

## BILL NO. 110

### Thirty-first Legislative Assembly First Session

### Yukon Smoke-Free Places Act

#### Preamble

Recognizing that the smoke from tobacco products has a proven negative impact on the health of people;

Recognizing that the health of residents of the Yukon is placed at risk through involuntary exposure to tobacco smoke;

Recognizing that residents of the Yukon have a right to live and work in a tobacco-free environment;

The Commissioner of Yukon, by and with the advice and consent of the Legislative Assembly, enacts as follows:

#### Interpretation

1. In this Act,

- (a) "group living facility" means any facility for the physical or mental health care of people;
- (b) "hotel" includes an inn, a guesthouse and a bed-and-breakfast facility;
- (c) "licensed premises" means licensed premises as defined under the *Liquor Act* including an outdoor eating or drinking area that is part of or operated in conjunction with the premises;
- (d) "manager" means an employer or other person who, directly or indirectly, controls, directs or is responsible for a place or who controls the activities in the place;
- (e) "minor" means a person who is under 19 years of age;
- (f) "public place" means all or any part of a building, structure or other enclosed area to which members of the public have access as of right or by express or implied invitation including
  - (i) the common areas of a multi-unit residential facility, including patios, pools, other recreation areas and enclosed parking garages,
  - (ii) a group living facility,
  - (iii) an outdoor bus or taxi shelter,
  - (iv) licensed premises,
  - (v) a restaurant, and
  - (vi) a hotel;

- (g) “public vehicle” means a bus, taxi or other vehicle that is used to transport members of the public;
- (h) “restaurant” includes a coffee shop, cafeteria, sandwich stand, food court, any other eating establishment and an outdoor eating area that is part of or operated in conjunction with the restaurant;
- (i) “smoke” means to smoke, hold or otherwise have control over a lit tobacco product;
- (j) “tobacco product” means a product manufactured from tobacco and intended to be smoked;
- (k) “workplace” means all or any part of a building, structure or other enclosed area in which employees perform the duties of their employment, whether or not members of the public have access to the building, structure or area as of right or by express or implied invitation, and includes reception areas, corridors, lobbies, stairwells, elevators, escalators, eating areas, washrooms, lounges, storage areas, laundry rooms, enclosed parking garages and work vehicles;
- (l) “work vehicle” means a vehicle owned or leased by an employer and used by employees during the course of their employment.

### **Exclusions**

- 2. (1) Nothing in this Act affects the rights of aboriginal people respecting traditional aboriginal spiritual or cultural practices or ceremonies.
- (2) Subject to section 4, this Act does not apply to a building, structure or vehicle, or a part of a building or structure, that is used as a private residence.

### **Smoking prohibited**

- 3. Subject to section 5, no person shall smoke in the following places:
  - (a) a public place;
  - (b) a workplace;
  - (c) a public vehicle.

### **Private residence**

- 4. (1) Subject to subsection (2), a private residence is a workplace if a home business is operated from the residence and the owner of the business has employees who work in the residence but do not live in the residence.
- (2) Only that part of a private residence in which the business is operated is a workplace for the purposes of this Act.

### **Exceptions**

- 5. (1) An in-patient or resident of a group living facility may smoke in a separate room in the facility if the room
  - (a) is designated as a smoking room by the manager,
  - (b) has floor-to-ceiling walls, a ceiling and doors that separate it physically from any adjacent area in which smoking is prohibited under this Act,

- (c) has a separate ventilation system, and
  - (d) conforms to any requirements prescribed by the regulations.
- (2) A registered guest, and a person invited by the guest, may smoke in a guest room of a hotel if the guest room
- (a) is designed primarily as sleeping accommodation,
  - (b) is designated as a smoking room by the manager,
  - (c) has floor-to-ceiling walls, a ceiling and doors that separate it physically from any adjacent area in which smoking is prohibited under this Act, and
  - (d) conforms to any requirements prescribed by the regulations.
- (3) A person may smoke in a public place or workplace or part of a public place or workplace if the manager of the public place or workplace
- (a) designates the public place or workplace or a part of the public place or workplace as a place where smoking is permitted,
  - (b) ensures that signs are posted and conspicuously displayed indicating that minors are not permitted to enter or be in the place where smoking is permitted, and
  - (c) subject to the regulations, takes reasonable steps to ensure that smoke does not enter any place where smoking is prohibited under this Act.
- (4) The manager of a public place or workplace must not permit minors to enter or be in a public place or workplace or part of a public place or workplace where smoking is permitted under subsection (3).

### **Duties of managers**

6. The manager of a place where smoking is prohibited under this Act must not permit a person to smoke in that place.

### **Signs**

7. (1) The manager of a place where smoking is prohibited under this Act must ensure that signs indicating that smoking is prohibited are posted and continuously displayed in accordance with the regulations.

(2) The manager of a place where smoking is permitted under section 5 must ensure that signs indicating that smoking is permitted are posted and continuously displayed in accordance with the regulations.

(3) No person other than a manager or a person acting under the manager's instructions shall remove, alter, deface, conceal or destroy a sign that is posted or displayed under this Act.

### **Offences**

8. (1) A person who contravenes a provision of this Act is guilty of an offence.

(2) In describing an offence respecting smoking by a person in a place where smoking is prohibited under this Act, it is not necessary to specify the kind, brand or name of the tobacco product used in the offence.

(3) In a prosecution under this Act for smoking in a place where smoking is prohibited, it is not necessary that a witness testify to the precise description, kind, brand or name of the tobacco product smoked.

(4) In a prosecution under this Act, the justice trying the case may, in the absence of evidence to the contrary, infer that the product smoked was a tobacco product from the fact that a witness describes it by a name that is commonly used to describe a tobacco product.

### **Regulations**

9. The Commissioner in Executive Council may make regulations
- (a) for greater certainty, designating a place or class of place as a public place, workplace, hotel, public vehicle or restaurant for the purposes of this Act;
  - (b) respecting signs under sections 5 and 7;
  - (c) respecting the appointment of inspectors and the powers and duties of inspectors;
  - (d) respecting requirements for the purpose of paragraph 5(3)(c) to ensure that smoke does not enter any place where smoking is prohibited;
  - (e) respecting any matter that the Lieutenant Governor in Council considers necessary or advisable to carry out the purposes of this Act.

### **Municipal by-laws**

10. (1) Nothing in this Act affects a municipality's power to make bylaws to regulate, restrict or prohibit smoking.

(2) Where there is a conflict between a provision of this Act and a provision of a municipal bylaw that regulates, restricts or prohibits smoking, the more restrictive provision prevails.