Santé Québec within 30 days of any change of name or address or of the discontinuance of the activities of the retail outlet.

2015, c. 28, s. 24; 2023, c. 34, s. 1099.

DIVISION III

SIGNS

2005, c. 29, s. 24.

20.4. The operator of a tobacco retail outlet, including an operator of a cigar room, must post a notice 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 signs are provided by Santé Québec.

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

2005, c. 29, s. 24; 2015, c. 28, s. 25; 2023, c. 34, s. 1100.

20.5. Such signs must be posted in public view, on or next to each cash register used for tobacco sales.

2005, c. 29, s. 24.

20.6. No person may remove or deface such signs.

2005, c. 29, s. 24.

20.7. The Minister may make regulations determining the standards applicable to such signs.

2005, c. 29, s. 24.

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 by the manufacturer, 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 if consumers must, in return, provide information on tobacco or their tobacco consumption, purchase a tobacco product or present proof of purchase of a tobacco product.

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

1998, c. 33, s. 21; 2005, c. 29, s. 25.

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 mandatory or representative of the manufacturer or distributor or a person or partnership that is controlled by or that controls the manufacturer or distributor.

2015, c. 28, s. 26.

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.

1998, c. 33, s. 22.

23. No name, logo, distinguishing guise, design, image 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, distinguishing guise, design, image 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.

1998, c. 33, s. 23; 2005, c. 29, s. 26; 2018, c. 19, s. 19.

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;
 - (2.1) concerns a tobacco product whose sale or distribution is prohibited by section 29.2;
- (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) *(subparagraph repealed)*.

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.

Advertising disseminated in printed newspapers or magazines that have an adult readership of not less than 85% must include the warning attributed to the Minister and prescribed by regulation concerning the harmful effects of tobacco on health. The advertising must be forwarded to Santé Québec on being disseminated.

1998, c. 33, s. 24; 2005, c. 29, s. 27; 2015, c. 28, s. 27; 2023, c. 34, s. 1101.

24.1. Indirect advertising for the promotion of tobacco within the meaning of the first paragraph of section 24 includes the use, on a facility, a vehicle, a sign or any other object that is not a tobacco product, of a name, logo, distinguishing guise, design, image or slogan that is not directly associated with tobacco, a tobacco product, a brand of tobacco product or a manufacturer of tobacco products but that may reasonably be said to evoke a brand of tobacco product or a manufacturer of tobacco products because of its graphic design, presentation or association with a tobacco display stand or a tobacco retail outlet.

2005, c. 29, s. 28; 2018, c. 19, s. 19.

25. The Government may make regulations

- (1) determining standards relating to advertising and promotion;
 - (1.1) prescribing standards relating to the display, on the facilities of a tobacco retail outlet, of the name under which the retail outlet is operated and to the display, on the facilities of a tobacco product manufacturer or distributor, of the name under which the manufacturer or distributor carries on its activities or by which the manufacturer or distributor identifies itself;

(1.2) prohibiting the use of certain words or expressions in the name under which a tobacco retail outlet is operated;

(2) prescribing standards relating to the display of specialized publications about tobacco or about accessories that may be used for tobacco smoking;

(2.1) determining the standards relating to the display of tobacco in specialty tobacco retail outlets, cigar rooms and duty free shops;

(3) *(subparagraph repealed)*;

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

For the purposes of subparagraph 1.1 of the first paragraph, a tobacco product manufacturer or distributor includes the mandatory or representative of the manufacturer or distributor, and a person or partnership that is controlled by or controls the manufacturer or distributor.

1998, c. 33, s. 25; 2005, c. 29, s. 29.

25.1. The Minister may, by regulation, determine the wording of, and standards applicable to, the warning required under the third paragraph of section 24.

2005, c. 29, s. 30.

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 a tobacco product manufacturer or distributor and does not reach consumers either directly or indirectly.

1998, c. 33, s. 26; 2015, c. 28, s. 28.

27. No operator of a business or tobacco product manufacturer or distributor may sell or give an object that is not a tobacco product or supply such an object as part of an exchange, if a name, logo, distinguishing guise, design, image or slogan that is directly associated with tobacco, a tobacco product, a brand of tobacco product or a manufacturer of tobacco products, except a colour, appears on the object.

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, distinguishing guise, 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.

For the purposes of this section, a tobacco product manufacturer or distributor includes the mandatory or representative of the manufacturer or distributor, and a person or partnership that is controlled by or controls the manufacturer or distributor.

1998, c. 33, s. 27; 2005, c. 29, s. 31; 2015, c. 28, s. 29; 2018, c. 19, s. 19.

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. 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 (S.C. 1997, c. 13).

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.

1998, c. 33, s. 28; 2015, c. 28, s. 30.

CHAPTER V

TOBACCO PRODUCTS

2005, c. 29, s. 32.

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.

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.

1998, c. 33, s. 29; 2015, c. 28, s. 31.

29.1. The Government may, by regulation, specify any other product or class of product considered to be tobacco.

2005, c. 29, s. 33.

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.

2015, c. 28, s. 32.

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.

2015, c. 28, s. 32.

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.

1998, c. 33, s. 30.

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.

1998, c. 33, s. 31.

CHAPTER VII

INSPECTION, SEIZURE AND INVESTIGATION

2015, c. 28, s. 33.

32. For the purposes of this Act, Santé Québec 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 Santé Québec 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 president and chief executive officer of Santé Québec, by a person the latter designates or by the clerk or the clerk-treasurer of the local municipality concerned.

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

1998, c. 33, s. 32; 2021, c. 31, s. 132; 2023, c. 34, s. 1102.

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 sections 2 to 2.2;

(2) where tobacco is manufactured, tested, stored, packaged, labelled or sold;

(3) where layouts, equipment or notices referred to in sections 3 to 8.1 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.

1998, c. 33, s. 33; 2005, c. 29, s. 34.

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 sections 2 to 2.2;
- (2) verify the layout of the place inspected to ascertain whether the places where smoking is permitted under sections 3 to 8.1 meet the requirements of sections 3 to 8.1 or of the regulations made under section 12, and for that purpose take air or other samples;
 - (2.1) verify the layout of the place where tobacco is sold to ascertain that the place meets the requirements set out in sections 14.1, 15 and 20.2;
- (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 and signs referred to in sections 10 and 20.4 meet the requirements of section 10, Division III of Chapter III and the regulations made under paragraph 3 of section 12 and section 20.7;
- (9) verify whether the display of specialized publications about tobacco or about accessories that may be used for tobacco smoking meets the requirements of the regulations made under section 25;
 - (9.1) verify whether the display of tobacco in specialty tobacco retail outlets, cigar rooms and duty free shops meets the requirements of section 20.3 and the regulations made under section 25;
- (10) *(paragraph repealed)*;
 - (10.1) take photographs of the place inspected and of the equipment, property and products found there;
- (11) conduct tests to ascertain compliance with sections 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;
- (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.

1998, c. 33, s. 34; 2005, c. 29, s. 35; 2015, c. 28, s. 34.

34.1. A person authorized by Santé Québec may, in a request sent by registered mail or by personal service, require the operator of a place or business to submit any information or document relating to the application of this Act or the regulations, by registered mail or by personal service, within a reasonable time period specified by the person.

The person to whom the request is made shall comply with it within the time period specified even if the person has already submitted such information or document or answered a similar request made under this Act.

2005, c. 29, s. 36; I.N. 2016-01-01 (NCCP); 2023, c. 34, s. 1104.

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.

Santé Québec 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.

1998, c. 33, s. 35; 2015, c. 28, s. 35; 2023, c. 34, s. 1104.

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

1998, c. 33, s. 36.

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.

1998, c. 33, s. 37.

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 (chapter C-25.1), adapted as required, apply to the things seized.

1998, c. 33, s. 38.

38.0.1. Santé Québec 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 president and chief executive officer of Santé Québec or by a person the latter designates.

2015, c. 28, s. 36; 2023, c. 34, s. 1103.

38.1. An inspector, analyst or investigator may not be prosecuted for an act or omission in good faith in the performance of duties.

2005, c. 29, s. 37; 2015, c. 28, s. 37.

38.2. A member of a police force may stop a motor vehicle to enforce paragraph 10.1 of section 2 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.

2015, c. 28, s. 38; 2023, c. 20, s. 106.

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.

1998, c. 33, s. 39.

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 C-25.1).

1998, c. 33, s. 40.

CHAPTER IX

PENAL PROVISIONS

41. The Government or the Minister, as the case may be, shall determine the provisions of a regulation made under this Act the violation of which constitutes an offence.

1998, c. 33, s. 41; 2005, c. 29, s. 38.

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.

1998, c. 33, s. 42; 2005, c. 29, s. 39; 2015, c. 28, s. 39.

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.

1998, c. 33, s. 43; 2005, c. 29, s. 40; 2015, c. 28, s. 40.

43.1. The operator of a cigar room who, in contravention of the second paragraph of section 8.2, admits a minor to or allows the presence of a minor in a cigar room 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.

2005, c. 29, s. 41; 2015, c. 28, s. 41.

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.

2015, c. 28, s. 42.

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.

2005, c. 29, s. 41; 2015, c. 28, s. 43.

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.

2015, c. 28, s. 44.

43.3. A person who contravenes section 14.1 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.

2005, c. 29, s. 41; 2015, c. 28, s. 45.

43.4. The operator of a tobacco retail outlet who, in contravention of section 14.2, gives tobacco to a minor 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.

2005, c. 29, s. 41; 2015, c. 28, s. 46.

43.5. The operator of a tobacco retail outlet who, in contravention of section 14.3, sells tobacco to a person of full age knowing the person is purchasing the tobacco for a minor 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.

2005, c. 29, s. 41; 2015, c. 28, s. 47.

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.

2015, c. 28, s. 48.

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.

1998, c. 33, s. 44; 2005, c. 29, s. 42; 2015, c. 28, s. 49.

45. A person who removes or defaces a notice in contravention of the second paragraph of section 10 or section 20.6 is liable to a fine of \$500 to \$1,500 and, for a subsequent offence, to a fine of \$1,000 to \$3,000.

1998, c. 33, s. 45; 2005, c. 29, s. 43; 2015, c. 28, s. 50.

46. The operator of a place or business who contravenes the provisions of section 16 or the operator of a tobacco retail outlet who contravenes 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 \$2,500 to \$62,500 and, for a subsequent offence, to a fine of \$5,000 to \$125,000.

1998, c. 33, s. 46; 2005, c. 29, s. 44; 2015, c. 28, s. 51.

47. *(Repealed).*

1998, c. 33, s. 47; 2005, c. 29, s. 45.

48. A person who contravenes the provisions of section 17 or 18 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.

1998, c. 33, s. 48; 2005, c. 29, s. 46; 2015, c. 28, s. 52.

48.1. A person who contravenes section 17.1 is liable to a fine of \$500 to \$1,500 and, for a subsequent offence, to a fine of \$1,000 to \$3,000.

2005, c. 29, s. 47; 2015, c. 28, s. 53.

49. The operator of a tobacco retail outlet who, in contravention of section 20, omits to declare the retail sale of tobacco or the discontinuance of that activity in the register 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.

1998, c. 33, s. 49; 2005, c. 29, s. 48; 2015, c. 28, s. 54.

49.1. *(Repealed).*

2005, c. 29, s. 48; 2015, c. 28, s. 55.

49.2. The operator of a tobacco retail outlet who contravenes the provisions of section 20.2 or the third paragraph of section 20.3 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.

2005, c. 29, s. 48; 2015, c. 28, s. 56.

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.

2005, c. 29, s. 48; 2015, c. 28, s. 57.

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.

2015, c. 28, s. 58.

50. The operator of a business who contravenes the provisions of section 21 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 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.

1998, c. 33, s. 50; 2015, c. 28, s. 59.

51. A person who contravenes the provisions of section 22, 23 or 26, the provisions of the first or third paragraph of section 24, the provisions of the third paragraph of section 28 or the provisions of a regulation

made under section 22, 25, 25.1 or 28 the violation of which constitutes an offence 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.

1998, c. 33, s. 51; 2005, c. 29, s. 49; 2015, c. 28, s. 60.

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.

1998, c. 33, s. 52; 2015, c. 28, s. 61.

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 \$5,000 to \$500,000 and, for a subsequent offence, to a fine of \$10,000 to \$1,000,000.

A distributor of tobacco products who contravenes the provisions of the last paragraph of section 29 is liable to the fines prescribed in the first paragraph.

1998, c. 33, s. 53; 2015, c. 28, s. 62.

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.

2015, c. 28, s. 63.

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 \$100,000 and, for a subsequent offence, to a fine of \$2,000 to \$200,000.

1998, c. 33, s. 54; 2015, c. 28, s. 64.

54.1. The operator of a place or business who refuses or neglects to comply with a request under section 34.1 within the time period specified is liable to a fine of \$500 to \$12,500 and, for a subsequent offence, to a fine of \$1,000 to \$25,000.

If the operator of the place or business is a tobacco product manufacturer or distributor, the tobacco product manufacturer or distributor 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.

2005, c. 29, s. 50; 2015, c. 28, s. 65.

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.

1998, c. 33, s. 55; 2015, c. 28, s. 66.

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.

1998, c. 33, s. 56.

57. Where the commission of an offence under sections 43 to 49.3 and 50 to 55 continues for more than one day, each day during which the offence continues shall constitute a separate offence.

1998, c. 33, s. 57; 2005, c. 29, s. 51.

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.

2005, c. 29, s. 52; 2015, c. 28, s. 67.

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.

2015, c. 28, s. 67.

57.2. A person who assists another person in committing an offence under this Act or a regulation or who, by encouragement, advice or consent, or by an authorization or an order, induces another person to commit such an offence, is guilty of an offence.

A person convicted of an offence under this section is liable to the same penalty as that prescribed for committing the offence which the person assisted in committing or induced to commit, whether or not the person who was assisted or induced has been prosecuted or found guilty.

2005, c. 29, s. 52.

CHAPTER X

ADMINISTRATIVE PROVISIONS

58. Santé Québec must keep a register, called the register of fines, containing information concerning each guilty plea entered by the operator of a tobacco retail outlet and each conviction entered against such an operator in connection with an offence under the provisions of section 13, 14.2, 14.3, 20.4 or 20.5.

1998, c. 33, s. 58; 2005, c. 29, s. 53; 2023, c. 34, s. 1104.

59. The operator of a retail outlet is prohibited from selling tobacco at the retail outlet if, for that retail outlet,

(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) the operator was found guilty of a total of three offences under section 20.4 or 20.5 within five years.

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.

The prohibition to sell tobacco under subparagraph 2 of the first paragraph applies for one month.

If a tobacco retail outlet under a prohibition to sell tobacco is also a cigar room, smoking cigars or pipe tobacco is also prohibited in that retail outlet for as long as the operator is prohibited from selling tobacco.

1998, c. 33, s. 59; 2005, c. 29, s. 54; 2015, c. 28, s. 68.

60. Santé Québec shall inform the Minister of Revenue of any prohibition from selling tobacco imposed on the operator of a tobacco retail outlet pursuant to section 59.

The Minister of Revenue shall then suspend, for the retail outlet concerned, and for the sale of tobacco, for the duration of the prohibition from selling tobacco, the registration certificate issued under the Act respecting the Québec sales tax (chapter T-0.1).

1998, c. 33, s. 60; 2005, c. 29, s. 55; 2023, c. 34, s. 1104.

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 Tax Administration Act (chapter A-6.002).

An operator of a tobacco retail outlet 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, failing which the Minister may have the tobacco or advertising removed at the operator's expense. In such a case, once the prohibition expires, the operator of the tobacco retail outlet may, after paying storage charges, recover the tobacco or advertising at the place designated by the Minister. If the operator does not recover the tobacco or advertising within 60 days after the prohibition expires, the Minister may dispose of it as the Minister wishes and claim expenses from the operator.

1998, c. 33, s. 61; 2005, c. 29, s. 56; 2010, c. 31, s. 175.

CHAPTER XI

AMENDING, TRANSITIONAL AND FINAL PROVISIONS

62. *(Amendment integrated into c. I-2, s. 3).*

1998, c. 33, s. 62.

63. *(Amendment integrated into c. I-2, s. 5.0.2).*

1998, c. 33, s. 63.

64. *(Amendment integrated into c. I-2, s. 7).*

1998, c. 33, s. 64.

65. *(Amendment integrated into c. M-31, s. 17.9.1).*

1998, c. 33, s. 65.

66. *(Amendment integrated into c. T-0.1, s. 415.0.1).*

1998, c. 33, s. 66.

67. *(Amendment integrated into c. M-19.2, s. 3).*

1998, c. 33, s. 67.

68. *(Repealed).*

1998, c. 33, s. 68; 2005, c. 29, s. 57.

69. *(Repealed).*

1998, c. 33, s. 69; 2001, c. 42, s. 7; 2005, c. 29, s. 57.

70. *(Repealed).*

1998, c. 33, s. 70; 2005, c. 29, s. 57.

71. *(Repealed).*

1998, c. 33, s. 71; 2005, c. 29, s. 57.

72. *(Repealed).*

1998, c. 33, s. 72; 2005, c. 29, s. 57.

73. *(Repealed).*

1998, c. 33, s. 73; 2005, c. 29, s. 57.

74. *(Repealed).*

1998, c. 33, s. 74; 2005, c. 29, s. 57.

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

1998, c. 33, s. 75; 2005, c. 29, s. 58.

76. *(Repealed).*

1998, c. 33, s. 76; 2005, c. 29, s. 57.

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.

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.

1998, c. 33, s. 77; 2005, c. 29, s. 59; 2015, c. 28, s. 69.

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

1998, c. 33, s. 78.

79. *(Omitted).*

1998, c. 33, s. 79.

REPEAL SCHEDULES

In accordance with section 9 of the Act respecting the consolidation of the statutes and regulations (chapter R-3), chapter 33 of the statutes of 1998, in force on 1 April 1999, is repealed, except section 79, effective from the coming into force of chapter T-0.01 of the Revised Statutes.

In accordance with section 9 of the Act respecting the consolidation of the statutes and regulations (chapter R-3), sections 2 to 15, 20, 41 to 45, 49, 58 to 66, 68 to 70 and 76 of chapter 33 of the statutes of 1998, in force on 1 April 2000, are repealed effective from the coming into force of the updating to 1 April 2000 of chapter T-0.01 of the Revised Statutes.