

Ministry of Health



Smoke-Free Ontario Act, 2017

How the Act Affects: Tobacconists

The Basics

The *Smoke-Free Ontario Act, 2017* prohibits the smoking of tobacco, the use of electronic cigarettes (e-cigarettes) to vape any substance, and the smoking of cannabis (medical and recreational) in enclosed workplaces and enclosed public places, as well as other designated places in Ontario, to protect workers and the public from second-hand smoke and vapour.

Smoking refers to the smoking or holding of lighted tobacco or cannabis (medical or recreational).

Vaping refers to inhaling or exhaling vapour from an electronic cigarette or holding an activated electronic cigarette, whether or not the vapour contains nicotine.

Tobacconists

A tobacconist is a business registered with the local Board of Health that primarily sells specialty tobacco products. This includes tobacco products and accessories (e.g., cigars, pipes, humidors), but does **not** include cigarettes.

Sales and Inventory

For a tobacconist that registers with its local Board of Health prior to January 1, 2020:

- Specialty tobacco products must account for at least 50 per cent of the retailer's total inventory purchases at the time of registration.

- For every 12 month period after registering with the local Board of Health, specialty tobacco products must account for at least 50 per cent of the tobacconist's total sales in the previous year.
- There are no restrictions on the remaining sales/inventory for tobacconists that register with their local Board of Health prior to January 1, 2020.

For a tobacconist that registers with its local Board of Health on or after January 1, 2020:

- Specialty tobacco products must account for at least 85 per cent of its total sales in the previous year. If the retailer has been in operation for less than a year, at least 85 per cent of the retailer's total inventory purchases or sales during that time period must relate to specialty tobacco products.
- The remaining up to 15 per cent of the store's revenues or inventory must be from cigarettes or other items reasonably associated with a tobacco product or branded with the name of the tobacconist or a brand of tobacco.

Exemption for Tobacconists

Display

A registered tobacconist is permitted to display and promote specialty tobacco products, including heat-not-burn products containing tobacco, if the following conditions are met:

1. The specialty tobacco products and promotional material must not be visible from outside the place of business of the tobacconist at any time of day.
2. The retailer must not permit someone under 19 years old to enter their store, except for the owner, an employee or a support person accompanying an adult with a disability. A person who appears to be less than 25 years old is considered to be less than 19 years old unless they can provide proper identification.
3. Customers can enter the store only from the outdoors or from the areas of an enclosed shopping mall that are:

- Open to the public;
 - Common to most of the retail establishments or other businesses within the mall; and
 - Not part of a retail establishment or other business within the mall.
4. The place of business of the tobacconist must be a building or must be located within a building.
 5. The store cannot be a thoroughfare (e.g., passageway).

A tobacconist that fails to meet these conditions no longer has the benefit of the display and promotion exemption, and must comply with the prohibition on display and promotion.

Required Signs

“No Smoking”, “No Vaping”, or dual signs must be posted at all store entrances, exits, and washrooms, in appropriate locations and sufficient numbers, so that everyone knows that smoking and vaping is not permitted.

All stores selling tobacco products must post, in clear view of the customer at the point of sale:

- A Tobacco Age Restriction sign.
- A Tobacco Product Identification sign.

Tobacconists selling vapour products (e.g., Heat-Not-Burn devices and components) at retail must post, in clear view of the seller and customer at the point of sale:

- A Vapour Product Age Restriction sign.
- A Vapour Product Identification sign.

For information on where to get signs, please contact your local Public Health Unit.

Registration

Applications for registering as a tobacconist are available at your local Public Health Unit.

Enforcement

Local public health units will carry out inspections and respond to complaints regarding tobacconist stores to enforce the SFOA, 2017.

Penalties

There are several penalties that a tobacconist could face for violating the SFOA, 2017. Tobacconists are advised to review the Act to understand their responsibilities, and the fines that may result from failing to comply.

Certain activities prohibited under the *Smoke-Free Ontario Act, 2017* are categorized as tobacco sales offences. These include:

- Selling or supplying tobacco to someone under the age of 19;
- Failing to request identification from someone appearing to be less than 25;
- Failing to post the mandatory age restriction and identification signs;
- Selling tobacco that is improperly packaged or without the appropriate health warnings;
- Selling tobacco in vending machines; and
- Participating in some activities relating to selling unmarked cigarettes under the *Tobacco Tax Act*.

If the Ministry of Health is notified that there are, within a five year period, two or more convictions against any owner for tobacco sales offences committed in the same location, even if the ownership has changed, that location will be subject to an automatic prohibition. This means that location could not sell or store any tobacco and no wholesaler or distributor may deliver tobacco to that location. An automatic prohibition lasts for six, nine or twelve months, depending on the number of convictions for tobacco sales offences that have taken place within the five year period.

Tobacconists are advised to review the SFOA, 2017 to understand more about this penalty.

This fact sheet is intended as a quick reference only and should not be considered to be legal advice. For more information, please contact your local Public Health Unit.

You may also obtain information by calling toll-free:

- **INFOline** 1-866-532-3161
- **TTY** 1-800-387-5559

Hours of operation: Monday to Friday, 8:30 a.m. - 5:00 p.m. (Eastern Standard Time)

For specific information on smoking and vaping laws for tobacconists, contact your local Public Health Unit. To find the public health unit serving your region, please visit their website at:

<http://www.health.gov.on.ca/en/common/system/services/phu/locations.aspx>.

For more information on the *Smoke-Free Ontario Act, 2017*, please visit the Ontario Ministry of Health website: ontario.ca/smokefree.