

TOBACCO ACCESS ACT and REGULATIONS

**What tobacco vendors need to know about changes to
how tobacco is sold, promoted and displayed in
Nova Scotia**

**Bulletin #2
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OVERVIEW

This bulletin provides information about changes to Nova Scotia's *Tobacco Access Act* and *Regulations*, what is required to comply with the law, and the enforcement transition period.

KEY INFORMATION

- Bill 62, Amendments to the *Tobacco Access Act*, received Royal Assent on November 23, 2006. Bill 62 has been proclaimed and took effect on **March 31, 2007**.
- Bill 62 changes the way tobacco and tobacco products can be displayed, promoted, advertised and stored.
- *The Tobacco Access Act Regulations* have been approved. The *Regulations* further define where and how tobacco can be stored, extends the list of prohibited places from selling tobacco and provides the criteria for operating as a tobacconist shop.

WHY ARE THESE CHANGES BEING MADE?

Preventing youth tobacco use and helping people quit

Eliminating point of sale advertising and promotion of tobacco is aimed at creating a supportive environment where children, former smokers and smokers wishing to quit are not exposed to tobacco marketing tactics.

Tobacco use kills over 2000 Nova Scotians every year

Tobacco use is one of Nova Scotia's primary preventable health risks. Many chronic diseases such as cancer, stroke and heart attacks can be prevented through the reduction of tobacco use.

Advertising and promotion increases tobacco use

Advertising and promotion of cigarettes and other tobacco products has been linked to increased levels of smoking and other tobacco use. Over the years as tobacco advertising and promotion has not been permitted by law on TV, radio, magazines and newspapers, point of sale advertising has become one of the last places where tobacco marketing can occur.

STORAGE OF TOBACCO AND TOBACCO PRODUCTS

Tobacco and tobacco products shall be stored in the following manner:

- Tobacco and tobacco products are not visible to the public from outside of the vendor's premises;
- Tobacco and tobacco products are stored at point of purchase under an opaque front counter, above the front counter in an opaque cabinet or behind the front counter.

Definition of "opaque": Opaque means material that is used for constructing a cabinet or counter to store and conceal tobacco and tobacco products must not allow these products to be visible to the public.

If tobacco is stored behind the counter, the following conditions must be met:

- A maximum total of 15,720 square centimeters (equals approximately 17.2 square feet) of area can be used to store tobacco;
- The cabinet space used for storing tobacco behind the counter must have a permanent opaque door or other concealing device that automatically closes without the assistance of the vendor or an employee;
- The permanent opaque door or other concealing device cannot be opened to show a customer the available tobacco. The door can remain open during the time used for re-stocking and inventory purposes (see next section);
- Tobacco must be stored and placed in the behind the counter cabinet so that only the Health Canada emissions panel is visible when the cabinet door is opened;
- Products where tobacco manufacturer logos or colours appear on the Health Canada emissions panel are not permitted behind the counter and will have to be stored under the counter or over the counter.

In addition to the above conditions tobacco vendors and their employees must ensure the following:

- Once a customer has indicated an intention to purchase tobacco or tobacco products, they may view and examine only the specific number units requested of the product before purchasing.

ALLOWANCES FOR RE-STOCKING AND CONDUCTING INVENTORY

It will **not** be an offence under the *Act* if a consumer is able to view tobacco, tobacco products or containers used for storing or transporting tobacco or tobacco products in any of the following circumstances:

- Re-stocking of tobacco or tobacco products by the vendor, employee or a manufacturers' representative;
- A vendor or an employee is conducting an inventory of tobacco or tobacco products;
- A vendor or an employee is receiving a delivery of or unpacking tobacco or tobacco products;
- A vendor is in the process of selling tobacco or tobacco products to a consumer.

TOBACCONIST SHOPS

Tobacconists are provided some exceptions to display tobacco and tobacco products. To be considered a tobacconist the following conditions must be met:

- No one under 19 years of age is permitted to enter the premises;
- Only the sale of tobacco, tobacco products and lotto are permitted.

The following conditions apply to tobacconists:

- No promotion and advertising of tobacco products is permitted inside or outside;
- Tobacco must be stored or displayed in such a manner that only the Health Canada emissions panel is visible;
- Tobacco that uses packaging that does not display a Health Canada emissions panel must be stored under the counter or over the counter or in any other manner in which these products are not visible to the public (i.e. behind the counter with an opaque concealing device or door);
- Tobacco products (cigarette paper, cigarette tube, cigarette filter, cigarette maker, cigarette holder or pipe, devices for rolling cigarettes, cigarette or tobacco carrying or storage cases, pipe loaders, cigar cutters, specialty tobacco publications or lighters and matches that display or depict logos, trademarks or colours of tobacco manufacturers) can be displayed.

TRANSITION PERIOD FOR MAKING THE APPROPRIATE STORAGE CHANGES

For the display and storage of tobacco and tobacco products

In order to assist vendors to come into compliance with the changes to the *Tobacco Access Act* and revised *Regulations*, a six month (three-phase) transitional enforcement and educational period will be in effect.

- *Phase I (June and July, 2007)*

During this phase Tobacco Inspectors will visit as many vendors as possible to answer questions with respect to the storage and display of tobacco products. Vendors are encouraged to use this time to plan and implement the necessary storage modifications to be in compliance with the regulations. During this phase no warnings will be issued.

- *Phase II (August, 2007)*

During the second phase, verbal warnings will be issued if tobacco is not stored in a manner that is consistent with the *Tobacco Access Act* and *Regulations*. Tobacco Inspectors will note time and place of the verbal warning.

- *Phase III (Full Implementation - September, October and November, 2007)*

Inspections will be carried out during this phase that will result in written warnings and charges for non-compliance. Vendors will have a 30 day period to make the appropriate changes. Charges will be considered if non-compliance is observed after the 30 day period.

SIGNS, PROMOTIONS, ADVERTISING AND DISPLAYS

- **Effective immediately** all signs, displays and materials promoting or advertising the sale and/or price of tobacco or tobacco products will no longer be permitted inside or outside the establishment.
- Vendors will be automatically issued written warnings and could face charges if upon a subsequent inspection non-compliance continues.
- To be in compliance with the changes to the *Tobacco Access Act*, no person shall display or permit the display of any sign or material promoting or advertising the sale of tobacco or tobacco products.
- Only government authorized health warning, minimum age and proof of age signs are permitted in and outside of the establishment. For example, "Operation ID" signs or other corporate signs relating to minimum age requirements will not be permitted.

- All tobacco related promotions, signs, and tobacco manufacturer logos, colours and other advertisements must be removed. The *Tobacco Access Act Regulations* permit vendors to display signs listing types of tobacco for sale (see below);

SIGNS LISTING TYPES OF TOBACCO FOR SALE

A vendor may display signs listing the types, but not brands, of tobacco offered for sale and their prices in accordance with the following conditions:

- (a) no more than 1 sign may be displayed at a till;
- (b) a maximum of 3 signs may be posted in the vendor's premises;
- (c) a sign that is posted must be fixed to the counter or wall near a till;
- (d) a sign may be kept under the counter and available for reference by a cashier;
- (e) a sign must not be readable from outside the vendor's premises.

A sign listing the types of tobacco for sale shall meet all the following criteria:

- (a) the maximum size for a sign is 968 square centimetres;
- (b) a sign must be white with only black lettering;
- (c) the maximum height for the lettering on a sign is 18 millimetres;
- (d) the lettering size and style must be consistent and shall not contain italics, bold type or underlining;
- (e) the text on a sign shall not identify or reflect a brand of tobacco or any element of a brand;
- (f) the text on a sign may use only the following words, an abbreviation or an equivalent in another language, to describe the types of tobacco for sale:
 - (i) full price cigarettes,
 - (ii) mid price cigarettes,
 - (iii) budget price cigarettes,
 - (iv) smokeless tobacco,
 - (v) cigars,

- (vi) loose tobacco by pouch or tub;

An example of a sign listing the types of tobacco for sale and their prices is found at the end of the bulletin. The sign should not contain any words, phrases or figures additional to those set out above and in the attached example sign.

PROHIBITED PLACES FROM SELLING TOBACCO

The revised *Tobacco Access Act Regulations* no longer permits certain locations from selling tobacco. These places will have until July 31, 2007 to sell tobacco. After this date tobacco is not permitted to be sold.

The following places will not be permitted to sell tobacco effective July 31, 2007:

- (a) a recreational facility where the primary activity is physical recreation including all of the following facilities:
 - (I) a bowling alley,
 - (ii) a fitness centre,
 - (iii) a gymnasium,
 - (iv) a pool,
 - (v) a rink;
- (b) a community college or university;
- (c) a library, art gallery or museum;
- (d) a cinema or theatre;
- (e) an amusement park, a video arcade or pool hall;
- (f) a gaming premises as defined under the *Gaming Control Act*
- (g) an office of any of the following or of an agency of any of the following:
 - (i) the Government of Nova Scotia,
 - (ii) a municipality, as defined in the *Municipal Government Act*,
 - (iii) a village, as defined in the *Municipal Government Act*,
 - (iv) a school board, as defined in the *Education Act*;
- (h) a multi-service centre, community centre or hall, arena, fire hall or church hall;

- (i) any of the following care facilities:
 - (i) a facility as defined in the *Hospitals Act*,
 - (ii) a nursing home or residential care facility licensed under the *Homes for Special Care Act*,
 - (iii) a home for aged or disabled persons to which the *Homes for Special Care Act* applies,
 - (iv) a part of a health-care facility used for the acute or long-term care of veterans;
- (j) a restaurant, lounge or beverage room, as defined in the *Smoke-Free Places Regulations*, or any other place licensed to serve alcoholic beverages;
- (k) an outdoor area or a moveable or temporary location.

PERMITTED TOBACCO SALES WHERE CHILDREN AND YOUTH ARE PRESENT

Vendors licensed to sell tobacco in locations where persons under the age of 19 are permitted may continue to sell tobacco so long as vendors abide by all the conditions of Bill 62 and the *Tobacco Access Act Regulations*, including restrictions on selling or furnishing tobacco to anyone under 19 years of age.

OFFENCES AND PENALTIES

Storage and display of tobacco and prohibited places from selling tobacco

Non-compliance with the storage and prohibited places requirements of the *Tobacco Access Act* and *Regulations* may result in the following:

- (a) for a first offence, a fine not exceeding two thousand dollars;
- (b) for a second offence, a fine not exceeding five thousand dollars; or
- (c) for a third offence or subsequent offence, a fine not exceeding ten thousand dollars.

Signs and promotional materials

A vendor that permits signs and promotional materials can face a fine up to \$2000.00.

Tobacconist shop

If a tobacconist permits a person under 19 years of age to enter the premises, the vendor can face a fine up to \$2000.00.

DEFINITIONS

“Tobacco” means tobacco in any form, whether consumed by smoking, by chewing or as snuff.

“Tobacco products” means a cigarette paper, cigarette tube, cigarette filter, cigarette maker, cigarette holder or pipe, devices for rolling cigarettes, cigarette or tobacco carrying or storage cases, pipe loaders, cigar cutters, specialty tobacco publications or lighters and matches that display or depict logos, trademarks or colours of tobacco manufacturers.

NEED HELP?

Contact your local tobacco inspector for more information or assistance.

Mr. David Madill
Inspector
Cape Breton Island and Antigonish, Pictou and Guysborough Counties
Phone #: 565-5351

Mr. Dan Mannett
Inspector
Halifax; Kings, Annapolis, Digby, Yarmouth, Lunenburg, Queens, and Shelburne Counties
Phone #: 499-9530

Ms. Liz McCulloch
Inspector
Dartmouth, Bedford and Sackville; Hants, Colchester, and Cumberland Counties
Phone#: 499-9563

If you are uncertain as to the Inspector assigned to you, please contact Tobacco Control, Department of Health Promotion and Protection at 1-800-565-3611.

Appendix “A” -

Tobacco Pricing		20s	25s	Carton
Cigarettes				
	full price	\$(x)	\$(x)	\$(x)
	mid price	\$(x)	\$(x)	\$(x)
	budget price	\$(x)	\$(x)	\$(x)
Smokeless tobacco	\$(x)	to	\$(x)	
Cigars	\$(x)	to	\$(x)	
Loose tobacco				
	pouch	\$(x)	to	\$(x)
	tub	\$(x)	to	\$(x)

TOBACCO KILLS 2000 NOVA SCOTIANS EACH YEAR

BECAUSE TOBACCO IS AN ADDICTIVE DRUG, IT IS AGAINST THE LAW FOR THIS STORE TO SELL OR GIVE TOBACCO OR TOBACCO PRODUCTS TO PERSONS UNDER 19. IF ANY DOUBT, A PHOTO I.D. IS REQUIRED.