

Non-Smokers' Rights Association Smoking and Health Action Foundation

March 2008

Alberta

Name of legislation	<ul style="list-style-type: none"> • <i>Smoke-Free Places (Tobacco Reduction) Amendment Act, 2007</i>
Date in force	<ul style="list-style-type: none"> • January 1, 2008
Workplaces	<ul style="list-style-type: none"> • Smoking prohibited in virtually all enclosed workplaces • Smoking permitted in DSRs by in-patients or residents of group living facilities (includes long-term care facilities) • Smoking permitted by registered guests and their invited guests in designated smoking hotel rooms
Restaurants	<ul style="list-style-type: none"> • Smoking prohibited
Casinos, bingos, etc.	<ul style="list-style-type: none"> • Smoking prohibited (see notes section below)
Bars	<ul style="list-style-type: none"> • Smoking prohibited
Public places	<ul style="list-style-type: none"> • Smoking prohibited
Outdoor provisions	<ul style="list-style-type: none"> • Smoking prohibited on patios • Smoking prohibited within 5 metres of any doorway, operable window or air intake of a public place or workplace
Provision for Municipalities	<ul style="list-style-type: none"> • The <i>Tobacco Reduction Act</i> sets a new minimum standard in Alberta • Sections 10 (1) and (2) authorize municipalities to pass stronger bylaws which would take precedence over the provincial legislation
Summary	<ul style="list-style-type: none"> • This legislation is strong in both scope and strength and makes Alberta a leader in Canada with respect to protection from SHS, both indoors and out.

Notes

On January 1st, 2008 Alberta's new *Tobacco Reduction Act* came into force, making the province a leader in Canada for protection from SHS. Unfortunately, the transition was not without controversy—both the Enoch Cree and Tsuu T'ina First Nations passed bylaws allowing smoking in gaming facilities located on

reserves. Alberta's Health Minister, Dave Hancock, has stated that he hopes these First Nations will think about the health of their people working on the reserves and reconsider their decisions to circumvent the new provincial law. However, chiefs from both reservations have said that they are governed by federal law and are permitted to pass bylaws and that these bylaws supersede provincial legislation.

The *Indian Act* allows band councils to pass bylaws "to provide for the health of residents on the reserve ..."¹ A bylaw that increases, not decreases, exposure to SHS does the opposite of providing for the health of residents on reserve and is therefore beyond the scope of the *Indian Act*. There are many other provincial laws that apply on reservations, including liquor laws, highway traffic laws, occupational health and safety laws, etc. Alberta's *Tobacco Reduction Act* should be no different. In addition to exposing employees to SHS, such First Nations bylaws undermine provincial legislation and destroy a level playing field, creating unfair business advantages on reservations.

¹ **Government of Canada.** *Indian Act*, Powers of the Council. 81. 1(a). <http://lois.justice.gc.ca>.