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Put that perimeter in your pipe and smoke it: the imminent broadening of the prohibition on smoking within a nine-meter radius

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On November 26, 2016, the new provisions of the *Tobacco Control Act*[1] (the "Act") will come into force. One of these provisions will considerably expand the scope of the rule which currently prohibits smoking within a nine-meter radius of any door leading to an enclosed place governed by the Act. This broadening comes about in two ways.

The prohibition of smoking within a nine-meter radius of doors will apply to more areas

Not only will smokers have to respect the ban within a nine-meter radius of any door, they also will have to observe the nine-meter rule around openable windows and air vents leading to an enclosed place where smoking is forbidden.[2]

Broadening of the areas where smoking is prohibited within a nine-meter radius

The prohibition currently applies within a nine-meter radius of doors leading to any of the following enclosed spaces:[3]

> Facilities maintained by a health and social services institution and premises where services are provided by an intermediate resource;
> Facilities operated by a childcare centre or day care centre;
> Enclosed spaces where community or recreational activities intended for minors are held.[4]

Beginning on November 26, 2016, smoking will also be prohibited within a nine-meter radius of any door, openable window or air vent leading to the following enclosed spaces:[5]

> Facilities maintained by a health and social services institution and premises where services are provided by an intermediate resource;
> Premises or buildings placed at the disposal of an educational institution;
> Facilities operated by a childcare centre or day care centre;
> Enclosed spaces where activities of a sports or recreational, judicial, cultural or artistic nature are carried on, or where conferences, conventions or other similar events are held;
> Enclosed spaces where community or recreational activities intended for minors are held;
> Enclosed spaces where the activities held may be attended only by persons explicitly or implicitly invited or

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authorized by the host;
Enclosed spaces used by a non-profit legal person or by an association, circle or club, whether a legal person or not, to which only members and their guests have access;
Enclosed spaces where prevention, assistance and support services, including temporary lodging services, are offered to persons in distress or persons in need of assistance;
Tourist accommodation establishments and the buildings of outfitting operations;
Enclosed spaces where meals for consumption on the premises are ordinarily offered to the public in return for remuneration;
Establishments operating under a public house, tavern or bar permit;
Bingo halls;
Workplaces;
Premises used for detention;
All other enclosed spaces to which the public has admittance.[6]

Notes

The effect of this broadening is a significant expansion in the scope of the smoking prohibition within a nine-meter radius of any door leading to an enclosed place enumerated by the Act. The fact that the prohibition will apply within a nine-meter radius of any door, openable window and air vent leading to a workplace is in itself a significant change not only for smokers, but for all of Quebec's employers.

It is worth recalling that the Act also contains provisions regarding the operators of the spaces listed above:

The obligation to post notices visible to the people using the place or business, indicating the areas where smoking is prohibited;[7]
Prohibition from tolerating smoking in an area where it is prohibited.[8]

Let us not forget that, in November 2015, the legislator reinforced the Act by increasing the liability of the administrators and executives of companies subject to respect it, increasing the amounts of the fines they are subject to and making it easier for the prosecution to prove the violations.[9]

In addition to being vigilant, companies should ensure that a policy regarding the use of tobacco products[10] is in place and should also inform employees, clients, visitors and suppliers of the content of their tobacco control policy.

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1. CQLR, c. L-6.2.
2. *An Act to Bolster Tobacco Control*, Bill n°44 (assented to on November 26, 2015), 1st sess., 41st legis., ss. 6 and 76.
3. Except if the activities referred to are held in a dwelling.
4. *Tobacco Control Act*, see note 1, ss. 2 and 2.2.
5. Except if the activities referred to are held in a dwelling.
6. Bill n°44, see note 2, s. 6.
7. S. 10 of the Act.
8. S. 11 of the Act.
9. In this regard, please refer to our *Need to know* newsletter entitled "**Tobacco Control and E-cigarettes: New Challenges for Businesses**" (March 2016), online under "Publications".
10. Such a policy should also seek to control the use of marijuana, as well as the use of any substance that can be smoked.

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