

Chapter 15

AN ACT TO AMEND THE LIQUOR ACT

(Assented to November 5, 2003)

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

1. **This Act amends the *Liquor Act*.**
2. **Section 13 is amended by adding the following:**

Tobacco control condition

(1.12) It is a condition of any licence that the licence holder shall ensure compliance with

- (a) the provisions of the *Tobacco Control Act* that apply to the licensed premises; and
- (b) any municipal by-law affecting the licensed premises that regulates the smoking of tobacco or designates places in which smoking tobacco or holding lighted tobacco is prohibited.

Application

(1.13) Subsection (1.12) applies to any licence issued or renewed after subsection (1.12) comes into force.

3. **The following section is added after section 36:**

When licence to be suspended

36.1. (1) If a licence holder is convicted for a contravention of section 84, 85, 87 or 98, the Board shall suspend the licence

- (a) for the third offence, for 30 days;
- (b) for the fourth offence, for 30 days; and
- (c) for the fifth offence, for 13 months.

Calculation of offences

(2) In calculating the number of offences under subsection (1), the Board shall not include an offence

- (a) for which a conviction was made before this section comes into force; or
- (b) for which a conviction is made after this section comes into force if the offence was committed before this section comes into force.

Subsequent convictions

(3) Where a licence holder has been convicted for a contravention of section 84, 85, 87 or 98 and is afterwards convicted for a contravention of any of these sections, the second subsequent conviction shall be deemed to be a conviction for the third offence,

the third subsequent conviction shall be deemed to be a conviction for the fourth offence and the fourth subsequent conviction shall be deemed to be a conviction for the fifth offence within the meaning of subsection (1) and the licence holder shall be dealt with and suspended accordingly, although any such conviction may have been for an offence under a different section.

Amended suspensions

(4) Where a fine, imprisonment or other punishment is amended by a justice under paragraph 120(b) in respect of a subsequent conviction for a contravention of section 84, 85, 87 or 98, the Board shall amend the suspension imposed under subsection (1) on the subsequent conviction, and impose the suspension that would have been imposed had the previous conviction never existed, and the amended suspension shall upon that be held valid for all intents and purposes as if it had been made in the first instance.

4. Subsection 36.1(1) is amended by adding "subsection 13(1.2) in respect of the condition established in subsection 13(1.12) or" after "contravention of" in the portion preceding paragraph 36.1(1)(a).

5. Subsection 36.1(3) is amended by adding "subsection 13(1.2) in respect of the condition established in subsection 13(1.12) or" after "been convicted for a contravention of".

6. Subsection 36.1(4) is amended by adding "subsection 13(1.2) in respect of the condition established in subsection 13(1.12) or" after "contravention of".

7. Section 37 is amended by adding the following:

- (a.1) the licence holder is convicted for a contravention of section 84, 85, 87 or 98 after the licence is suspended under paragraph 36.1(1)(c);

8. Paragraph 37(a.1) is amended by adding "subsection 13(1.2) in respect of the condition established in subsection 13(1.12) or" after "contravention of".

9. The following is added after section 51:

Special prohibition resolution

51.01. (1) Where

- (a) a special occasion is to occur in a settlement or municipality, and
- (b) the council of the settlement or municipality wishes to have the consumption, possession, purchase, sale or transport of liquor prohibited in the settlement or municipality during the special occasion,

the council of the settlement or municipality may, by resolution,

- (c) declare the settlement or municipality a prohibited area during the special occasion for a period of not more than 14 days, and
- (d) prohibit the consumption, possession, purchase, sale or transport of liquor in the prohibited area during the period referred to in paragraph (c).

Maximum resolutions

(2) A council may make not more than three resolutions under subsection (1) in a year.

Notice of resolution

(3) On making a resolution under subsection (1), the council shall give notice of the resolution

- (a) to the Minister in writing; and
- (b) to the public in a way that is appropriate in the circumstances.

Offence and punishment

(4) Every person who contravenes a resolution made under subsection (1) is guilty of an offence and liable on summary conviction to a fine of not less than \$500 and not exceeding \$5,000 or to imprisonment for a term not exceeding 30 days or to both.

10. Section 51.1 is amended

- (a) by repealing subsection (1) and substituting the following:**

Request for special prohibition

51.1. (1) Where

- (a) a special occasion is to occur in a settlement or municipality,
- (b) the council of the settlement or municipality wishes to have the consumption, possession, purchase, sale or transport of liquor prohibited in the settlement or municipality during the special occasion, and
- (c) the council of the settlement or municipality has made three resolutions under subsection 51.01(1) in the year,

the council of the settlement or municipality may, in writing, request the Minister to declare the settlement or municipality a prohibited area during the special occasion.;

- (b) by repealing paragraph (2)(a) and substituting the following:**

- (a) declare the settlement or municipality a prohibited area for a period of not more than 14 days; and ;

- (c) by adding the following:**

Notice of order

(2.1) On making an order under subsection (2), the Minister shall give notice of the order to the council and on receiving the notice, the council shall give notice of the order to the public in a way that is appropriate in the circumstances.; **and**

- (d) **in subsection (3) by striking out "not exceeding \$500" and substituting "of not less than \$500 and not exceeding \$5,000".**

11. Subsection 114(1) is amended

- (a) **in subparagraph (a)(i) by striking out "not exceeding \$5,000" and substituting "of not less than \$5,000 and not exceeding \$10,000";**
- (b) **in subparagraph (a)(ii) by striking out "\$5,000 and not exceeding \$10,000" and substituting "\$10,000 and not exceeding \$20,000";**
- (c) **in subparagraph (b)(i) by striking out "not exceeding \$5,000" and substituting "of not less than \$10,000 and not exceeding \$20,000"; and**
- (d) **in subparagraph (b)(ii) by striking out "\$5,000 and not exceeding \$10,000" and substituting "\$20,000 and not exceeding \$50,000".**

12. Section 115 is amended by striking out "\$100" and substituting "\$500".

13. Section 116 is amended

- (a) **in paragraph (a) by striking out "not exceeding \$500" and substituting "of not less than \$500 and not exceeding \$5,000"; and**
- (b) **in paragraph (b) by striking out "not exceeding \$1,000" and substituting "of not less than \$10,000 and not exceeding \$20,000".**

14. Section 118 is repealed and the following substituted:

Prohibition from operating taxi

118. (1) Notwithstanding anything in this Act, where a justice convicts a person for a contravention of section 68, 79, 84, 85, 87 or 88, and that person has been issued a class of driver's licence that permits the person to operate a taxi under the *Motor Vehicles Act*, the justice shall, in addition to any other punishment, make an order

- (a) for the first offence, prohibiting that person from operating a taxi for one year;
- (b) for the second offence, prohibiting that person from operating a taxi for one year; and
- (c) for the third offence, prohibiting that person from operating a taxi permanently.

Calculation of offences

(2) In calculating the number of offences under subsection (1), the justice shall not include an offence

- (a) for which a conviction was made before this section comes into force; or
- (b) for which a conviction is made after this section comes into force if the offence was committed before this section comes into force.

15. Section 120 is amended

- (a) **by striking out "fine or imprisonment" wherever it appears and substituting "fine, imprisonment or other punishment";**
- (b) **in paragraph (b) by striking out "a fine or the imprisonment" and substituting "a fine or the imprisonment or other punishment";**
- (c) **by striking out the period at the end of paragraph (c) and substituting a semi-colon; and**
- (d) **by adding the following:**
 - (d) for the purposes of section 118, where a person has been convicted for a contravention of section 68, 79, 84, 85, 87 or 88 and is afterwards convicted for a contravention of any of these sections, the first subsequent conviction shall be deemed to be a conviction for the second offence and the second subsequent conviction shall be deemed to be a conviction for the third offence within the meaning of this section and the person shall be dealt with and punished accordingly, although any such conviction may have been for an offence under a different section.

REPEAL

16. If Bill 33 to enact the *Tobacco Control Act* does not receive assent on or before the prorogation of the Sixth Session, sections 2, 4, 5, 6 and 8 and subsections 17(2) and (3) of this Act are repealed on the day following prorogation.

COMMENCEMENT

17. (1) This Act comes into force on assent.

(2) Notwithstanding subsection (1), sections 2, 4, 5, 6 and 8 of this Act come into force on a day or days to be fixed by order of the Commissioner.

(3) An order bringing section 2 of this Act into force may specify that the order is only in relation to either of paragraphs 13(1.12)(a) or (b) of the *Liquor Act*.

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