

## INFORMATION BULLETS

**Cliff# 1046799** – Honourable Terry Lake, Minister of Health

### REQUEST

Ontario's Associate Minister of Health and Long Term Care (Long Term Care and Wellness) has requested a brief meeting with Minister Lake and the Ministers from Manitoba and Nova Scotia to discuss e-cigarette legislation.

### BACKGROUND

Seven provinces (BC, MB, ON, QC, NB, NS, PEI) have passed legislation to regulate e-cigarettes, including a ban on sales to minors and restricting its use in indoor public/workplaces. Restrictions come into effect:

- **Nova Scotia** - May 31, 2015.
- **New Brunswick** - July 1, 2015.
- **P.E.I.** – September 1, 2015 for provisions prohibiting use in places where smoking is banned; other provisions in effect October 1, 2015.
- **Quebec** – November 26, 2015 for most provisions; others in 2016
- **Ontario** – January 1, 2016 for sales to minors, other provisions awaiting proclamation.
- **British Columbia** – awaiting proclamation. Bill 14 received Royal Assent May 14, 2015.
- **Manitoba** – awaiting proclamation. Bill 30 received Royal Assent November 5, 2015.

At the request of the former federal Minister of Health, the House of Commons Standing Committee on Health held hearings and released a report recommending federal regulation of e-cigarettes. The federal government has not made any announcements on their regulatory direction for e-cigarettes.

### FINDINGS:

- In BC, the *Tobacco Control Amendment Act*, passed this spring in the Legislature, amends the *Tobacco Control Act* to include requirements for retailers to ensure vapour products are sold only to adults aged 19 and above, and makes it possible to create regulations to ensure that no retail displays are targeted to youth and no retail advertising for vapour products is shown where youth can see it.
- Amendments will ensure vapour products are not sold in public buildings and their use is banned on public and private school grounds as well as in indoor public spaces and workplaces.
- These amendments also add prohibitions on tobacco and vapour products use on health authority properties; however health authorities will have the ability to set designated smoking/vaping areas if they wish.
- A discussion paper was sent to stakeholders for input on the regulations, including:
  - Date of coming into force.
  - Minimum age of customers and required identification.
  - Restrictions on the promotion, sale and use of vapour products.

- An increase to the size of the buffer zone outside doorways, open windows and air intakes for tobacco and vapour products.
- The use of vapour products and tobacco on health authority property.
- Many of the current regulations related to tobacco remain unchanged.
- The consultation process closed on November 20, 2015 and feedback is being reviewed.
- A range of views were expressed in the consultation – many users and retailers were concerned that vapour products were being associated with tobacco products legislatively; they also urged government to allow consumer testing of devices and liquids in retail settings. A significant majority of respondents supported adult-only purchases of the product but some felt vapour products needed to be advertised as a harm reduction tool for current tobacco users.
- Provisions are proposed to come into force February 1, 2016 and will be enforced by health authority enforcement officers, but this is tentative and subject to change.

### **SUGGESTED RESPONSE**

- British Columbia's legislation is designed to reduce youth access to vapour products. Adults will still be able to purchase these products.
- The Ministry is reviewing the feedback from the consultation process and information on the final regulation will soon be released.

**Program area:** Healthy Living and Health Promotion Branch, Population and Public Health

**Date:** January 14, 2016

### Meeting with ON, MB, NS Ministers regarding e-cigarettes

*Location: TBD*

3:45 – 4:00 p.m. (15 min)

- Minister Dipika Damerla (Associate Minister of Health and Long-Term Care, ON) has organized a meeting with Deanne Crothers (Minister of Healthy Living and Seniors, MB); Leo Glavine (Minister of Health and Wellness, NS); and BC to discuss e-cigarette issues.
- The meeting is to immediately follow the PT press conference.
- Information bullets have been provided by the Population and Public Health Division (next page).

**MINISTRY OF HEALTH**

**AMENDMENTS TO THE  
TOBACCO CONTROL REGULATION,  
*TOBACCO CONTROL ACT***

**SECTION NOTES**

**MAY 17, 2016**



## ORDER-IN-COUNCIL

- The Order in Council does three things:
  - brings the *Tobacco Control Amendment Act, 2015* (Bill 14-2015) into force;
  - makes amendments to the Tobacco Control Regulation as set out in Appendix 1; and
  - makes amendments to the Violation Ticket Administration and Fines Regulation as set out in Appendix 2.
- The amendments to the Act made by Bill 14, and the amendments to the two regulations, will come into force on September 1, 2016, which allows a transition period for those impacted to prepare for the coming into force of the changes made by the Act and regulations.

**APPENDIX 1 of the Order in Council addresses amendments to the  
*Tobacco Control Regulation*:**

**SECTION 1 of Appendix 1 amends Title of the Regulation**

- Section 1 of Appendix 1 renames the Regulation as “Tobacco and Vapour Products Control Regulation”. This aligns the name of the Regulation with the new name of the statute upon the coming into force of this Order in Council – the Act will be known as *Tobacco and Vapour Products Control Act*.

**SECTIONS 2 and 3 of Appendix 1 amend  
SECTION 1 – Definitions**

- The definition of “Act” will be amended to reflect the new name of the statute upon the coming into force of this Order in Council – the Act will be known as *Tobacco and Vapour Products Control Act*.
- The definitions of the terms “minor” and “retail establishment”, which currently appear in section 4.3 of the Regulation, have been moved to section 1 as these terms apply to the entire Regulation and not only to sections 4.31 and 4.32.
- The term “retail establishment” has been amended to include a reference to “vapour products”.

**SECTION 4 of Appendix 1 amends  
SECTION 4.21 – Other Places Where Smoking Not Permitted**

- Currently, section 4.21 of the Regulation prescribes the places where a person must not smoke tobacco or hold lighted tobacco – these are common areas of apartment buildings, condominiums and dormitories, and transit shelters.
- The amendment to this section serves to include references to vapour products within s.4.21; therefore it will be prohibited for a person to use an e-cigarette or hold an activated e-cigarette in common areas of apartment buildings, condominiums, dormitories, or transit shelters.

**SECTION 5 of Appendix 1 amends  
SECTION 4.22 – No Smoking Near Doorways, windows or air intakes**

- Currently, section 4.22 of the Regulation specifies that the prescribed distance from a doorway, window or air intake in which a person must not smoke tobacco, or hold lighted tobacco, to be 3 metres.
- The amendments to this section extend the prohibition against smoking tobacco or holding lighted tobacco to vapour products; it is prohibited to use an e-cigarette or hold an activated e-cigarette within the prescribed distance from a doorway, window or air intake.
- As well, the amendments extend the prescribed distance from a doorway, window or air intake in which a person must not smoke tobacco, hold lighted tobacco, use an e-cigarette or hold an activated e-cigarette, from three metres to six metres.
- A manager, owner or lessee of a public place in which a person smokes or holds lighted tobacco, uses an e-cigarette or holds an activated e-cigarette is exempt if the manager, owner or lessee does not control the space, and the person who uses the tobacco or vapour products within the six metre distance is not in the control of the manager, owner or lessee or an employee.

**SECTION 6 of Appendix 1 amends  
SECTION 4.23 – Exemptions From Smoking Bans**

- Section 4.23 establishes exemptions from bans for tobacco use by persons in care or residents of care homes, hospitals, or private hospitals, and hotel guests.
- Amendments to this section extend the exemption to use of vapour products as well as tobacco products.
- A new paragraph (c) is added in order to extend an exemption to a person who uses an e-cigarette or holds an e-cigarette within the premises at which a retailer deals in, sells, offers to sell or distributes vapour products, if four conditions are met.
- The conditions that must be met in order for a person to be exempt from the ban against use or holding of an e-cigarette at a retail premises are that:
  - no minors may be permitted in the premises;
  - the premises are fully enclosed, so that no vapour may escape to an adjacent premises or to a public area outside the premises;
  - the person who is using or holding the e-cigarette is either a retailer or employee of the retailer who is using or holding the e-cigarette only to demonstrate the safe and proper use of the e-cigarette, or a customer who uses or holds the e-cigarette only to sample a substance that, if purchased, will be consumed off the premises; and
  - a maximum of two customers at one time may hold or sample a vapour product.
- The establishment of conditions relating to use of e-cigarettes at a retail premises is intended to balance the ability of retailers to enable sampling of vapour products, while protecting against use by minors and avoiding the operation of “vaping lounges”, which may pose health risks to customers and retail employees.

**SECTION 7 of Appendix 1 repeals  
SECTION 4.3**

- Currently, s.4.3 contains definitions of the terms “minor” and “retail establishment”, as those terms are referenced within sections 4.31 and 4.32. These terms are now to be included within s.1 of the regulation along with other defined terms, and it is therefore appropriate to repeal this section.

**SECTION 8 of Appendix 1 amends  
SECTION 4.31 – Limits on Advertising**

- Section 4.31 provides that a retailer must not display tobacco products, or advertise or promote the use of tobacco in any manner by which the products, advertisement or promotion may reasonably be seen or accessed by a minor inside the retail store, or be clearly visible to a person outside the store.
- Amendments to this section add references to vapour products within the section, thereby extending the limits on advertising to vapour products.

**SECTION 9 of Appendix 1 amends  
SECTION 4.32 – Some Signs Permitted**

- Section 4.32 of the Regulation clarifies a retailer may advertise different types of tobacco products ‘within’ the premises of a retail establishment.
- The amendments extend the existing exemption for advertising within retail premises to vapour products.

## **SECTION 10 of Appendix 1 amends SECTION 5 – Warning Signs**

- Section 5 of the existing Regulation is to be repealed and replaced.
- The new section 5 establishes the requirements for dealers who sell or offer products for sale to display decals that provide warnings to purchasers and employees.
- Six new decals have been created for this section and can be found in Schedules 1 through 1.5; the decals that must be displayed depend on the products that a retailer offers for sale:
  - Section 5(1) specifies that dealers who sell or offer only tobacco products must display decals in Schedules 1 (to purchasers) and 1.1 (to dealers and employees);
  - Section 5(2) specifies that dealers who sell or offer only vapour products must display decals in Schedules 1.2 (to purchasers) and 1.3 (to dealers and employees);
  - Section 5(3) specifies that dealers who sell or offer both tobacco and vapour products must display decals in Schedules 1.4 (to purchasers) and 1.5 (to dealers and employees).
- As well, dealers who operate vending machines must affix the appropriate decals to the vending machine that will be seen by purchasers.
- Decals that are to be displayed to purchasers must be displayed in plain view at the point and time of sale.
- Decals that are to be displayed to dealers or employees are to be displayed in plain view to the dealer or employee on or near the point of sale system, and at the time of sale.
- Finally, it is specified that decals are not to be less than fully visible.
- The Ministry will provide the decals.



**SECTION 11 of Appendix 1 amends  
SECTION 13 – Factors to be Considered in Imposing Administrative  
Penalties**

- Section 13 specifies the factors to be considered by the administrator when administrative penalties are imposed on persons for contravention of the Act or Regulation.
- By adding references to vapour products within this section, administrative penalties that are currently applicable to tobacco product contraventions are extended to vapour products; this includes monetary penalties, prohibition periods, offences and fines.

**SECTION 12 of Appendix 1 amends  
SECTION 17 – Payment of Monetary Penalty**

- Section 17 specifies that monetary penalties that are imposed may be paid by cheque or money order payable to the Minister of Finance.
- The amendment to this section expands the payment options for monetary penalties to include any form of electronic payment or transfer of funds.



**SECTION 13 of Appendix 1 amends  
SECTION 18 – Administrative Penalty Notice**

- Section 18 establishes the requirements for administrative penalty notices, including the information that must be included in the notice. The information that must be included is: name and address of the person, date of the hearing, description of contravention, administrative penalty imposed after the hearing, if a monetary penalty was imposed, and if a prohibition order was imposed, the location and prohibition.
- The information that is currently contained in Schedule 4 to the Regulation is being incorporated within a new subsection 18(2), and Schedule 4 – which included a prescribed form outlining the requirements -- may be repealed. There are no new substantive requirements imposed through this amendment.

**SECTION 14 of Appendix 1 amends  
SECTION 19 – Signs Indicating Prohibition Order**

- Section 19 of the Regulation establishes the requirements to post signs in respect of prohibition orders made in respect of tobacco products and vapour product respectively.
- Signs to be posted must be posted at the location or entrance of the location identified in the order; signs will contain the address of the location and prohibition period.
- Four different contravention signs -- based on contravention and product type -- have been created and will be included under Schedules 5 to 8 of the Regulation.
- The contravention signs will be provided by the Ministry.

**SECTION 15 replaces  
Schedule 1 of the Tobacco Control Regulation  
and  
SECTION 16 adds Schedules 1.1 through 1.5, and Schedules 5  
through 8 to the Tobacco Control Regulation**

With these amendments, the Regulation will contain several schedules displaying warning decals and contravention decals.

Schedules 1 to 1.5 contain warning decals as follows:

- **Schedule 1:** repeals and replaces the existing warning decal for tobacco that faces the purchaser.
- **Schedule 1.1:** specifies a new warning decal for tobacco that faces the dealer.
- **Schedule 1.2:** specifies a new warning decal for vapour products that faces the purchaser.
- **Schedule 1.3:** specifies a new vapour product warning decal to be facing the dealer.
- **Schedule 1.4:** specifies a new warning decal for both tobacco and vapour products that is to be facing the purchaser.
- **Schedule 1.5:** specifies a new warning decal for both tobacco and vapour products that is to be facing the dealer.

Schedules 5 through 8 contain contravention decals as follows:

- **Schedule 5:** specifies a new contravention decal that is to be displayed when a retailer sells tobacco to a minor. This decal will state: “We cannot sell tobacco because we

have sold tobacco to a minor in contravention of the *Tobacco and Vapour Products Control Act*.”

- **Schedule 6:** specifies a new contravention decal that is to be displayed when a retailer sells vapour products to a minor. The decal will state: “We cannot sell vapour products because we have sold vapour products to a minor in contravention of the *Tobacco and Vapour Products Control Act*.”
- **Schedule 7:** specifies a new contravention decal that is to be displayed when a retailer contravenes another prohibition relating to tobacco. The decal will state: “We cannot sell tobacco because contravened the *Tobacco and Vapour Products Control Act*.”
- **Schedule 8:** specifies a new contravention decal that is to be displayed when a retailer contravenes another prohibition relating to vapour products. The decal will state: “We cannot sell vapour products because contravened the *Tobacco and Vapour Products Control Act*.”

**APPENDIX 2 of the Order in Council addresses amendments to the  
*Violation Ticket Administration and Fines Regulation*:**

**SECTION 1 of Appendix 2 amends  
Schedule 1 of *Violation Ticket Administration and Fines Regulation*,  
Item 21**

- Schedule 1, Item 21 of the *Violation Ticket Administration and Fines Regulation* specifies the persons who are designated as enforcement officers that may issue tickets for contravention of provisions of an enactment.
- Currently, Item 21 of Schedule 1 specifies that persons designated by the Minister as enforcement officers under the *Tobacco Control Act* may issue tickets for contravention of provisions of the *Tobacco Control Act* and Tobacco Control Regulation.
- This section merely updates the references to the *Tobacco Control Act* and *Tobacco Control Regulation* to refer to the new titles of the Act and Regulation.

**SECTION 2 of Appendix 2 amends  
Schedule 2 of *Violation Ticket Administration and Fines Regulation***

- Schedule 2 of the *Violation Ticket Administration and Fines Regulation* lists specific contraventions, the amounts of fines, and victim surcharge levies that may be levied by designated persons such as enforcement officers under various Acts and regulations, including the *Tobacco Control Act* and Tobacco Control Regulation.
- This section merely updates the existing Schedule 2 reference to the *Tobacco Control Act* to refer to the new title of the Act, which references vapour products.

**SECTION 3 of Appendix 2 amends  
Schedule 2 of *Violation Ticket Administration and Fines Regulation***

- This section updates the various references within Schedule 2 of the *Violation Ticket Administration and Fines Regulation* to add the words “or vapour product” after the word “tobacco” in all but two places.
- This has the effect of adding the ability for enforcement officers to levy fines and victim surcharge levies for contraventions relating to vapour products similar to the existing fines and levies for contravention of provisions of the Act and Regulation relating to tobacco.

**SECTION 4 of Appendix 2 amends  
Schedule 2 of *Violation Ticket Administration and Fines Regulation***

- This section clarifies that it is to be considered a contravention of the Act and Regulation for a person to hold lighted tobacco on school property; holding lighted tobacco on school property may result in a fine and victim surcharge levy.
- It remains a contravention for a person to use tobacco on school property.

**SECTION 5 of Appendix 2 amends  
Schedule 2 of *Violation Ticket Administration and Fines Regulation***

- This section clarified that it is to be considered a contravention of the Act a regulation for the person to use and activated e-cigarettes as a contravention on school properties.
- This section adds a contravention of the Act a Regulation for using tobacco or an activated e-cigarette on a health board property.

**SECTION 6 of Appendix 2 amends  
Schedule 2 of *Violation Ticket Administration and Fines Regulation***

- This section clarifies that it is to be considered a contravention of the Act and Regulation for a person to hold lighted tobacco, or an activated e-cigarette, in a prohibited place.
- The word “smoke” is eliminated from this reference as it is redundant. It is enough to hold lighted tobacco or an activated e-cigarette in a prohibited place to amount to a contravention under the provision.

**SECTION 7 of Appendix 2 amends  
Schedule 2 of *Violation Ticket Administration and Fines Regulation***

- This section merely updates a section reference within Schedule 2 to correctly reference the provision section 2.4(1)(a) of the Act as a consequence of the amendments made in Appendix 1.

**SECTION 8 of Appendix 2 amends  
Schedule 2 of *Violation Ticket Administration and Fines Regulation***

- This section clarifies that “products” includes tobacco and vapour products; it is a contravention of the Act to display tobacco or vapour products in a prohibited manner.

**SECTION 9 of Appendix 2 amends  
Schedule 2 of *Violation Ticket Administration and Fines Regulation***

- This section merely updates a section reference within Schedule 2 to correctly reference the provision section 2.4(1)(b) of the Act as a consequence of the amendments made in Appendix 1.



**SECTION 10 of Appendix 2 amends  
Schedule 2 of *Violation Ticket Administration and Fines Regulation***


- This section merely updates the reference to the *Tobacco Control Regulation* within Schedule 2 to refer to the new title of the Regulation, which references vapour products.





## Ministry of Health

## ORDER IN COUNCIL

<b>SUBJECT:</b> This Order would bring into force the <i>Tobacco Control Amendment Act</i> , amend the Tobacco Control Regulation, and amend the Violation Ticket Administration and Fines Regulation.	<b>MUST BE DELIVERED TO CABINET OPERATIONS BY:</b>		
	<b>LEGISLATION CONTACT:</b> Katherine Thiessen-Wale (250-952-2283)		<b>CLIFF#</b> 1038517
	<b>OTHER CONTACT (IF ANY):</b>		
	<b>AUTHORITY (ACT AND SECTION):</b> <i>Tobacco Control Amendment Act, 2015, s. 22; Tobacco and Vapour Control Act, s.11(2) and (3); Offence Act, s.132(2)(c) [Schedule 1] and (d) [Schedule 2]</i>		
EXAMINED BY		APPROVED	DATE
<input type="checkbox"/> ORIGINATOR <i>Legislation</i>	Sabryna Tes		
<input type="checkbox"/> DIRECTOR <i>Legislation</i>	Katherine Thiessen-Wale		
<input type="checkbox"/> EXECUTIVE DIRECTOR <i>Legislation &amp; Intergovernmental Relations</i>	Ann Marr		
<input type="checkbox"/> EXECUTIVE DIRECTOR <i>Program</i>	Matt Herman		
<input type="checkbox"/> ASSISTANT DEPUTY MINISTER <i>Program</i>	Arlene Paton		
<input type="checkbox"/> ASSISTANT DEPUTY MINISTER <i>Program</i>			
<input type="checkbox"/> ASSISTANT DEPUTY MINISTER <i>Health Sector Planning &amp; Innovation Division</i>	Heather Davidson		
<input type="checkbox"/> ASSOCIATE DEPUTY MINISTER <i>Health Services</i>	Lynn Stevenson		
<input type="checkbox"/> ASSOCIATE DEPUTY MINISTER <i>Corporate Services</i>			
<input type="checkbox"/> DEPUTY MINISTER	Steve Brown		MAY 20 2016

MINISTER'S OFFICE STAFF: On approval by Minister, signed Order must be forwarded direct to Cabinet Operations.

*Strictly Confidential – Advice to Minister*



TB Minor Meeting Date: April 25, 2016  
350447

Confidential

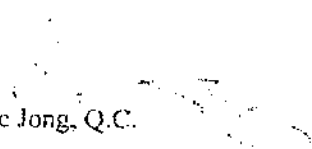
Honourable Terry Lake  
Minister of Health  
Room 337 Parliament Buildings  
Victoria BC V8V 1X4

Dear Colleague:

Re: Tobacco and Vapour Products Control Act

I am writing to advise you that Treasury Board approved the ministry's request to establish fines as per table 1 for vapour product use, display, and sales.

Sincerely,

  
Michael de Jong, Q.C.  
Chair

Attachment

cc: Stephen Brown  
Deputy Minister  
Ministry of Health

Manjit Sidhu  
Assistant Deputy Minister and Executive Financial Officer  
Ministry of Health

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Ministry of  
Finance

Treasury Board

Mailing Address  
PO Box 9469 Stn Prov Govt  
Victoria BC V8V 9V8

Location Address  
1<sup>st</sup> Floor - 617 Government St  
Victoria BC

<b><u>Tobacco and Vapour Products Control Act</u></b>			
<b>Provision</b>	<b>Contravention</b>	<b>Fine</b>	<b>Levy Total</b>
section 2 (2)	Sell tobacco <u>or vapour product</u> to person under 19	\$500	\$75 \$575
section 2 (3)	Sell cigarettes from open package	\$500	\$75 \$575
section 2 (4)	Sell tobacco <u>or vapour product</u> where prohibition order applies	\$500	\$75 \$575
section 2.1 (1)	Sell tobacco <u>or vapour product</u> in prohibited place	\$500	\$75 \$575
section 2.2 (2)	Use tobacco <u>or vapour product</u> on school property	\$50	\$8 \$58
<u>Section 2.2.1 (2)</u>	<u>Smoke or hold lighted tobacco, use an e-cigarette or hold an activated e-cigarette on health board property</u>	\$50	\$8 \$58
section 2.2 (4)	Permit tobacco <u>or vapour product</u> use on school property	\$500	\$75 \$575
section 2.3 (1)	Smoke or hold lighted tobacco, <u>use an e-cigarette or hold an activated e-cigarette</u> in prohibited place	\$50	\$8 \$58
section 2.3 (3)	Permit tobacco <u>or vapour product</u> use in prohibited place	\$500	\$75 \$575
section 2.3 (4)	Permit tobacco <u>or vapour product</u> use in workplace	\$500	\$75 \$575
section 2.4 (a)	Display products in prohibited manner	\$500	\$75 \$575
section 2.4 (b)	Promote tobacco <u>or vapour product</u> in prohibited manner	\$500	\$75 \$575
section 10.1 (a)	Fail to display prohibition order sign	\$500	\$75 \$575
section 10.1 (b)	Fail to display prohibition sign in accordance with requirements	\$500	\$75 \$575
<b><u>Tobacco and Vapour Products Control Regulation, B.C. Reg. 232/2007</u></b>			
section 4	Sell cigarettes in packages containing fewer than 20	\$500	\$75 \$575
section 5 (1)	Fail to display warning	\$300	\$45 \$345
section 5 (2)	Fail to affix warning	\$300	\$45 \$345

*Table 1: Proposed Modified/New Fines and Amounts*

## FEE/FINE ISSUE PAPER

**MINISTRY:** Health

**TITLE:** Violation Ticket Administration and Fines Regulation (*Offence Act*)  
~ Vapour Product Fines.

### PURPOSE OF FEE/FINE

In support of changes to the *Tobacco Control Act*, which will be renamed the *Tobacco and Vapour Products Control Act*, new fines will provide the tools to ensure compliance with requirements for the display, sale and use of vapour products.

Contraventions and ticketed amounts will include the following:

- Selling vapour products to persons under 19, where a prohibition order applies, or in a prohibited place;
- Using or holding an activated vapour product on school property or in a prohibited place;
- Permitting vapour product use on school property, in a prohibited place or in a workplace;
- Displaying vapour products in a prohibited manner, and
- Promoting vapour product in a prohibited manner.

### NUMBER OF FEES/FINES AFFECTED

☒ 10 New ☐ Increase ☐ Decrease ☐ Eliminated ☐ Exemption

### FEE CATEGORY

☐ Public Subsidy / User ☒ Regulatory ☐ Resource ☐ Private Sector ☐ N/A (Fine)

### ALLOCATION OF THE REVENUE

☒ General Revenue ☐ Recovery to Vote ☐ Other

### IS THIS PROPOSAL TIED TO A BUDGET LIFT REQUEST?

☒ No ☐ Yes

### TARGET IMPLEMENTATION DATE

Prior to June 1, 2016.

## BACKGROUND

In May 2015, Bill 14-2015, the *Tobacco Control Amendment Act, 2015*, received Royal Assent. The amendments to the *Tobacco Control Act* (the TCA) address the obligation set out in the Minister of Health's mandate letter, which called for BC's Minister of Health to work with the federal government to regulate the sale of e-cigarettes and flavoured tobacco to minors, or, in the absence of a federal strategy, to move to introduce Provincial legislation for these purposes. In light of the federal government's focus on addressing issues such as labelling, device regulation, child-proofing, manufacturing and content disclosures, BC's Minister of Health moved forward with the development of Provincial legislation. The Province's area of interest includes the regulation of sales of the above-noted products to minors, the display and promotion of these products, and second-hand vapour from the use of these products. Therefore, the *Tobacco Control Act* was expanded in a way that applies existing controls on the display, sale, and use of tobacco products to e-cigarettes.

Schedule 1 of the Violation Ticket Administration and Fines Regulation (the VTAFR) recognizes the enforcement officers designated by the Minister of Health under the TCA as enforcement officers for the purposes of the TCA. Schedule 2 of the VTAFR specifies the fines that may be levied by a Provincial Court judge or a judicial justice for contraventions of the TCA and the Tobacco Control Regulation (the TCR) respecting the display, sale, and use of tobacco products. Both schedules must be amended to include the necessary references to the amended TCA and TCR, and to specify the applicable fines for contraventions respecting the display, sale, and use of vapour products. The following changes (underlined below) will be required:

### Schedule 1

- |    |  |  |
|----|--|--|
| 21 | Persons designated by the minister as enforcement officers under section 3 (1) of the <i>Tobacco and Vapour Products Control Act</i> | The provisions, referred to in Column 1 of Schedule 2, of the following enactments:<br>(a) <i>Tobacco and Vapour Products Control Act</i><br>(b) <i>Tobacco and Vapour Products Control Regulation, B.C. Reg. 232/2007</i> |
|----|--|--|

### Schedule 2

#### *Tobacco and Vapour Products Control Act*

Provision	Contravention	Fine	Levy	Total
section 2 (2)	Sell tobacco <u>or vapour product</u> to person under 19	\$500	\$75	\$575
section 2 (3)	Sell cigarettes from open package	\$500	\$75	\$575
section 2 (4)	Sell tobacco <u>or vapour product</u> where prohibition order applies	\$500	\$75	\$575
section 2.1 (1)	Sell tobacco <u>or vapour product</u> in prohibited place	\$500	\$75	\$575
section 2.2 (3.1)	Use tobacco <u>or vapour product</u> on school property	\$50	\$8	\$58
<u>Section 2.21 (2)</u>	<u>Smoke or hold lighted tobacco, use an e-cigarette or hold an activated e-cigarette on health board property</u>	<u>\$50</u>	<u>\$8</u>	<u>\$58</u>
section 2.2 (4)	Permit tobacco <u>or vapour product</u> use on school property	\$500	\$75	\$575
section 2.3 (1)	Smoke or hold lighted tobacco, <u>use an e-cigarette or hold an activated e-cigarette</u> in prohibited place	\$50	\$8	\$58
section 2.3 (3)	Permit tobacco <u>or vapour product</u> use in prohibited place	\$500	\$75	\$575
section 2.3 (4)	Permit tobacco <u>or vapour product</u> use in workplace	\$500	\$75	\$575
section 2.4 (a)	Display products in prohibited manner	\$500	\$75	\$575
section 2.4 (b)	Promote tobacco <u>or vapour product</u> in prohibited manner	\$500	\$75	\$575

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section 10.1 (a)	Fail to display prohibition order sign	\$500	\$75	\$575
section 10.1 (b)	Fail to display prohibition sign in accordance with requirements	\$500	\$75	\$575
<hr/>				
Tobacco and Vapour Products Control Regulation, B.C. Reg. 232/2007				
section 4	Sell cigarettes in packages containing fewer than 20	\$500	\$75	\$575
section 5 (1)	Fail to display warning	\$300	\$45	\$345
section 5 (2)	Fail to affix warning	\$300	\$45	\$345

#### **LEGISLATIVE AND REGULATORY AUTHORIZATIONS REQUIRED FOR IMPLEMENTATION AFTER TREASURY BOARD DECISION**

An Order In Council is being prepared and will be put forward to bring into force Bill 14, the *Tobacco Control Amendment Act, 2015*. Once brought into force, the TCA will be renamed the *Tobacco and Vapour Products Control Act*, and new requirements for the display, sale and use of vapour and tobacco products in BC will apply.

The Order in Council will also amend:

- the TCR (to be renamed the Tobacco and Vapour Products Control Regulation) to support the statutory changes, and
- the Violation Ticket Administration and Fines Regulation to include ticket-able offences relating to vapour products.

Once the *Tobacco and Vapour Products Control Act* is brought into force, sections 2 to 2.4 and section 10.1 will provide authority for the additional fines outlined in this paper with respect to the display, sale, and use of vapour products.

#### **MINISTRY RATIONALE FOR FEE/FINE CHANGE**

s.12

s.12

## **FINANCIAL ANALYSIS**

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s.12

## **FISCAL IMPACT: DESCRIBE THE IMPACTS ON GOVERNMENT'S FISCAL PLAN**

s.12



s.12

**CONSULTATION AND CLIENT IMPACT**  
s.12

5 OF 6

**MINISTRY PROGRAM CONTACT**

Name: Katherine Thiessen-Wale,  
Director, Legislation Phone: 250-952-2283

**MINISTRY BUDGET OFFICE CONTACT**

Name: Daryl Conner, Executive  
Director/CFO, Finance &  
Decision Support Phone: 250-952-1914

**MINISTER'S APPROVAL**

msialan april 13, 2016  
Ministry of Health EFO Date

Shabe April 14/16  
Minister of Health Date

# **Order in Council Cabinet Summary Information**

**Ministry:** Health

**Date prepared:** May 16, 2016

**Cliff #:** 1038517

**Log #:** R/478/2016/3

Section	Detail
<b>1. Type of OIC:</b>	<input type="checkbox"/> BRDO appointment* <input type="checkbox"/> Non-BRDO appointment <input type="checkbox"/> Not a regulation <input checked="" type="checkbox"/> Regulation - provide Regulatory Count: + <b>22</b>
<b>2. Routine or For Attention:</b>	<input checked="" type="checkbox"/> Routine <input type="checkbox"/> For Attention because (select all that apply): <input type="checkbox"/> REQUIRES DISCUSSION <input type="checkbox"/> CONTROVERSIAL <input type="checkbox"/> REVISES POLICY
<b>3. Required Effective Date</b>	s.12,s.14
<b>4. Processing Instructions after approval</b>	<input checked="" type="checkbox"/> Process normally <input type="checkbox"/> Hold because (select all that apply): <input type="checkbox"/> Ministry requests hold until release by the Minister, no later than _____ <input type="checkbox"/> Other _____
<b>5. Authorizing Act</b>	<i>Tobacco Control and Amendment Act, s. 22; Tobacco and Vapour Products Control Act, s. 11(2)(a), (e), (f), (h.1), (h.2) and (j)(i), (v) to (vii) and (3); and the Offence Act, s. 132(2)(c) [Schedule 1] and (d) [Schedule 2]</i>

<p><b>6. Purpose, Content and Context (OIC "Essence")</b></p>	<ul style="list-style-type: none"> <li>• An Order is required to bring into force amendments to the <i>Tobacco Control Act</i> made through Bill 14-2015; amend the Tobacco Control Regulation; and amend the Violation Ticket Administration and Fines Regulation.</li> <li>• The <i>Tobacco Control Amendment Act</i> -- which expands the scope of the Act to include vapour product requirements that mirror the existing requirements for tobacco products -- received Royal Assent in May 2015.</li> <li>• When the Act comes into force, there will be new requirements for the display, sale and use of vapour products in BC. The proposed amendments to the Tobacco Control Regulation support the statutory changes.</li> <li>• Changes included in the amendments to the Regulation are as follows: <ul style="list-style-type: none"> <li>○ Including references to "vapour products" wherever "tobacco" or "tobacco products" appears;</li> <li>○ Increasing the prescribed distance from 3 metres to 6 metres from a doorway, window or air intake whereby a person must not smoke tobacco or use vapour product;</li> <li>○ Allowing a maximum of two customers to hold or sample vapour products at any one time;</li> <li>○ Allowing retailers and their employees to hold lighted e-cigarettes to demonstrate safe and proper use of vapour products; and</li> <li>○ Updates to the various signs (including the warning decals, point of sale decals and prohibition order signs) for all categories of products.</li> </ul> </li> <li>• Currently, the Violation Ticket Administration and Fines Regulation specifies the amounts of fines for contravention of prohibitions relating to tobacco products. The proposed changes to this regulation will add vapour products. Violation tickets may be issued by an enforcement officer for: <ul style="list-style-type: none"> <li>○ Selling vapour products to persons under 19, where a prohibition order applies, or in a prohibited place;</li> <li>○ Using or holding an activated vapour products on school property or in a prohibited place;</li> <li>○ Permitting vapour product use on school property, in a prohibited place or in a workplace;</li> </ul> </li> </ul>
---	--

	<ul style="list-style-type: none"> <li>○ Using tobacco, or using or holding an activated e-cigarette on a health board property,</li> <li>○ Displaying vapour products in a prohibited manner, and</li> <li>○ Promoting vapour products in a prohibited manner.</li> </ul> <p>The fine amounts remain the same.</p>
<b>7. Fiscal Management Considerations</b>	s.12
<b>8. Legislative Counsel Cautions</b>	s.12,s.14
<b>9. Stakeholder and Affected Party Consultations</b>	s.12

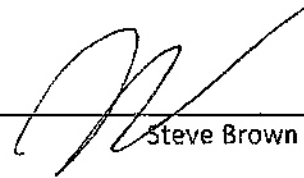
**10. Trade Obligations**

s.12

s.12

**11. Prerequisites**

**12. Communication plan**



Steve Brown

**MAY 20 2016**

Date Signed

Contact Name: Katherine Thiessen-Wale  
Title: Director of Legislation  
Phone Number: 250-952-2283

Prepared By: Sabryna Tes  
Phone Number: 250-952-2251

- ☒ Distribution Form
- ☒ Regulatory Criteria Checklist
- ☐ Regulatory Criteria Exemption Form
- ☐ Map(s)
- ☐ Other:

Page 32

Withheld pursuant to/removed as

s.12;s.14



**PROVINCE OF BRITISH COLUMBIA**  
**ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL**

Order in Council No.

, Approved and Ordered

\_\_\_\_\_  
*Lieutenant Governor*

**Executive Council Chambers, Victoria**

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that, effective September 1, 2016,

- (a) *the Tobacco Control Amendment Act, 2015, S.B.C. 2015, c. 11, is brought into force,*
- (b) *the Tobacco Control Regulation, B.C. Reg. 232/2007, is amended as set out in the attached Appendix 1, and*
- (c) *the Violation Ticket Administration and Fines Regulation, B.C. Reg. 89/97, is amended as set out in the attached Appendix 2.*

\_\_\_\_\_  
*Attorney General and Minister of Justice*

\_\_\_\_\_  
*Minister of Health*

\_\_\_\_\_  
*Presiding Member of the Executive Council*

*(This part is for administrative purposes only and is not part of the Order.)*

**Authority under which Order is made:**

Act and section: *Tobacco Control Amendment Act, 2015, S.B.C. 2015, c. 11, s. 22; Tobacco and Vapour Products Control Act, R.S.B.C. 1996, c. 451, s. 11 (2) (a), (c), (h.1), (h.2), and (j) (i), (v) to (vii) and (3); Offence Act, R.S.B.C. 1996, c. 338, s. 132 (2) (c) and (d)*

Other: *OIC 478/2007; OIC 262/97*

May 20, 2016

2/R/591/2015/3

## APPENDIX 1

- 1 *The title of the Tobacco Control Regulation, B.C. Reg. 232/2007, is repealed and the following substituted:*

### **TOBACCO AND VAPOUR PRODUCTS CONTROL REGULATION .**

- 2 *The definition of "Act" in section 1 is repealed and the following substituted:*  
"Act" means the *Tobacco and Vapour Products Control Act*;
- 3 *Section 1 is amended by adding the following definitions:*  
"minor" means a person who is under 19 years of age;  
"retail establishment" means the location at which a retailer deals in, sells, offers to sell or distributes tobacco or vapour products.
- 4 *Section 4.21 is amended by striking out "or hold lighted tobacco:" and substituting " , hold lighted tobacco, use an e-cigarette or hold an activated e-cigarette:".*
- 5 *Section 4.22 is amended*  
(a) *in subsection (1) by striking out "or hold lighted tobacco, is 3 metres." and substituting "hold lighted tobacco, use an e-cigarette or hold an activated e-cigarette, is 6 metres.", and*  
(b) *in subsection (4) by striking out "the 3 metre area described in subsection (1) of this section over which the manager, owner, lessee or employer has no control, if a person smokes tobacco or holds lighted tobacco" and substituting "the 6 metre area described in subsection (1) of this section over which the manager, owner, lessee or employer has no control, if a person smokes tobacco, holds lighted tobacco, uses an e-cigarette or holds an activated e-cigarette".*
- 6 *Section 4.23 (2) is amended*  
(a) *in paragraph (a) by striking out "or holds lighted tobacco, in a room designated for tobacco use" and substituting "holds lighted tobacco, uses an e-cigarette or holds an activated e-cigarette, in a room designated for tobacco or vapour product use",*  
(b) *in paragraph (b) by striking out "or holding lighted tobacco," and substituting " , holding lighted tobacco, using an e-cigarette or holding an activated e-cigarette," and*  
(c) *by adding the following paragraph:*  
(c) a person who uses an e-cigarette or holds an activated e-cigarette within the premises at which a retailer deals in, sells, offers to sell or distributes vapour products, if  
(i) no minors are permitted in the premises,

- (ii) the premises are fully enclosed such that no vapour may escape to an adjacent premises or to a public area outside the premises,
- (iii) the person
  - (A) is the retailer or an employee of the retailer who holds an activated e-cigarette only to demonstrate the safe and proper use of the e-cigarette, or
  - (B) uses an e-cigarette or holds an activated e-cigarette only to sample an e-substance that, if purchased, will be consumed off the premises, and
- (iv) no more than 2 persons are, at the same time, using an e-cigarette or holding an activated e-cigarette for the purpose of sampling an e-substance.

7 *Section 4.3 is repealed.*

8 *Section 4.31 is amended*

- (a) *in subsection (1) by striking out* “display tobacco products, or advertise or promote the use of tobacco, in any manner by which the tobacco products” *and substituting* “display tobacco or vapour products, or advertise or promote the use of tobacco or vapour products, in any manner by which the tobacco or vapour products”;
- (b) *in subsection (2) by striking out* ““advertise or promote the use of tobacco” means to advertise or promote the use of tobacco by any means,” *and substituting* ““advertise or promote the use of tobacco or vapour products” means to advertise or promote the use of tobacco or vapour products by any means,” *and*
- (c) *in subsection (2) (a) by striking out* “a tobacco brand or product manufacturer,” *wherever it appears and substituting* “a brand or manufacturer of tobacco or vapour products.”

9 *Section 4.32 (1) is amended*

- (a) *by striking out* “may advertise on the premises” *and substituting* “may advertise within the premises”;
- (b) *by striking out* “tobacco products” *wherever it appears and substituting* “tobacco and vapour products”, *and*
- (c) *in paragraphs (f) and (g) by striking out* “a tobacco brand or product manufacturer,” *in both places and substituting* “a brand or manufacturer of tobacco or vapour products;”.

10 *Section 5 is repealed and the following substituted:*

**Warning signs**

- 5 (1) A dealer who sells or offers for sale tobacco, but not vapour products, must do both of the following:
  - (a) display to purchasers the decal set out in Schedule 1;

- (b) display to dealers and employees the decal set out in Schedule 1.1.
- (2) A dealer who sells or offers for sale vapour products, but not tobacco, must do both of the following:
  - (a) display to purchasers the decal set out in Schedule 1.2;
  - (b) display to dealers and employees the decal set out in Schedule 1.3.
- (3) A dealer who sells or offers for sale both tobacco and vapour products must do both of the following:
  - (a) display to purchasers the decal set out in Schedule 1.4;
  - (b) display to dealers and employees the decal set out in Schedule 1.5.
- (4) A dealer who operates a vending machine that sells tobacco or vapour products
  - (a) must affix to the front of the vending machine the decal referred to in subsection (1) (a), (2) (a) or (3) (a), as applicable, and
  - (b) is not required to affix to the vending machine the decal referred to in subsection (1) (b), (2) (b) or (3) (b), as applicable.
- (5) A dealer must ensure that decals that must be displayed under this section
  - (a) to purchasers are displayed in plain view to purchasers at the point and time of sale,
  - (b) to dealers or employees are displayed in plain view to the dealer or employee operating the point of sale system
    - (i) on or near the point of sale system, and
    - (ii) at the time of sale, and
  - (c) are not obscured by a sign, notice or any other thing that could make the decal less than fully visible.

**11 Section 13 is amended**

- (a) in subsection (1) (c) (ii) by striking out “with respect to tobacco sales:” and substituting “with respect to the sale of tobacco or vapour products, as applicable;”, and
- (b) in subsection (2) by striking out “selling tobacco at retail” and substituting “selling tobacco or vapour products, as applicable, at retail”.

**12 Section 17 is amended by striking out “cheque or money order,” and substituting “cheque, money order or any form of electronic payment or transfer of funds.”.**

**13 Section 18 is amended**

- (a) by renumbering the section as section 18 (1),
- (b) in subsection (1) by striking out “in the form set out in Schedule 4” and substituting “made in accordance with subsection (2)”, and
- (c) by adding the following subsection:
  - (2) An administrative penalty notice must include at least the following information:
    - (a) the name and address of the person subject to the administrative penalty;

- (b) the date on which the hearing with respect to the imposition of the administrative penalty occurred;
- (c) a description of the contravention that was the subject of the hearing;
- (d) the administrative penalty imposed on the person after the hearing;
- (e) if a monetary penalty was imposed, a statement that the penalty may be paid by cheque, money order or any form of electronic payment or transfer of funds;
- (f) if a prohibition order was imposed,
  - (i) the location or locations to which the order applies, and
  - (ii) the dates on which the prohibition period begins and finishes.

**14 Section 19 is amended**

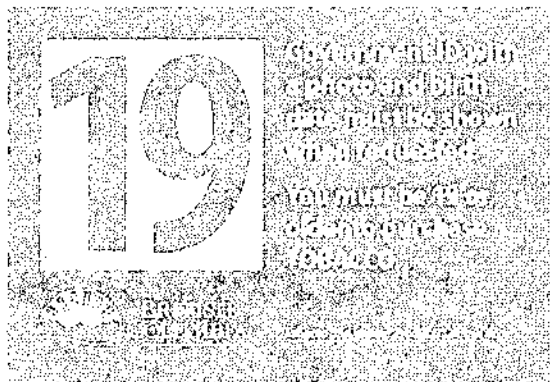
**(a) in subsection (1) (a) by striking out “each place where tobacco” and substituting “each place where a tobacco or vapour product, as applicable.”, and**

**(b) by repealing subsection (2) (a) (iii) and (iv) and (b) and substituting the following:**

- (iii) if the prohibition is in respect of tobacco and based on at least one contravention of section 2 (2) of the Act, a sign in the form set out in Schedule 5;
- (iv) if the prohibition is in respect of a vapour product and based on at least one contravention of section 2 (2) of the Act, a sign in the form set out in Schedule 6;
- (v) if the prohibition is in respect of tobacco and not based on at least one contravention of section 2 (2) of the Act, a sign in the form set out in Schedule 7;
- (vi) if the prohibition is in respect of a vapour product and not based on at least one contravention of section 2 (2) of the Act, a sign in the form set out in Schedule 8, and .

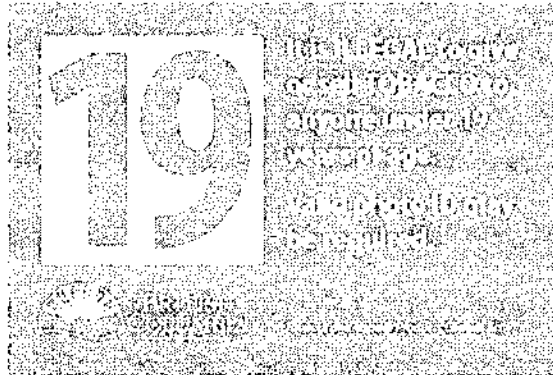
**15 Schedule 1 is repealed and the following substituted:**

**SCHEDULE 1**

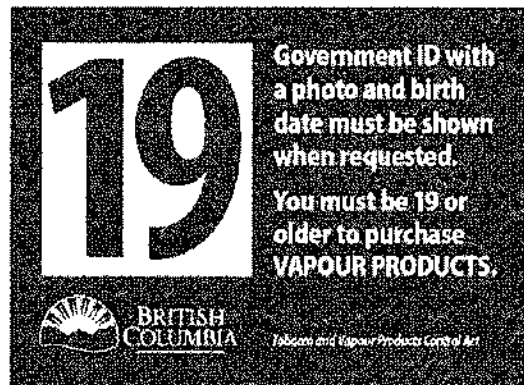


16 The following Schedules are added:

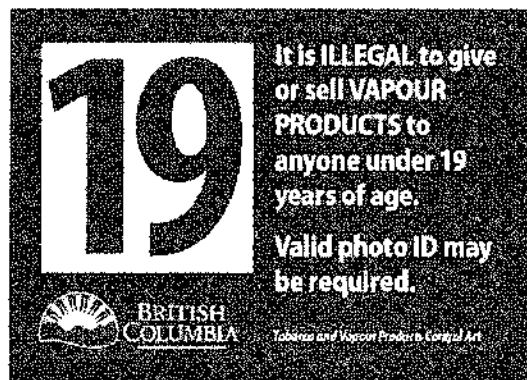
### SCHEDULE 1.1




### SCHEDULE 1.2



### SCHEDULE 1.3




#### SCHEDULE 1.4



**Government ID with a photo and birth date must be shown when requested.**


**You must be 19 or older to purchase TOBACCO or VAPOUR PRODUCTS.**



BRITISH COLUMBIA


Tobacco and Vapour Products Control Act

#### SCHEDULE 1.5



**It is ILLEGAL to give or sell TOBACCO or VAPOUR PRODUCTS to anyone under 19 years of age.**

**Valid photo ID may be required.**



BRITISH COLUMBIA

Tobacco and Vapour Products Control Act

17 Schedules 4 to 6 are repealed and the following substituted:

SCHEDULE 5

# NOTICE

**WE CANNOT  
SELL TOBACCO**

because we have  
**SOLD TOBACCO  
TO A MINOR** in  
contravention of the

***Tobacco  
and Vapour  
Products  
Control Act***



SCHEDULE 6

# NOTICE

**WE CANNOT  
SELL VAPOUR  
PRODUCTS**

because we have  
**SOLD VAPOUR  
PRODUCTS  
TO A MINOR** in  
contravention of the

***Tobacco and  
Vapour Products  
Control Act***





SCHEDULE 7

# NOTICE

**WE CANNOT  
SELL TOBACCO**

because we have  
contravened the

***Tobacco  
and Vapour  
Products  
Control Act***



SCHEDULE 8

# NOTICE

**WE CANNOT  
SELL VAPOUR  
PRODUCTS**

because we have  
contravened the

***Tobacco  
and Vapour  
Products  
Control Act***



## APPENDIX 2

**1** *Schedule 1 of the Violation Ticket Administration and Fines Regulation, B.C. Reg. 89/97, is amended in item 21*

*(a) in columns 1 and 2 by striking out "Tobacco Control Act" and substituting "Tobacco and Vapour Products Control Act", and*

*(b) in column 2 by striking out "Tobacco Control Regulation" and substituting "Tobacco and Vapour Products Control Regulation".*

**2** *Schedule 2 is amended by striking out the heading "Tobacco Control Act" and substituting "Tobacco and Vapour Products Control Act".*

**3** *Schedule 2 is amended under the heading "Tobacco and Vapour Products Control Act" by adding "or vapour product" after "tobacco" wherever it appears except opposite "section 2.2 (2)" and "section 2.3 (1)".*

**4** *Schedule 2 is amended under the heading "Tobacco and Vapour Products Control Act" by striking out "use tobacco on school property" and substituting "use tobacco and hold lighted tobacco on school property".*

**5** *Schedule 2 is amended by adding the following items under the heading "Tobacco and Vapour Products Control Act":*

1	2	3	4	5
Provision	Contravention	Fine	Victim Surcharge Levy	Ticketed Amount
section 2.2 (3.1)	Hold activated e-cigarette on school property	\$50	\$8	\$58
section 2.21 (2)	Hold lighted tobacco or activated e-cigarette on health board property	\$50	\$8	\$58

**6** *Schedule 2 is amended under the heading "Tobacco and Vapour Products Control Act" by striking out "Smoke or hold lighted tobacco in prohibited place" and substituting "Hold lighted tobacco or activated e-cigarette in prohibited place".*

**7** *Schedule 2 is amended under the heading "Tobacco and Vapour Products Control Act" by striking out "section 2.4 (a)" and substituting "section 2.4 (1) (a)".*

**8** *Schedule 2 is amended under the heading "Tobacco and Vapour Products Control Act" by striking out "Display products in prohibited manner" and substituting "Display tobacco or vapour products in prohibited manner".*

**9** *Schedule 2 is amended under the heading "Tobacco and Vapour Products Control Act" by striking out "section 2.4 (b)" and substituting "section 2.4 (1) (b)".*

**10** *Schedule 2 is amended by striking out the heading "Tobacco Control Regulation" and substituting "Tobacco and Vapour Products Control Regulation".*



## Regulatory Criteria Checklist

The purpose of the checklist is to demonstrate that legislative and regulatory changes have been developed according to the Regulatory Reform Policy, while still protecting public health, safety and the environment

Name of authorizing Legislation: **Tobacco and Vapour Products Control Act**

Name of Regulation, if applicable: **Tobacco and Vapour Products Control Regulation**

Purpose:

Bring into force the *Tobacco and Vapour Products Control Act*, amend the *Tobacco Control Regulation* and amend the *Violation Ticket Administration and Fines Regulation*.

### Regulatory Criteria

✓ I certify that the following Regulatory Reform Principles were considered for this legislation or regulation:

1. Is needed and efficient
2. Is outcome based and will be regularly reviewed
3. Was transparently developed and will be clearly communicated
4. Is cost effective and evidence based
5. Is supportive of BC's economy and small business

Please provide an explanation if any of the criteria above were not considered (continued on page 2):

Number of Regulatory Requirements to be added: + 22  
Number of Regulatory Requirements to be eliminated: - 0  
Net Change: = 22

Date:

Signature, Responsible Minister or Head of Regulatory Authority

Signator Name: **Minister Terry Lake**

Ministry/Agency Name: **Ministry of Health**

Contact Name: **Katherine Thiessen-Wale, Director, Legislation 250-952-2283**



Explanation Continued:

## Attachment for Regulatory Criteria Checklist

### *Tobacco and Vapour Products Control Regulation*

Number of Regulatory Requirements to be added:	22
Number of Regulatory Requirements to be eliminated:	0
NET CHANGE:	22

### *Violation Ticket Administration and Regulation*

Number of Regulatory Requirements to be added:	0
Number of Regulatory Requirements to be eliminated:	0
NET CHANGE:	0

**Total Count for Regulatory Reform**

**22**

## ORDER IN COUNCIL DISTRIBUTION FORM

**STATUTE:** *Tobacco and Vapour Products Control Act and the Offence Act*

For OIC Office use only:

**MINISTRY:** Health and Justice

### SUMMARY OF SUBJECT MATTER

- This Order will bring into force the *Tobacco Control Amendment Act*; amend the Tobacco Control Regulation; and amend the Violation Ticket Administration and Fines Regulation.

**ORIGINATOR** (Name/Ministry/Branch/Telephone/email):

Katherine Thiessen-Wale / Health / Legislation / 250-952-2283 / [Katherine.Thiessen-Wale@gov.bc.ca](mailto:Katherine.Thiessen-Wale@gov.bc.ca)

### COPIES

☒ PDF copies (Please provide name, Ministry and exact email address for each recipient below):

Katherine Thiessen-Wale, Ministry of Health, [Katherine.Thiessen-Wale@gov.bc.ca](mailto:Katherine.Thiessen-Wale@gov.bc.ca)

Gary Heshmat, Ministry of Health, [Gary.Heshmat@gov.bc.ca](mailto:Gary.Heshmat@gov.bc.ca)

Carola Bouchard, Ministry of Health, [Carola.Bouchard@gov.bc.ca](mailto:Carola.Bouchard@gov.bc.ca)

☐ Certified true copy of this OIC - for legal or evidentiary purposes only

(Please provide name, Ministry/Company, mailing address, city, postal code and telephone):

Page 47 to/à Page 49

Withheld pursuant to/removed as

s.12;s.13

## Order in Council Cabinet Summary Information

**Ministry:** Health

**Date prepared:** December 8, 2016

**Cliff #:** 1065888

**Log #:**

Section	Detail
<b>1. Type of OIC:</b>	<input type="checkbox"/> BRDO appointment* <input type="checkbox"/> Non-BRDO appointment <input type="checkbox"/> Not a regulation <input checked="" type="checkbox"/> Regulation - provide Regulatory Count: <u>0</u>
<b>2. Routine or For Attention:</b>	<input checked="" type="checkbox"/> Routine <input type="checkbox"/> For Attention because (select all that apply): <input type="checkbox"/> REQUIRES DISCUSSION <input type="checkbox"/> CONTROVERSIAL <input type="checkbox"/> REVISES POLICY
<b>3. Required Effective Date</b> (Select all timing constraints that apply. Include Rationale. )	s.12
<b>4. Processing Instructions after approval</b>	<input checked="" type="checkbox"/> Process normally <input type="checkbox"/> Hold because (select all that apply): <input type="checkbox"/> Ministry requests hold until release by the Minister, no later than _____ <input type="checkbox"/> Other _____
<b>5. Authorizing Act and section number(s)</b>	<i>Tobacco Tax Act, s.44(2)(i.1)</i> <i>Offence Act, s.132(2)(d)</i>



**6. Purpose,  
Content and  
Context (OIC  
"Essence")**

The *Tobacco Control Act* and Tobacco Control Regulation serve to regulate the use, sale and display of tobacco products in BC. In May 2015, the *Tobacco Control Amendment Act, 2015* (Bill 14-2015) received Royal Assent. Bill 14 renamed and amended the *Tobacco Control Act* to extend many of the existing requirements for the use, sale and display of tobacco products to vapour products.

Consequential amendments to the *Tobacco Tax Act*, which establishes requirements for the levy of consumption tax on tobacco sales, and the *Motor Vehicle Act*, were also part of the bill.

Specifically, through Bill 14 the *Tobacco Tax Act* was amended to:

- update references to the "*Tobacco Control Act*" to reflect its new name, the "*Tobacco and Vapour Products Control Act*" (TVPCA); and
- clarify the definition of "tobacco" as it applies to sections of the *Tobacco Tax Act* that reference the TVPCA.

The *Motor Vehicle Act* was amended to:

- add definitions for the terms "activated e-cigarette", "e-cigarette" and "tobacco", each with the same meaning as those terms within the TVPCA; and
- extend the existing prohibition in subsection 231.1(2) – which prohibits the smoking of tobacco or holding of lighted tobacco in a motor vehicle that is occupied by a person under age 16 – to clarify that use of an e-cigarette, or holding an activated e-cigarette within a motor vehicle occupied by a person under 16, is also prohibited.

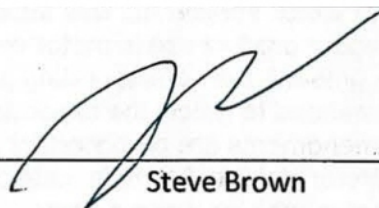
The scheme of tobacco and vapour products regulation is enforced through the levy of fines or tickets under the Violation Ticket Administration and Fines Regulation (VTAFR) under the *Offence Act*. Currently, Schedule 3 of the VTAFR specifies the fines and ticketed amounts that may be levied for contraventions of specific provisions of the *Motor Vehicle Act* and the Motor Vehicle Act Regulations. It is specified that a fine of \$109 may be levied for smoking in a motor vehicle when a person under the age of 16 is present, which is prohibited under s.231.1 of the *Motor Vehicle Act*.

Accordingly, with the extension of prohibitions under the *Tobacco Control Act*, Tobacco Control Regulation and *Motor Vehicle Act* to encompass vapour products, it became necessary to amend the references within the VTAFR to reference a number of specific prohibitions relating to vapour product use.

Effective September 1, 2016, Bill 14-2015, including consequential amendments, and the amended Tobacco Control Regulation were brought into force, effectively enacting a scheme of regulation for the use and sale of vapour products in British Columbia. Since the coming into force of the amended legislation, it has been recognized that a few unintended but minor gaps exist.

s.12,s.13

<b>7. Fiscal Management Considerations</b>	s.12
<b>8. Legislative Counsel Cautions</b>	s.12,s.14
<b>9. Stakeholder and Affected Party Consultations</b>	s.12
<b>10. Trade Obligations</b>	s.12
<b>11. Prerequisites</b>	
<b>12. Communication plan</b>	



Steve Brown

December 20/2016

Date Signed

Contact Name: Katherine Thiessen-Wale  
 Title: Director of Legislation  
 Phone Number: 250-952-2283

Prepared By: Sabryna Tes / Della Skinner  
 Phone Number: 250-952-1774

☒ Distribution Form

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Withheld pursuant to/removed as

s.12;s.14

**PROVINCE OF BRITISH COLUMBIA**  
**ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL**

Order in Council No.

, Approved and Ordered

\_\_\_\_\_  
*Lieutenant Governor*

**Executive Council Chambers, Victoria**

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that

*(a) Sections 6 (1) (d) (ii) and (iii) and 6.2 (1) (b) (ii) and (iii) of the Tobacco Tax Act Regulation, B.C. Reg. 66/2002, are repealed and the following substituted:*

- (ii) to which a prohibition order made in relation to tobacco under the Tobacco and Vapour Products Control Act applies, or*
- (iii) that is the subject of an administrative proceeding in relation to tobacco under the Tobacco and Vapour Products Control Act., and*

*(b) the Violation Ticket Administration and Fines Regulation, B.C. Reg. 89/97, is amended as set out in the attached Appendix.*

\_\_\_\_\_  
*Attorney General and Minister of Justice*

\_\_\_\_\_  
*Minister of Health*

\_\_\_\_\_  
*Presiding Member of the Executive Council*

(This part is for administrative purposes only and is not part of the Order.)

**Authority under which Order is made:**

Act and section: *Tobacco Tax Act, R.S.B.C. 1996, c. 452, s. 44 (2) (i.1); Offence Act, R.S.B.C. 1996, c. 338, s. 132 (2) (d)*

Other: *OIC 244/2002; OIC 262/97*

December 13, 2016

R/855/2016/3



## APPENDIX

**1** *Schedule 2 of the Violation Ticket Administration and Fines Regulation, B.C. Reg. 89/97, is amended under the heading "Tobacco and Vapour Products Control Act" by striking out "Sell cigarettes from open package" and substituting "Sell tobacco products from open package".*

**2** *Schedule 2 is amended by striking out everything under the heading "Tobacco and Vapour Products Control Regulation, B.C. Reg. 232/2007" and substituting the following:*

1 Provision	2 Contravention	3 Fine	4 Victim Surcharge Levy	5 Ticketed Amount
section 4	Sell cigarettes in packages containing fewer than 20	\$500	\$75	\$575
section 5 (1), (2), (3) or (5)	Fail to display warning as required	\$300	\$45	\$345
section 5 (4) (a)	Fail to affix warning as required	\$300	\$45	\$345

**3** *Schedule 3 is amended under the heading "Motor Vehicle Act" by striking out "Smoke in motor vehicle when person under the age of 16 is present" and substituting "Smoke, hold lighted tobacco, use e-cigarette or hold activated e-cigarette in motor vehicle when person under age 16 is present".*

## ORDER IN COUNCIL DISTRIBUTION FORM

**STATUTE:** Tobacco Tax Act, Offence Act

For OIC Office use only:

**MINISTRY:** Ministry of Health

---

### SUMMARY OF SUBJECT MATTER

- Amend the Tobacco Tax Act Regulation and the Violation Ticket Administration and Fines Regulation to clarify authority and support the recent changes to the *Tobacco and Vapour Products Control Act* and its regulation.

---

**ORIGINATOR** (Name/Ministry/Branch/Telephone/email):

Katherine Thiessen-Wale / Health / Legislation / 250-952-2283 / [Katherine.ThiessenWale@gov.bc.ca](mailto:Katherine.ThiessenWale@gov.bc.ca)

---

### COPIES

☐ PDF copies (Please provide name, Ministry and exact email address for each recipient below):

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Gary Heshmat, Ministry of Health, [Gary.Heshmat@gov.bc.ca](mailto:Gary.Heshmat@gov.bc.ca)

Carola Bouchard, Ministry of Health, [Carola.Bouchard@gov.bc.ca](mailto:Carola.Bouchard@gov.bc.ca)



The purpose of the Regulatory Impact Checklist Exemption is to demonstrate that a regulatory impact assessment does not need to be completed for the proposed statutory or regulatory changes. A regulatory count is not required for changes that qualify for an exemption.

Questions? Contact [RegulatoryReformBC@gov.bc.ca](mailto:RegulatoryReformBC@gov.bc.ca)

OIC# (add when available)

Effective Date (DD / MM / YYYY)

Contact and Regulation Information	
Name of Contact	Phone Number of Contact
Karen Dunham	250-387-3367
Name of Ministry	
Finance	
Name of Legislation	
Tobacco Tax Act	
Name of Regulation (including B.C. Reg. #), Policy or Form, if applicable	
Tobacco Tax Act Regulation, B.C. Reg. 66/2002	
Proposed Changes	
The proposed changes are (check all boxes that apply):	
<input type="checkbox"/>	Type of OIC is "not a regulation," as identified on the OIC summary sheet.
<input type="checkbox"/>	Changes to existing fees or fines approved by Treasury Board.
<input type="checkbox"/>	Related only to the procedures or practices of a court or tribunal.
<input checked="" type="checkbox"/>	Declaratory or housekeeping changes that clarify or correct a provision without changing regulatory requirements. For example, revised under the revision powers in Part 2 of the Regulations Regulation under the <i>Regulations Act</i> .
<input type="checkbox"/>	Transitional in nature (e.g., Statutes for the 2010 Olympics in Vancouver).
<input type="checkbox"/>	Confirmed by the responsible minister or authority that, due to special circumstances, the regulatory criteria do not apply to the legislative or regulatory change.



## Section Notes for the Minister of Health

### Proposed Minor Amendments to the Tobacco Tax Act Regulation and the Violation Ticket Administration and Fines Regulation

#### ORDER-IN-COUNCIL

- The Order in Council does two things:
  - makes minor amendments to two paragraphs within sections 6(1)(d) and 6.2(1)(b) of the Tobacco Tax Act Regulation; and
  - makes amendments to the Violation Ticket Administration and Fines Regulation, Schedules 2 and 3;

in order to correct minor gaps in the scheme of regulation of vapour products.

- These amendments are consequential to the enactment of the amended *Tobacco and Vapour Products Control Act* and the accompanying Tobacco and Vapour Products Control Regulation, in September 2016.
- The Order in Council does not specify that it comes into force on any particular date; therefore the amendments made by it will come into force on the date that it is deposited with the Registrar of Regulations.

### **Paragraph (a)**

- Paragraph (a) of the Order in Council addresses amendments to the Tobacco Tax Act Regulation.
- Sections 6(1)(d)(ii) and (iii) and 6.2(1)(b)(ii) and (iii) within the Tobacco Tax Act Regulation currently do not reflect the amended name of the *Tobacco Control Act*; it is therefore necessary to correct the name of the Act within those paragraphs so that they correctly refer to the *Tobacco and Vapour Products Control Act*.
- As well, it is necessary to ensure that these paragraphs reference prohibition orders and administrative proceedings in the context of tobacco products only. As it is not intended to tax vapour products under the *Tobacco Tax Act*, it is important to clarify that those paragraphs of the Tobacco Tax Act Regulation are referring only to prohibition orders and administrative proceedings in respect of tobacco products, although the paragraphs will reference the *Tobacco and Vapour Products Control Act*.
- These amendments are accomplished by repealing and replacing the existing paragraphs (ii) and (iii) in both section 6(1)(d) and section 6.2(1)(b) of the Tobacco Tax Act Regulation.

### **Paragraph (b)**

- Paragraph (b) of the Order in Council addresses amendments to the Violation Ticket Administration and Fines Regulation. The amendments themselves are set out in the Appendix to the Order in Council.

## Section 1 of Appendix

- The Violation Ticket Administration and Fines Regulation outlines schedules of ticketable fines for all provincial statutes and regulations. Schedule 2 of the Violation Ticket Administration and Fines Regulation lists specific contraventions, the amounts of fines, and victim surcharge levies that may be levied by designated persons such as enforcement officers under the *Tobacco and Vapour Products Control Act* and Tobacco and Vapour Products Control Regulation.
- Section 1 of the Appendix to the Order in Council amends Schedule 2 of the Violation Ticket and Enforcement Regulation, under the heading “*Tobacco and Vapour Products Control Act*” to change the existing reference to the prohibition of selling cigarettes from an open package, to instead reference the prohibition of selling tobacco products from an open package.

## Section 2 of Appendix

- Section 2 of the Appendix amends the entries in Schedule 2 of the Violation Ticket and Enforcement Regulation that are applicable under the *Tobacco and Vapour Products Control Regulation*.
- The contraventions of failing to display warnings are referred to within subsections (1), (2), (3) and (5) of section 5 of the Tobacco and Vapour Products Control Regulation, rather than under all of the subsections of section 5. It has been determined that it would be more precise to refer to the specific subsections of section 5 in Column 1 of Schedule 2.
- This is purely a housekeeping amendment which is convenient to make at the same time as other aspects of the Violation Ticket and Enforcement Regulation are amended. This has been accomplished by replacing the entirety of the entries to the Violation Ticket Administration and Fines Regulation pertaining to the Tobacco and Vapour Products Control Regulation.

### Section 3 of Appendix

- Section 3 of the Appendix to the Order in Council amends Schedule 3 of the Violation Ticket Administration and Fines Regulation under the heading "*Motor Vehicle Act*" to expand the description of the prohibition of smoking tobacco in motor vehicles when a person under the age of 16 is present to include holding lighted tobacco, using e-cigarettes, and holding activated e-cigarettes.
- Thus, the scope of the reference to contravention provisions within Schedule 3 of the Violation Ticket Administration and Fines Regulation will match the corresponding prohibition in section 231.1 of the *Motor Vehicle Act*.
- This is necessary because while section 231.1 of the *Motor Vehicle Act* was amended through Bill 14-2015 to prohibit both tobacco and vapour product use in motor vehicles when a person under the age of 16 years is present, the corresponding penalty provisions in the Violation Ticket Administration and Fines Regulation were not amended to reflect the expanded scope of the prohibition.

# **Order in Council Cabinet Summary Information**

**Ministry:** Health

**Date prepared:** December 8, 2016

**Cliff #:** 1065888

**Log #:** R/855

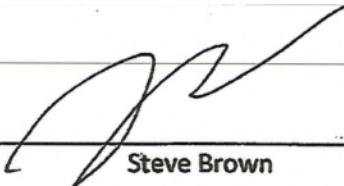
Section	Detail
<b>1. Type of OIC:</b>	<input type="checkbox"/> BRDO appointment* <input type="checkbox"/> Non-BRDO appointment <input type="checkbox"/> Not a regulation <input checked="" type="checkbox"/> Regulation - provide Regulatory Count: <u>0</u>
<b>2. Routine or For Attention:</b>	<input checked="" type="checkbox"/> Routine <input type="checkbox"/> For Attention because (select all that apply): <input type="checkbox"/> REQUIRES DISCUSSION <input type="checkbox"/> CONTROVERSIAL <input type="checkbox"/> REVISES POLICY
<b>3. Required Effective Date (Select all timing constraints that apply. Include Rationale. )</b>	s.12
<b>4. Processing Instructions after approval</b>	<input checked="" type="checkbox"/> Process normally <input type="checkbox"/> Hold because (select all that apply): <input type="checkbox"/> Ministry requests hold until release by the Minister, no later than _____ <input type="checkbox"/> Other _____
<b>5. Authorizing Act and section number(s)</b>	<i>Tobacco Tax Act, s.44(2)(i.1)</i> <i>Offence Act, s.132(2)(d)</i>



<p><b>6. Purpose, Content and Context (OIC "Essence")</b></p>	<p>The <i>Tobacco Control Act</i> and Tobacco Control Regulation serve to regulate the use, sale and display of tobacco products in BC. In May 2015, the <i>Tobacco Control Amendment Act, 2015</i> (Bill 14-2015) received Royal Assent. Bill 14 renamed and amended the <i>Tobacco Control Act</i> to extend many of the existing requirements for the use, sale and display of tobacco products to vapour products.</p> <p>Consequential amendments to the <i>Tobacco Tax Act</i>, which establishes requirements for the levy of consumption tax on tobacco sales, and the <i>Motor Vehicle Act</i>, were also part of the bill.</p> <p>Specifically, through Bill 14 the <i>Tobacco Tax Act</i> was amended to:</p> <ul style="list-style-type: none"> <li>• update references to the "<i>Tobacco Control Act</i>" to reflect its new name, the "<i>Tobacco and Vapour Products Control Act</i>" (TVPCA); and</li> <li>• clarify the definition of "tobacco" as it applies to sections of the <i>Tobacco Tax Act</i> that reference the TVPCA.</li> </ul> <p>The <i>Motor Vehicle Act</i> was amended to:</p> <ul style="list-style-type: none"> <li>• add definitions for the terms "activated e-cigarette", "e-cigarette" and "tobacco", each with the same meaning as those terms within the TVPCA; and</li> <li>• extend the existing prohibition in subsection 231.1(2) – which prohibits the smoking of tobacco or holding of lighted tobacco in a motor vehicle that is occupied by a person under age 16 – to clarify that use of an e-cigarette, or holding an activated e-cigarette within a motor vehicle occupied by a person under 16, is also prohibited.</li> </ul> <p>The scheme of tobacco and vapour products regulation is enforced through the levy of fines or tickets under the Violation Ticket Administration and Fines Regulation (VTAFR) under the <i>Offence Act</i>. Currently, Schedule 3 of the VTAFR specifies the fines and ticketed amounts that may be levied for contraventions of specific provisions of the <i>Motor Vehicle Act</i> and the Motor Vehicle Act Regulations. It is specified that a fine of \$109 may be levied for smoking in a motor vehicle when a person under the age of 16 is present, which is prohibited under s.231.1 of the <i>Motor Vehicle Act</i>.</p> <p>Accordingly, with the extension of prohibitions under the <i>Tobacco Control Act</i>, Tobacco Control Regulation and <i>Motor Vehicle Act</i> to encompass vapour products, it became necessary to amend the references within the VTAFR to reference a number of specific prohibitions relating to vapour product use.</p> <p>Effective September 1, 2016, Bill 14-2015, including consequential amendments, and the amended Tobacco Control Regulation were brought into force, effectively enacting a scheme of regulation for the use and sale of vapour products in British Columbia. Since the coming into force of the amended legislation, it has been recognized that a few unintended but minor gaps exist.</p>
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s.12

<b>7. Fiscal Management Considerations</b>	s.12
<b>8. Legislative Counsel Cautions</b>	s.12,s.14
<b>9. Stakeholder and Affected Party Consultations</b>	s.12
<b>10. Trade Obligations</b>	s.12
<b>11. Prerequisites</b>	
<b>12. Communication plan</b>	

  
 Steve Brown  
 December 20/2016  
 Date Signed

Contact Name: Katherine Thiessen-Wale  
 Title: Director of Legislation  
 Phone Number: 250-952-2283

Prepared By: Sabryna Tes / Della Skinner  
 Phone Number: 250-952-1774

☒ Distribution Form



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Withheld pursuant to/removed as

s.12;s.14

**PROVINCE OF BRITISH COLUMBIA**  
**ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL**

Order in Council No.

, Approved and Ordered

\_\_\_\_\_  
Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that

- (a) *Sections 6 (1) (d) (ii) and (iii) and 6.2 (1) (b) (ii) and (iii) of the Tobacco Tax Act Regulation, B.C. Reg. 66/2002, are repealed and the following substituted:*
- (ii) to which a prohibition order made in relation to tobacco under the *Tobacco and Vapour Products Control Act* applies, or
  - (iii) that is the subject of an administrative proceeding in relation to tobacco under the *Tobacco and Vapour Products Control Act*, and
- (b) *the Violation Ticket Administration and Fines Regulation, B.C. Reg. 89/97, is amended as set out in the attached Appendix.*



\_\_\_\_\_  
Attorney General and Minister of Justice



\_\_\_\_\_  
Minister of Health

\_\_\_\_\_  
Presiding Member of the Executive Council

\_\_\_\_\_  
(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: *Tobacco Tax Act*, R.S.B.C. 1996, c. 452, s. 44 (2) (i.1); *Offence Act*, R.S.B.C. 1996, c. 338, s. 132 (2) (d)

Other: OIC 244/2002; OIC 262/97

December 13, 2016

R/855/2016/3

## APPENDIX

**1** *Schedule 2 of the Violation Ticket Administration and Fines Regulation, B.C. Reg. 89/97, is amended under the heading "Tobacco and Vapour Products Control Act" by striking out "Sell cigarettes from open package" and substituting "Sell tobacco products from open package".*

**2** *Schedule 2 is amended by striking out everything under the heading "Tobacco and Vapour Products Control Regulation, B.C. Reg. 232/2007" and substituting the following:*

1 Provision	2 Contravention	3	4	5
		Fine	Victim Surcharge Levy	Ticketed Amount
section 4	Sell cigarettes in packages containing fewer than 20	\$500	\$75	\$575
section 5 (1), (2), (3) or (5)	Fail to display warning as required	\$300	\$45	\$345
section 5 (4) (a)	Fail to affix warning as required	\$300	\$45	\$345

**3** *Schedule 3 is amended under the heading "Motor Vehicle Act" by striking out "Smoke in motor vehicle when person under the age of 16 is present" and substituting "Smoke, hold lighted tobacco, use e-cigarette or hold activated e-cigarette in motor vehicle when person under age 16 is present".*

## ORDER IN COUNCIL DISTRIBUTION FORM

**STATUTE:** Tobacco Tax Act, Offence Act

For OIC Office use only:

**MINISTRY:** Ministry of Health

---

### SUMMARY OF SUBJECT MATTER

- Amend the Tobacco Tax Act Regulation and the Violation Ticket Administration and Fines Regulation to clarify authority and support the recent changes to the *Tobacco and Vapour Products Control Act* and its regulation.

---

**ORIGINATOR** (Name/Ministry/Branch/Telephone/email):

Katherine Thiessen-Wale / Health / Legislation / 250-952-2283 / [Katherine.ThiessenWale@gov.bc.ca](mailto:Katherine.ThiessenWale@gov.bc.ca)

---

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Gary Heshmat, Ministry of Health, [Gary.Heshmat@gov.bc.ca](mailto:Gary.Heshmat@gov.bc.ca)

Carola Bouchard, Ministry of Health, [Carola.Bouchard@gov.bc.ca](mailto:Carola.Bouchard@gov.bc.ca)

*Donna. Keyes@gov.bc.ca*

Page 71 to/à Page 72

Withheld pursuant to/removed as

s.12;s.13



TB Minor Meeting Date: April 25, 2016  
350447

Confidential

Honourable Terry Lake  
Minister of Health  
Room 337 Parliament Buildings  
Victoria BC V8V 1X4

Dear Colleague:

Re: Tobacco and Vapour Products Control Act

I am writing to advise you that Treasury Board approved the ministry's request to establish fines as per table 1 for vapour product use, display, and sales.

Sincerely,



Michael de Jong, Q.C.  
Chair

Attachment

cc: Stephen Brown  
Deputy Minister  
Ministry of Health

Manjit Sidhu  
Assistant Deputy Minister and Executive Financial Officer  
Ministry of Health



**Tobacco and Vapour Products Control Act**

<b>Provision</b>	<b>Contravention</b>	<b>Fine</b>	<b>Levy</b>	<b>Total</b>
section 2 (2)	Sell tobacco <u>or vapour product</u> to person under 19	\$500	\$75	\$575
section 2 (3)	Sell cigarettes from open package	\$500	\$75	\$575
section 2 (4)	Sell tobacco <u>or vapour product</u> where prohibition order applies	\$500	\$75	\$575
section 2.1 (1)	Sell tobacco <u>or vapour product</u> in prohibited place	\$500	\$75	\$575
section 2.2 (2)	Use tobacco <u>or vapour product</u> on school property	\$50	\$8	\$58
Section 2.21 (2)	<u>Smoke or hold lighted tobacco, use an e-cigarette or hold an activated e-cigarette on health board property</u>	\$50	\$8	\$58
section 2.2 (4)	Permit tobacco <u>or vapour product</u> use on school property	\$500	\$75	\$575
section 2.3 (1)	Smoke or hold lighted tobacco, <u>use an e-cigarette or hold an activated e-cigarette</u> in prohibited place	\$50	\$8	\$58
section 2.3 (3)	Permit tobacco <u>or vapour product</u> use in prohibited place	\$500	\$75	\$575
section 2.3 (4)	Permit tobacco <u>or vapour product</u> use in workplace	\$500	\$75	\$575
section 2.4 (a)	Display products in prohibited manner	\$500	\$75	\$575
section 2.4 (b)	Promote tobacco <u>or vapour product</u> in prohibited manner	\$500	\$75	\$575
section 10.1 (a)	Fail to display prohibition order sign	\$500	\$75	\$575
section 10.1 (b)	Fail to display prohibition sign in accordance with requirements	\$500	\$75	\$575
<b><u>Tobacco and Vapour Products Control Regulation, B.C. Reg. 232/2007</u></b>				
section 4	Sell cigarettes in packages containing fewer than 20	\$500	\$75	\$575
section 5 (1)	Fail to display warning	\$300	\$45	\$345
section 5 (2)	Fail to affix warning	\$300	\$45	\$345

*Table 1: Proposed Modified/New Fines and Amounts*

Page 75 to/à Page 81

Withheld pursuant to/removed as

s.12





TB Minor Meeting Date: September 28, 2016  
353181

Confidential

Honourable Terry Lake  
Minister of Health  
Room 337 Parliament Buildings  
Victoria BC V8V 1X4

Dear Colleague:

Re: Violation Ticket Administration and Fines Regulation (*Offence Act*) Schedule 3

I am writing to advise you that Treasury Board approved the Ministry of Health's request to establish a \$109 fine in schedule 3 of the Violation Ticket Administration and Fines Regulation (*Offence Act*) for using or holding an e-cigarette or activated e-cigarette in a motor vehicle where a person under the age of 16 is present pursuant to section 231.1 of the Motor Vehicle Act.

Sincerely,

Michael de Jong, Q.C.  
Chair

cc: Stephen Brown  
Deputy Minister  
Ministry of Health

Manjit Sidhu  
Assistant Deputy Minister and Executive Financial Officer  
Ministry of Health

**PROVINCE OF BRITISH COLUMBIA**  
**ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL**

Order in Council No.

, Approved and Ordered


\_\_\_\_\_  
*Lieutenant Governor*

**Executive Council Chambers, Victoria**

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that, effective September 1, 2016,

- (a) *the Tobacco Control Amendment Act, 2015, S.B.C. 2015, c. 11, is brought into force,*
- (b) *the Tobacco Control Regulation, B.C. Reg. 232/2007, is amended as set out in the attached Appendix 1, and*
- (c) *the Violation Ticket Administration and Fines Regulation, B.C. Reg. 89/97, is amended as set out in the attached Appendix 2.*

\_\_\_\_\_  
*Attorney General and Minister of Justice*

  
\_\_\_\_\_  
*Minister of Health*

\_\_\_\_\_  
*Presiding Member of the Executive Council*

(This part is for administrative purposes only and is not part of the Order.)

**Authority under which Order is made:**

Act and section: *Tobacco Control Amendment Act, 2015, S.B.C. 2015, c. 11, s. 22; Tobacco and Vapour Products Control Act, R.S.B.C. 1996, c. 451, s. 11 (2) (a), (c), (h.1), (h.2), and (j) (i), (v) to (vii) and (3); Offence Act, R.S.B.C. 1996, c. 338, s. 132 (2) (c) and (d)*

Other: *OIC 478/2007; OIC 262/97*

May 20, 2016

2/R/591/2015/3

## APPENDIX 1

- 1 *The title of the Tobacco Control Regulation, B.C. Reg. 232/2007, is repealed and the following substituted:*

### **TOBACCO AND VAPOUR PRODUCTS CONTROL REGULATION .**

- 2 *The definition of "Act" in section 1 is repealed and the following substituted:*  
"Act" means the *Tobacco and Vapour Products Control Act*;
- 3 *Section 1 is amended by adding the following definitions:*  
"minor" means a person who is under 19 years of age;  
"retail establishment" means the location at which a retailer deals in, sells, offers to sell or distributes tobacco or vapour products.
- 4 *Section 4.21 is amended by striking out "or hold lighted tobacco:" and substituting " , hold lighted tobacco, use an e-cigarette or hold an activated e-cigarette:".*
- 5 *Section 4.22 is amended*  
(a) *in subsection (1) by striking out "or hold lighted tobacco, is 3 metres." and substituting "hold lighted tobacco, use an e-cigarette or hold an activated e-cigarette, is 6 metres.", and*  
(b) *in subsection (4) by striking out "the 3 metre area described in subsection (1) of this section over which the manager, owner, lessee or employer has no control, if a person smokes tobacco or holds lighted tobacco" and substituting "the 6 metre area described in subsection (1) of this section over which the manager, owner, lessee or employer has no control, if a person smokes tobacco, holds lighted tobacco, uses an e-cigarette or holds an activated e-cigarette".*
- 6 *Section 4.23 (2) is amended*  
(a) *in paragraph (a) by striking out "or holds lighted tobacco, in a room designated for tobacco use" and substituting "holds lighted tobacco, uses an e-cigarette or holds an activated e-cigarette, in a room designated for tobacco or vapour product use",*  
(b) *in paragraph (b) by striking out "or holding lighted tobacco," and substituting " , holding lighted tobacco, using an e-cigarette or holding an activated e-cigarette," and*  
(c) *by adding the following paragraph:*  
(c) a person who uses an e-cigarette or holds an activated e-cigarette within the premises at which a retailer deals in, sells, offers to sell or distributes vapour products, if  
(i) no minors are permitted in the premises,

- (ii) the premises are fully enclosed such that no vapour may escape to an adjacent premises or to a public area outside the premises,
- (iii) the person
  - (A) is the retailer or an employee of the retailer who holds an activated e-cigarette only to demonstrate the safe and proper use of the e-cigarette, or
  - (B) uses an e-cigarette or holds an activated e-cigarette only to sample an e-substance that, if purchased, will be consumed off the premises, and
- (iv) no more than 2 persons are, at the same time, using an e-cigarette or holding an activated e-cigarette for the purpose of sampling an e-substance.

7 *Section 4.3 is repealed.*

8 *Section 4.31 is amended*

- (a) *in subsection (1) by striking out* “display tobacco products, or advertise or promote the use of tobacco, in any manner by which the tobacco products” *and substituting* “display tobacco or vapour products, or advertise or promote the use of tobacco or vapour products, in any manner by which the tobacco or vapour products”,
- (b) *in subsection (2) by striking out* ““advertise or promote the use of tobacco” means to advertise or promote the use of tobacco by any means,” *and substituting* ““advertise or promote the use of tobacco or vapour products” means to advertise or promote the use of tobacco or vapour products by any means,” *and*
- (c) *in subsection (2) (a) by striking out* “a tobacco brand or product manufacturer,” *wherever it appears and substituting* “a brand or manufacturer of tobacco or vapour products,”.

9 *Section 4.32 (1) is amended*

- (a) *by striking out* “may advertise on the premises” *and substituting* “may advertise within the premises”,
- (b) *by striking out* “tobacco products” *wherever it appears and substituting* “tobacco and vapour products”, *and*
- (c) *in paragraphs (f) and (g) by striking out* “a tobacco brand or product manufacturer,” *in both places and substituting* “a brand or manufacturer of tobacco or vapour products;”.

10 *Section 5 is repealed and the following substituted:*

**Warning signs**

- 5 (1) A dealer who sells or offers for sale tobacco, but not vapour products, must do both of the following:
  - (a) display to purchasers the decal set out in Schedule 1;

- (b) display to dealers and employees the decal set out in Schedule 1.1.
- (2) A dealer who sells or offers for sale vapour products, but not tobacco, must do both of the following:
  - (a) display to purchasers the decal set out in Schedule 1.2;
  - (b) display to dealers and employees the decal set out in Schedule 1.3.
- (3) A dealer who sells or offers for sale both tobacco and vapour products must do both of the following:
  - (a) display to purchasers the decal set out in Schedule 1.4;
  - (b) display to dealers and employees the decal set out in Schedule 1.5.
- (4) A dealer who operates a vending machine that sells tobacco or vapour products
  - (a) must affix to the front of the vending machine the decal referred to in subsection (1) (a), (2) (a) or (3) (a), as applicable, and
  - (b) is not required to affix to the vending machine the decal referred to in subsection (1) (b), (2) (b) or (3) (b), as applicable.
- (5) A dealer must ensure that decals that must be displayed under this section
  - (a) to purchasers are displayed in plain view to purchasers at the point and time of sale,
  - (b) to dealers or employees are displayed in plain view to the dealer or employee operating the point of sale system
    - (i) on or near the point of sale system, and
    - (ii) at the time of sale, and
  - (c) are not obscured by a sign, notice or any other thing that could make the decal less than fully visible.

**11 Section 13 is amended**

- (a) in subsection (1) (c) (ii) by striking out “with respect to tobacco sales:” and substituting “with respect to the sale of tobacco or vapour products, as applicable;”, and
- (b) in subsection (2) by striking out “selling tobacco at retail” and substituting “selling tobacco or vapour products, as applicable, at retail”.

**12 Section 17 is amended by striking out “cheque or money order,” and substituting “cheque, money order or any form of electronic payment or transfer of funds.”.**

**13 Section 18 is amended**

- (a) by renumbering the section as section 18 (1),
- (b) in subsection (1) by striking out “in the form set out in Schedule 4” and substituting “made in accordance with subsection (2)”, and
- (c) by adding the following subsection:
  - (2) An administrative penalty notice must include at least the following information:
    - (a) the name and address of the person subject to the administrative penalty;

- (b) the date on which the hearing with respect to the imposition of the administrative penalty occurred;
- (c) a description of the contravention that was the subject of the hearing;
- (d) the administrative penalty imposed on the person after the hearing;
- (e) if a monetary penalty was imposed, a statement that the penalty may be paid by cheque, money order or any form of electronic payment or transfer of funds;
- (f) if a prohibition order was imposed,
  - (i) the location or locations to which the order applies, and
  - (ii) the dates on which the prohibition period begins and finishes.

**14 Section 19 is amended**

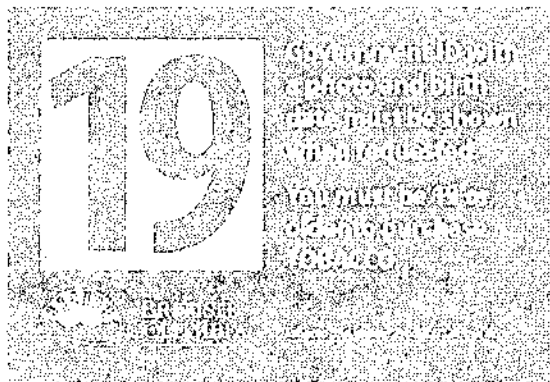
**(a) in subsection (1) (a) by striking out “each place where tobacco” and substituting “each place where a tobacco or vapour product, as applicable.”, and**

**(b) by repealing subsection (2) (a) (iii) and (iv) and (b) and substituting the following:**

- (iii) if the prohibition is in respect of tobacco and based on at least one contravention of section 2 (2) of the Act, a sign in the form set out in Schedule 5;
- (iv) if the prohibition is in respect of a vapour product and based on at least one contravention of section 2 (2) of the Act, a sign in the form set out in Schedule 6;
- (v) if the prohibition is in respect of tobacco and not based on at least one contravention of section 2 (2) of the Act, a sign in the form set out in Schedule 7;
- (vi) if the prohibition is in respect of a vapour product and not based on at least one contravention of section 2 (2) of the Act, a sign in the form set out in Schedule 8, and .

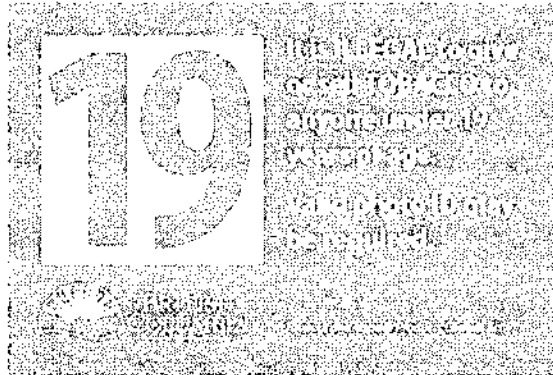
**15 Schedule 1 is repealed and the following substituted:**

**SCHEDULE 1**

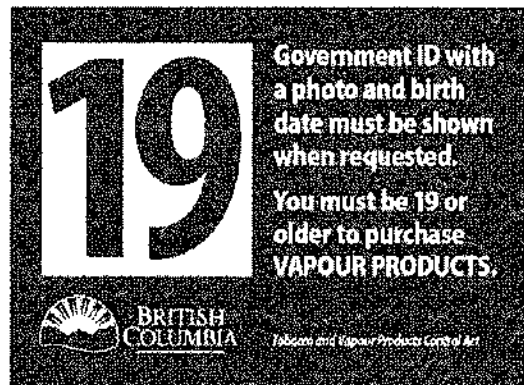


16 The following Schedules are added:

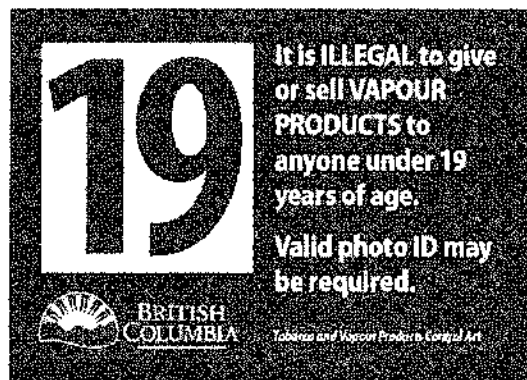
### SCHEDULE 1.1




### SCHEDULE 1.2



### SCHEDULE 1.3




#### SCHEDULE 1.4



**Government ID with a photo and birth date must be shown when requested.**


**You must be 19 or older to purchase TOBACCO or VAPOUR PRODUCTS.**



BRITISH COLUMBIA


Tobacco and Vapour Products Control Act

#### SCHEDULE 1.5



**It is ILLEGAL to give or sell TOBACCO or VAPOUR PRODUCTS to anyone under 19 years of age.**

**Valid photo ID may be required.**



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Tobacco and Vapour Products Control Act

17 Schedules 4 to 6 are repealed and the following substituted:



SCHEDULE 5

# NOTICE

**WE CANNOT  
SELL TOBACCO**

because we have  
**SOLD TOBACCO  
TO A MINOR** in  
contravention of the

***Tobacco  
and Vapour  
Products  
Control Act***



SCHEDULE 6

# NOTICE

**WE CANNOT  
SELL VAPOUR  
PRODUCTS**

because we have  
**SOLD VAPOUR  
PRODUCTS  
TO A MINOR** in  
contravention of the

***Tobacco and  
Vapour Products  
Control Act***



SCHEDULE 7

# NOTICE

**WE CANNOT  
SELL TOBACCO**

because we have  
contravened the

***Tobacco  
and Vapour  
Products  
Control Act***



SCHEDULE 8

# NOTICE

**WE CANNOT  
SELL VAPOUR  
PRODUCTS**

because we have  
contravened the

***Tobacco  
and Vapour  
Products  
Control Act***



## APPENDIX 2

**1** *Schedule 1 of the Violation Ticket Administration and Fines Regulation, B.C. Reg. 89/97, is amended in item 21*

*(a) in columns 1 and 2 by striking out "Tobacco Control Act" and substituting "Tobacco and Vapour Products Control Act", and*

*(b) in column 2 by striking out "Tobacco Control Regulation" and substituting "Tobacco and Vapour Products Control Regulation".*

**2** *Schedule 2 is amended by striking out the heading "Tobacco Control Act" and substituting "Tobacco and Vapour Products Control Act".*

**3** *Schedule 2 is amended under the heading "Tobacco and Vapour Products Control Act" by adding "or vapour product" after "tobacco" wherever it appears except opposite "section 2.2 (2)" and "section 2.3 (1)".*

**4** *Schedule 2 is amended under the heading "Tobacco and Vapour Products Control Act" by striking out "use tobacco on school property" and substituting "use tobacco and hold lighted tobacco on school property".*

**5** *Schedule 2 is amended by adding the following items under the heading "Tobacco and Vapour Products Control Act":*

1	2	3	4	5
Provision	Contravention	Fine	Victim Surcharge Levy	Ticketed Amount
section 2.2 (3.1)	Hold activated e-cigarette on school property	\$50	\$8	\$58
section 2.21 (2)	Hold lighted tobacco or activated e-cigarette on health board property	\$50	\$8	\$58

**6** *Schedule 2 is amended under the heading "Tobacco and Vapour Products Control Act" by striking out "Smoke or hold lighted tobacco in prohibited place" and substituting "Hold lighted tobacco or activated e-cigarette in prohibited place".*

**7** *Schedule 2 is amended under the heading "Tobacco and Vapour Products Control Act" by striking out "section 2.4 (a)" and substituting "section 2.4 (1) (a)".*

**8** *Schedule 2 is amended under the heading "Tobacco and Vapour Products Control Act" by striking out "Display products in prohibited manner" and substituting "Display tobacco or vapour products in prohibited manner".*

**9** *Schedule 2 is amended under the heading "Tobacco and Vapour Products Control Act" by striking out "section 2.4 (b)" and substituting "section 2.4 (1) (b)".*

**10** *Schedule 2 is amended by striking out the heading "Tobacco Control Regulation" and substituting "Tobacco and Vapour Products Control Regulation".*



## Regulatory Criteria Checklist

The purpose of the checklist is to demonstrate that legislative and regulatory changes have been developed according to the Regulatory Reform Policy, while still protecting public health, safety and the environment

Name of authorizing Legislation: **Tobacco and Vapour Products Control Act**

Name of Regulation, if applicable: **Tobacco and Vapour Products Control Regulation**

Purpose:

Bring into force the *Tobacco and Vapour Products Control Act*, amend the *Tobacco Control Regulation* and amend the *Violation Ticket Administration and Fines Regulation*.

### Regulatory Criteria

✓ I certify that the following Regulatory Reform Principles were considered for this legislation or regulation:

1. Is needed and efficient
2. Is outcome based and will be regularly reviewed
3. Was transparently developed and will be clearly communicated
4. Is cost effective and evidence based
5. Is supportive of BC's economy and small business

Please provide an explanation if any of the criteria above were not considered (continued on page 2):

Number of Regulatory Requirements to be added: + 22  
Number of Regulatory Requirements to be eliminated: - 0  
Net Change: = 22

*T. Lake*

Date:

Signature, Responsible Minister or Head of Regulatory Authority

Signator Name: **Minister Terry Lake**

Ministry/Agency Name: **Ministry of Health**

Contact Name: **Katherine Thiessen-Wale, Director, Legislation 250-952-2283**



Explanation Continued:

## Attachment for Regulatory Criteria Checklist

### *Tobacco and Vapour Products Control Regulation*

Number of Regulatory Requirements to be added:	22
Number of Regulatory Requirements to be eliminated:	0
NET CHANGE:	22

### *Violation Ticket Administration and Regulation*

Number of Regulatory Requirements to be added:	0
Number of Regulatory Requirements to be eliminated:	0
NET CHANGE:	0

**Total Count for Regulatory Reform**

**22**

## ORDER IN COUNCIL DISTRIBUTION FORM

**STATUTE:** *Tobacco and Vapour Products Control Act and the Offence Act*

For OIC Office use only:

**MINISTRY:** Health and Justice

### SUMMARY OF SUBJECT MATTER

- This Order will bring into force the *Tobacco Control Amendment Act*; amend the Tobacco Control Regulation; and amend the Violation Ticket Administration and Fines Regulation.

**ORIGINATOR** (Name/Ministry/Branch/Telephone/email):

Katherine Thiessen-Wale / Health / Legislation / 250-952-2283 / [Katherine.Thiessen-Wale@gov.bc.ca](mailto:Katherine.Thiessen-Wale@gov.bc.ca)

### COPIES

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