

Ministry of Health and Long-Term Care

# **Smoke-Free Ontario Act, 2017: Guide for Retailers**

May 2019

This guide is intended as a quick reference only and should not be considered to be legal advice.

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# Context

- The *Smoke-Free Ontario Act, 2017* (SFOA, 2017) regulates the sale, supply, display and promotion of tobacco products and vapour products, as well as the smoking of tobacco, the use of electronic cigarettes, and the smoking of cannabis.
- Retailers that sell tobacco and vapour products have a legal responsibility to ensure that they and their employees understand and comply with the requirements under the SFOA, 2017.
- This guide is intended for owners and employees of retail businesses that sell tobacco products, tobacco product accessories, and/or vapour products. It is intended to help you understand the requirements of the SFOA, 2017 regarding the sale, supply, display and promotion of tobacco products and vapour products, as well as smoking and vaping restrictions for enclosed workplaces and enclosed public places.
- Nothing in this guide should be interpreted as legal advice. In the event of a conflict between any information in this guide and the provisions in the SFOA, 2017 or its regulation, the SFOA, 2017 and regulation apply.

# Definitions

In this guide and under the SFOA, 2017:

- **Enclosed workplace** means
  - the inside of any place, building or structure or vehicle or conveyance, or a part of any of them,
    - that is covered by a roof,
    - that employees work in or frequent during the course of their employment whether or not they are acting in the course of their employment at the time, and
    - that is not primarily a private dwelling, or
  - a place prescribed by the regulations.
- **Flavoured tobacco product** means a tobacco product that is represented as being flavoured, that contains a flavouring agent or that is presented by its packaging, by advertisement or otherwise as being flavoured.
- **Flavouring agent** means one or more artificial or natural ingredients contained in any of the component parts of a tobacco product, as a constituent or an additive, that impart a distinguishing aroma or flavor other than tobacco, including that of a spice or herb, either before or during the consumption of the tobacco product.
- **Promote**, with respect to a product or substance regulated under the SFOA, 2017, means to use any commercial act or practice or to use any commercial communication, through any media or other means, that is intended to or is likely to,
  - encourage its purchase or use or the purchase or use of a particular brand, or
  - create an awareness of or an association with it, or with a brand or a manufacturer or seller.

# Definitions (Continued)

In this guide and under the SFOA, 2017:

- **Proprietor** means the owner, operator or person in charge.
- **Specialty tobacco products** includes tobacco products and tobacco product accessories, but does not include cigarettes within the meaning of the *Tobacco Tax Act* and the regulations under that Act.
- **Tobacco product** means any product that contains tobacco, and includes the package in which tobacco is sold.
- **Tobacco product accessory** means a product that may be used in the consumption of a tobacco product, including a humidor, pipe, cigarette holder, cigar clip, lighter and matches.
- **Vapour product** means an electronic cigarette, an e-substance, or any component of an electronic cigarette and includes the package in which the electronic cigarette, e-substance or component is sold.

# Age

- Customers must be at least 19 years of age to be sold tobacco or vapour products.
- Before selling tobacco or vapour products to any person who appears to be less than 25 years old, you must request identification (I.D.) and determine that the person is at least 19 years old.
- There is no age requirement to sell tobacco or vapour products. However, the Ontario Ministry of Labour regulations under the *Occupational Health and Safety Act* set the minimum age of 14 years old to be eligible to work in Ontario workplaces.
- It is the responsibility of all persons selling tobacco and/or vapour products, regardless of age, to be in compliance with the SFOA, 2017.



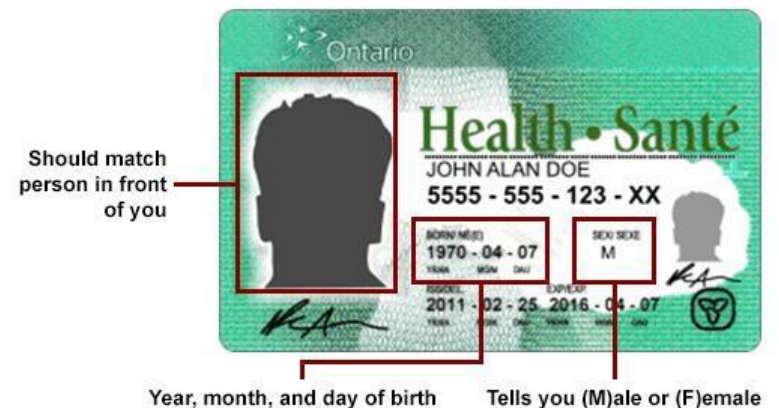
# Identification

- Before selling a tobacco or vapour product to someone who appears to be less than 25 years old, you must:
  - Ask for I.D. to confirm that the customer is at least 19 years old.
  - Familiarize yourself with the acceptable I.D.
  - Recognize fake I.D.
  - Not sell tobacco/vapour products if in doubt that the customer is at least 19 years old.
- If tobacco or vapour products are sold to anyone under age 19, the employee and/or the owner of the retail business can be charged.
- Acceptable I.D. includes a photograph of the person, states the person's date of birth and reasonably appears to have been issued by a government or the Liquor Control Board of Ontario (LCBO) (e.g., Driver's licence issued by the Province of Ontario; Ontario Photo Card issued by the Province of Ontario; Canadian passport; Canadian Citizenship card; Canadian armed forces card; Photo card issued by the LCBO).
- Refuse to sell tobacco and vapour products:
  - If you suspect the customer is under the age of 19.
  - If customer refuses to provide acceptable identification when they appear to be under 25 years of age.
  - If the identification provided is not acceptable.



# Three Easy Steps for Checking I.D.

1. **Check the I.D. card.** Do not sell tobacco and vapour products if it is **not** one of the acceptable forms of I.D.
2. **Check the year, month and day of birth.** Do not sell tobacco or vapour products if the person is under 19 years old.
3. **Check the photo.** Do not sell tobacco or vapour products if the person and photo do not match.



You may accept, but not ask for an Ontario Health card with a photo as I.D.

# Signs

- If you are selling tobacco or vapour products at retail, you must post certain signs required by the SFOA, 2017. These signs are accessible through the Ontario government [website](#).
- All signs required to be posted under the SFOA, 2017 must be posted in a conspicuous manner and must not be obstructed from view.
- For information on acquiring signs, please contact your local [public health unit](#).

# Required Signs 1

A tobacco retailer must post the following signs. The signs are accessible through a [website](#) of the Government of Ontario or the local public health unit:

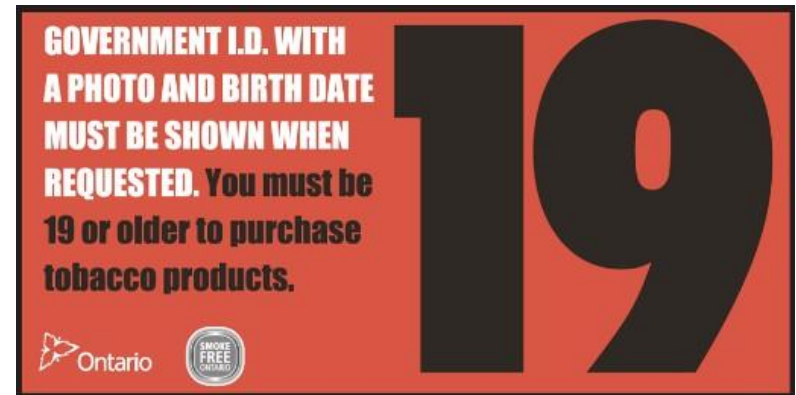
## Tobacco Age-Restriction Sign



The sign must be:

- 18 cm in height and 35 cm in width.
- A copy of the sign entitled “Tobacco Product Age Restriction”, dated January 1, 2018, and available on the Ontario government website.

## Tobacco Identification Sign



The sign must be:

- 9 cm in height and 18 cm in width.
- A copy of the sign entitled “Tobacco Product Identification”, dated January 1, 2018, and available on the Ontario government website.

# Required Signs 2

A vapour product retailer must post the following signs. The signs are accessible through a [website](#) of the Government of Ontario or the local public health unit:

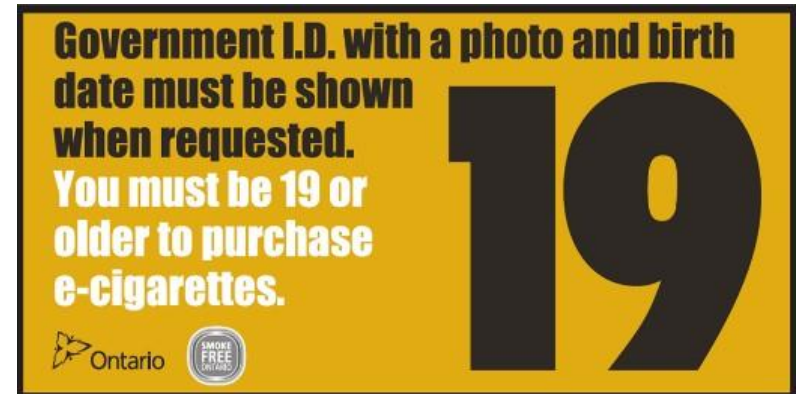
## Vapour Product Age Restriction sign



The sign must be:

- 18 cm in height and 35 cm in width.
- A copy of the sign entitled “Vapour Product Age Restriction”, dated January 1, 2018, and available on the Ontario government website.

## Vapour Product Identification Sign



The sign must be:

- 9 cm in height and 18 cm in width.
- A copy of the sign entitled “Vapour Product Identification”, dated January 1, 2018, and available on the Ontario government website.

# Required Signs 3

The owner or employer of a retail business must post both the Tobacco Sign and Electronic Cigarette Sign described on this page, or the combined Tobacco and Electronic Cigarette Sign described on the following page, at each entrance, exit and washroom of the retail store, in appropriate locations and in sufficient numbers, to ensure that employees and the public are aware that smoking and the use of electronic cigarettes is prohibited in the enclosed area. The following signs are accessible through a [website](#) of the Government of Ontario or the local public health unit:



The sign must be:

- at least 10 centimetres in height and at least 10 centimetres in width, and
- a copy of the sign entitled “Tobacco Sign for Employers” or “Tobacco Sign for Proprietors”, dated January 1, 2018, and available on the Ontario government website.
- ordered from your local public health unit or accessed through the [website](#) of the Government of Ontario.



The sign must be:

- at least 10 centimetres in height and at least 10 centimetres in width, and
- a copy of the sign entitled “Electronic Cigarette Sign for Employers” or “Electronic Cigarette Sign for Proprietors”, dated January 1, 2018, and available on the Ontario government website.
- downloaded and printed from the [website](#) of the Government of Ontario (not available for order from the public health units).

# Required Signs 4

## Combined Tobacco and Electronic Cigarette Sign



The sign must be:

- At least 15 centimetres in height and at least 20 centimetres in width, and
- A copy of the sign entitled “Tobacco and Electronic Cigarette Sign for Employers” or “Tobacco and Electronic Cigarette Sign for Proprietors”, dated January 1, 2018, and available on the Ontario government [website](#).

# Allowable Signs

- The SFOA, 2017 permits a vendor/retailer to post up to three signs to inform customers of tobacco products and tobacco product accessories and their price, but only if the following conditions are met:
  - None of the signs are more than 968 square centimetres in area.
  - Each sign has a white background and only black text and graphics.
  - None of the signs includes a text or graphic that identifies or reflects a brand of a tobacco or vapour product.



Signs that promote tobacco products either directly or indirectly outside the store are prohibited.

- Beyond the allowable signs, a sign in any place where tobacco products or tobacco product accessories are either sold or offered for sale that refers to tobacco products or tobacco product accessories, is considered promotion if the sign is not required to be posted under the SFOA, 2017, and may result in a penalty.



# Informational Document

Under the SFOA, 2017 tobacco vendors may make available an informational document to inform customers of tobacco products, tobacco product accessories and their price, but only if the following conditions are met:

- The document can only be viewed inside the retail premises.
- The document cannot be removed from the retail premises.
- The document cannot be viewed by a person who is less than 19 years old, other than the owner/proprietor/employer or occupier of the place or one of their employees.
- The document cannot be viewed by someone who appears to be less than 25 years old unless the vendor/retailer receives acceptable I.D. and is satisfied that the person is at least 19 years old.



# Display

- The SFOA, 2017 restricts how tobacco products, tobacco product accessories that are associated with a brand of tobacco product (“branded tobacco accessory”), and vapour products are displayed at the point-of-sale.
- It is the responsibility of **anyone selling tobacco, branded tobacco accessories or vapour products** to ensure that:
  - **Customers do not see or handle** the product before they are purchased.
- To ensure customers do not see tobacco products or branded tobacco accessories:
  - **Avoid** re-stocking and conducting inventory checks when customers are present.
  - **Fix missing flaps** on storage unit(s).
  - **Briefly open and close** the storage unit to transfer the product to a customer.

# Promotion

- The SFOA, 2017 restricts how tobacco products, tobacco product accessories and vapour products are promoted at the **point-of-sale**.
- With respect to tobacco and tobacco accessories, different rules apply depending on whether you are a specialty tobacco retailer (tobacconist) or another type of retailer. If you are a tobacconist, please refer to slide 36 of this Guide. If you are another retailer, you can only promote these products using the allowable signs and informational document described earlier in this document (see slides 15 and 16).
- With respect to vapour products, different rules apply depending on whether you are a specialty vape store or another type of retailer. If you are a specialty vape store, please refer to slide 37 of this Guide. If you are another retailer, you can promote (but not display) vapour products, as long as the promotion complies with the Tobacco and Vaping Products Act (Canada).

# Examples of Prohibited Tobacco Displays and Promotions



# Acceptable Storage of Tobacco, Branded Tobacco Accessories, and Vapour Products



- The following are examples of acceptable storage units, as long as they are used in a way that does not allow the display of tobacco, branded tobacco accessories or vapour products:
  - Overhead containers.
  - Below-the-counter drawers or cabinets.
  - Single package dispensing, gravity-fed devices.
  - Slim drawers that open in sections and expose only the spine of cigarette packages.
  - Retrofit devices that cover shelves with a top-hinge “flip up” cover that close automatically.
    - These “flip up” covers must not be larger than 30.5 cm (1 foot) in height by 61 cm (2 feet) in length.
    - Must open one at a time.
- Small tags are permitted on the outside of the storage unit in order to help the employee locate tobacco products.
  - However, in the case of tobacco and branded tobacco accessories, the tags must:
    - Use black type on a white background.
    - Use letters up to 14 point font size.
    - Not use logos or colour.
    - Not be larger than 2" x 1" (5 cm x 2.5 cm).
    - Not include price information.



# Unacceptable Storage of Tobacco Products, Branded Tobacco Accessories, and Vapour Products



- It is unacceptable to store tobacco products, branded tobacco accessories or vapour products, in a way that allows customers to view and handle the products prior to purchase.
- It will be difficult to comply with the display ban using a storage method that is not self-closing and which may show a large supply of tobacco, branded accessories, or vapour products to customers.
- The following storage examples would **not** be acceptable:
  - Garage door style covers which open to display the whole or large portion of the stock of products.
  - Large cupboard doors which open to display the whole or a large portion of product stock.
  - Horizontal sliding doors such as closet doors.
  - Curtains or blinds.



# Unacceptable Storage of tobacco (Continued)



Never leave a shipment of tobacco in view of customers before placing it in the storage unit.



# Flavoured Tobacco Products

- It is illegal to sell or offer to sell prohibited flavoured tobacco products at retail.
- Some examples of flavoured tobacco products prohibited for sale include:
  - Flavoured tobacco shisha for use in a waterpipe/hookah
  - Flavoured smokeless or chew tobacco
  - Clove cigarettes
  - Menthol cigarettes
- **Exemptions** – The following flavoured tobacco products are permitted for sale:
  - **Flavoured** tobacco products that can still be sold include:
    - 1) A flavoured cigar that
      - i. Weighs more than 1.4 grams but less than 6 grams, excluding the weight of any mouthpiece or tip,
      - ii. Has a wrapper fitted in spiral form,
      - iii. Has no tipping paper, and
      - iv. Contains only a flavouring agent that imparts a **flavor or aroma of wine, port, whiskey or rum.**
    - 2) A flavoured cigar that
      - i. Weighs 6 grams or more, excluding the weight of any mouthpiece or tip,
      - ii. Has a wrapper fitted in spiral form, and
      - iii. Has no tipping paper.
    - 3) Flavoured pipe tobacco, which does not include tobacco manufactured or sold for use in a hookah or waterpipe.

# Tobacco Product Accessories

- As noted earlier, vendors cannot display or permit the display of tobacco product accessories associated with a brand of tobacco (“branded tobacco accessories”).
- Vendors also cannot promote tobacco product accessories, except through allowable signs and an informational document (see slides 15 to 16).
- Exemptions exist for tobacconists (see slide 35).
- Some examples of tobacco product accessories include:
  - Pipes
  - Cigarette Tubes
  - Cigar Cutters and Punchers
  - Lighters
  - Matches
  - Portable Humidification Devices and Humidors
  - Rolling papers
- Note: for the purposes of display and promotion restrictions, heat-not-burn vapour products manufactured or sold for use with tobacco are not considered tobacco product accessories, and instead are regulated as vapour products.



# Packaging

The SFOA, 2017 prohibits a person from selling or offering to sell a tobacco product or vapour product at retail or for subsequent sale at retail, or distribute or offer to distribute a tobacco or vapour product for that purpose, unless it is packaged in accordance with the following requirements set out in the regulation:

- a) A tobacco product must be packaged in accordance with the requirements of the *Tobacco and Vaping Products Act (Canada)*, and the package must bear or contain information required under that Act;
- b) A vapour product must be packaged in accordance with the requirements of the *Tobacco and Vaping Products Act (Canada)*, and the package must bear or contain information required under that Act;
- c) cigarettes must be contained in packages of at least 20 cigarettes; and
- d) cigarillos must be contained in packages of at least 20 cigarillos.

# Tobacco Product Packaging

## Acceptable packaging

- Packages are a box, tin or other container in which a product containing tobacco is sold.
- Packages of products containing tobacco are regulated by:
  - [Health Canada](#)
  - [Ontario Ministry of Finance](#)
  - [Ontario Ministry of Health and Long-Term Care](#)
- Packages must include the following:

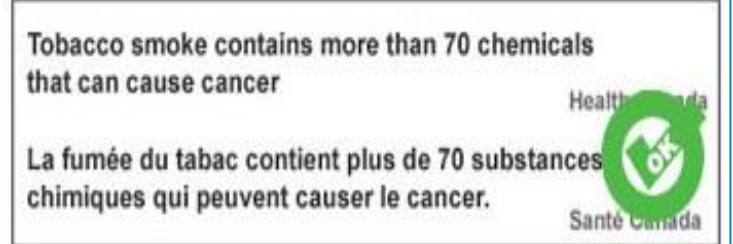
Health warning that covers 75% of the front and back of the package




Duty paid tax stamp



Toxic Emissions Statements must be listed on the side of package of cigarettes and little cigars



 Raw leaf tobacco, cigars, products containing tobacco other than cigarettes and fine cut tobacco are not required to be marked with duty paid tax stamp.

# Tobacco Product Packaging (Continued)

## Unacceptable packaging:

- Clear plastic bags.
- Peach duty paid tax stamp for on-reserve sale only.



# Smoking Tobacco, Cannabis and Using Electronic Cigarettes

- It is prohibited to smoke tobacco or cannabis, or to use an e-cigarette to vape any substance including cannabis in an enclosed workplace or enclosed public place.
- As the proprietor/employer of an enclosed workplace and enclosed public place, you have a responsibility to ensure that the entire premises are smoke and vape-free at all times, including during those times when the premises is not open to the public.

# Vending Machines



No owner or occupier of a place can have a vending machine for selling or dispensing tobacco products or vapour products in any part of the place unless it is only operable by a retailer or an employee of a retailer.

# Penalties and Seizure

A store owner can be charged and convicted for the actions of their employees, unless the owner is found by the Court to have exercised due diligence.

- When an employee is charged with a tobacco or vapour sales offence under the SFOA, 2017, the store owner or corporation may also be charged.
- Penalties for stores can be higher than those for an individual.
- An [automatic prohibition](#) will be issued if there are two or more tobacco sales convictions against any owner at the same place of business within a five year period.
- Owners and managers should train their employees on the responsibilities of selling tobacco and vapour products under the SFOA, 2017 and are advised to keep employee training records.

## Seizure:

- Inspectors may seize tobacco and vapour products that are prohibited for sale under the SFOA, 2017 if it is being sold, offered for sale, distributed or offered for distribution.

# Fines

- Anyone who is not compliant with the rules set out in the SFOA, 2017 can be charged with an offence.
- This table provides a list of some of the fines retailers may be subject to under the SFOA, 2017:

Tobacco product and vapour product sales offence	Range of maximum fines for offence related to tobacco (depending on the number of prior convictions for the same offence)	Range of maximum fines for offence related to vapour (depending on the number of prior convictions for the same offence)
Selling or supplying tobacco/vapour products to a person who is less than 19 years old; failing to I.D. a person who appears to be less than 25 years old; displaying or promoting tobacco/vapour products.	<ul style="list-style-type: none"> <li>• Individual: \$8,000 to \$200,000</li> <li>• Corporation: \$20,000 to \$300,000</li> </ul>	<ul style="list-style-type: none"> <li>• Individual: \$4,000 to \$100,000</li> <li>• Corporation: \$10,000 to \$150,000</li> </ul>
Failing to post the required signage including the Age Restriction sign(s), Product Identification sign(s), and No Smoking/Vaping sign in the prescribed manner.	<ul style="list-style-type: none"> <li>• Individual: \$2,000 to \$50,000</li> <li>• Corporation: \$5,000 to \$75,000</li> </ul>	<ul style="list-style-type: none"> <li>• Individual: \$2,000 to \$50,000</li> <li>• Corporation: \$5,000 to \$75,000</li> </ul>
Selling improperly packaged tobacco product or vapour product; selling or offering to sell a prohibited flavoured tobacco product or vapour product.	<ul style="list-style-type: none"> <li>• Individual: \$4,000 to \$100,000</li> <li>• Corporation: \$200,000 to \$600,000</li> </ul>	<ul style="list-style-type: none"> <li>• Individual: \$2,000 to \$50,000</li> <li>• Corporation: \$100,000 to \$300,000</li> </ul>



Business owners are responsible for their actions and the actions of their workers/employees and can be convicted of a tobacco/vapour sales offence with respect to the act of employees.

# Automatic Prohibition

- Automatic Prohibition (AP) means that a store will lose the ability to sell or store any tobacco product. The length of the prohibition is 6, 9 or 12 months, depending on the number of convictions that take place in the 5 year period. Tobacco wholesalers and distributors will not deliver tobacco to the retail store during this time.
- An AP will be issued when there are two or more registered convictions against any owner for tobacco sales offences committed at the **same place of business** within a five year period.
- APs could be issued based on convictions against multiple owners (past and present), as long as they are in respect of tobacco sales offences committed at the same location. This applies to convictions registered against the owner/corporation at the business location (e.g., same address).
- The payment of a fine indicates a guilty plea to the offence in question and is registered as a conviction.
- Under section 22 of the SFOA, 2017 the Minister of Health and Long-Term Care is required to send a notice of prohibition to a tobacco retailer upon becoming aware that there are two or more registered convictions of tobacco sales offences committed by any person at the tobacco retailer's place of business within a 5 year period.
- Examples of Tobacco Sales Offences:
  - Sale or supply of tobacco to minor.
  - Selling tobacco without posting required age restriction and I.D. signs.
  - Sale of improperly packaged tobacco.
  - Sale of tobacco in vending machine.



# Automatic Prohibition – Signs

- The owner or occupant of the tobacco retail location that is subject to an automatic prohibition is required to post signs\* at the entrance and at every location where tobacco was sold or supplied immediately before the day the prohibition came into effect.
- If the prohibition was imposed because of a contravention of subsection 3 (1) or (2) of the Act related to selling or supplying tobacco to a minor, the signs must meet the following requirements:
  1. The signs must be 18 cm in height and 35 cm in width.
  2. The signs must be copies of the sign entitled “Automatic Prohibition Caused by Tobacco Sales to Minors”, dated January 1, 2018 and available on the Ontario government website.
- Otherwise, the signs must meet the following requirements:
  1. The signs must be 18 cm in height and 35 cm in width.
  2. The signs must be copies of the sign entitled “Automatic Prohibition Caused by Other Tobacco Sales Offences”, dated January 1, 2018, available on the Ontario government website.



\* Accessible through a website of the Government of Ontario or from the local public health unit.

# Illegal and Counterfeit Tobacco

Any tobacco product that has not had the appropriate federal and provincial taxes paid is illegal to sell or possess in Canada. This includes:

- Tobacco products that are legally manufactured in other countries but smuggled into Canada illegally.
- Tobacco products that are illegally manufactured in other countries and smuggled into Canada.
- Tobacco products that are illegally manufactured in Canada.
- Tobacco products that are imitations or forgeries of real brands - these are most commonly referred to as counterfeit.
- Tobacco products which are tax-exempt and designated for Indigenous communities may not be sold to non-Indigenous people.

# Tobacconists and Specialty Vape Stores

- There are exemptions in the SFOA, 2017 for tobacconists and specialty vape stores that satisfy certain conditions and register with the board of health for the public health unit in which the store is located.
- Registration is location-specific and an establishment can register as a tobacconist or a specialty vape store.
- A retailer that predominantly sells heat-not-burn devices and tobacco components (e.g., heat sticks, capsules) can apply to be a tobacconist and specialty vape store.

To Be Registered as a Tobacconist	To Be Registered as a Specialty Vape Store
<p>At least <b>85%</b> of the establishment's <b>total sales revenue</b> from the previous twelve months are from <b>specialty tobacco products</b>. "Specialty tobacco products" are tobacco products, other than cigarettes, and tobacco accessories.</p>	<p>At least <b>85%</b> of the establishment's <b>total sales revenue</b> from the previous twelve months are from <b>vapour products</b>.</p>
<p>If the establishment has been in operation for less than one year:</p> <ul style="list-style-type: none"> <li>• At least <b>85%</b> of the establishment's <b>total inventory purchases</b> for the time it has been in existence consists of <b>specialty tobacco products</b>; or</li> <li>• At least <b>85%</b> of the establishment's total sales for the time it has been in existence consists of <b>specialty tobacco products</b>.</li> </ul>	<p>If the establishment has been in operation for less than one year:</p> <ul style="list-style-type: none"> <li>• At least <b>85%</b> of the establishment's <b>total inventory purchases</b> for the time it has been in existence consists of <b>vapour products</b>; or</li> <li>• At least <b>85%</b> of the establishment's <b>total sales</b> for the time it has been in existence consists of <b>vapour products</b></li> </ul>
<ul style="list-style-type: none"> <li>• The remaining sales or inventory are from cigarettes or other items reasonably associated with a tobacco product or branded with the name of the tobacconist or a brand of tobacco.</li> </ul>	<p>The remaining sales or inventory are from other items reasonably associated with a vapour product or branded with the name of the specialty vape store or a brand of vapour product.</p>

# Display and Promotion Rules for Tobacconists

A registered tobacconist is exempt from the display and promotion restrictions if the following conditions are met:

- 1) Products and promotional material must not be visible from outside the establishment at any time of day.
- 2) The retailer must not allow anyone under the age of 19 into the store, other than the store owner, employees or a support person accompanying a person with a disability who is at least 19 years old. If a person appears to be under the age of 25, the store must ask the person to provide ID to confirm that they are at least 19 years old.
- 3) The establishment must be a building or must be located within a building.
- 4) Entry into the establishment must be from the outdoors or from areas of an enclosed shopping mall that are open to the public and not part of another business.
- 5) The place of business of the tobacconist must not be a thoroughfare - this means a person cannot enter the store from outdoors to pass through to access an indoor common area such as a mall.

# Display and Promotion Rules for Specialty Vape Stores

- A registered specialty vape store can display and promote vapour products inside its retail establishment, but only if the establishment meets the following conditions:
  - 1) No persons under 19 are permitted entry into the store, other than the store owner, employees or a support person accompanying a person with a disability who is at least 19 years old.
    - If a person appears to be under the age of 25, the store must ask the person to provide ID to confirm that they are at least 19 years old.
  - 2) The establishment must be a building or must be located within a building.
  - 3) Entry into the establishment must be from the outdoors or from areas of an enclosed shopping mall that are open to the public and not part of another business.
  - 4) The place of business of the specialty vape store must not be a thoroughfare - this means a person cannot enter the store from outdoors to pass through to access an indoor common area such as a mall.
- To access this exemption, a retail establishment must be registered as a specialty vape store with the local board of health for the public health unit in which the business is located.

# Process for registering as a Tobacconist or Specialty Vape Store

- To become registered, you must complete an application form including a statement of professional accountant.
- To get more information about registration, please contact your local public health unit.

# Sampling and Demonstration Exemptions

**Vendors registered as specialty vape stores** are permitted to allow the following activities, if certain conditions are met:

1. Hold an activated electronic cigarette, if:
  - No vapour is inhaled or exhaled from the electronic cigarette, and
  - The activation is for the purposes of product testing or demonstrating to customers how to activate an electronic cigarette.
2. Use an electronic cigarette, if:
  - The use is for the purpose of sampling a vapour product,
  - The electronic cigarette does not contain tobacco, cannabis or a controlled substance,
  - No more than 2 persons are sampling the vapour product in the store at the same time, and
  - The electronic cigarette must be in the personal possession of the customer or if it is supplied by the specialty vape store, then a fresh one-time disposable mouthpiece must be used for the sampling.

**Vendors registered as tobacconists** may allow the holding of an activated electronic cigarette (i.e. heat-not-burn device), if the following conditions are met:

- No vapour is inhaled or exhaled from the electronic cigarette, and
- The activation is for the purposes of product testing or demonstrating to customers how to activate an electronic cigarette.

# Tobacco Display Exemption for Duty Free Retailers

A retailer who sells tobacco products at a duty free shop, as defined in subsection 2 (1) of the *Customs Act* (Canada), may display tobacco products and branded tobacco accessories, if the following conditions are met:

- 1) Tobacco products and branded tobacco accessories must not be visible from outside the duty free shop at any time of day.
- 2) Customers of the duty free shop must only be able to enter the duty free shop from the outdoors or from the areas of an enclosed shopping mall that are:
  - i. open to the public,
  - ii. common to most of the retail establishments or other businesses within the mall, and
  - iii. not part of a retail establishment or other business within the mall.
- 3) The duty free shop must not be a thoroughfare.



# Appendix A:

## Tips for Store Owners and Operators

### **Train your employees on these laws**

- Meet with each employee, call a staff meeting.
- Have staff read this information and ensure they understand it.
- Have staff sign the sheet that says they have read and understood this information.
- Keep this information where all employees can see it and refer to it.
- Share this information with all new employees and review it with all employees regularly.
- Share all new information when it is sent to you.
- Remind staff of the law.
- Tell staff to speak with you or contact the local public health agency for additional information.

### **Train your employees to I.D. everyone who looks under 25**

- Teach your staff to be familiar with acceptable I.D.
- Teach your staff the three easy steps for checking I.D.
- Tell staff to watch for fake I.D.
- Tell staff “If in doubt, do not sell”.
- Inform your employees that they can be charged if they sell tobacco or vapour products to anyone under 19. The store owner or corporation can also be charged.

### **Train your employees how to handle complaints from customers about requests for I.D.**

- Make sure all required age restriction and I.D. signs are posted in your store.
- Have your employees tell customers they are obeying the law.
- Have your employees show customers the posted age restriction and I.D. signs.

# Appendix B: Additional Resources

For more information on the SFOA, 2017, please contact:

- [Local Public Health Unit](#)
- [Ontario Ministry of Health and Long-Term Care](#)
- [Ontario Ministry of Finance](#)

# Sign-off Sheet

Store Name: \_\_\_\_\_

Address: \_\_\_\_\_

Please ensure that everyone who works in your store has reviewed this training resource and understand the requirements of the *Smoke-Free Ontario Act, 2017* by having them sign below. Once you have all required signatures, please keep a copy at your store for your record and be prepared to present it when inspected.

Date	Name	Position	Signature



The owner of a business will be deemed liable for any contravention of the Act pertaining to vendors that occurs at the place of business, unless the owner exercises due diligence to prevent any contraventions. Training staff using this resource does not prove due diligence, as this is one of many steps that can be taken to ensure employees do not sell to minors or commit any other infraction of the SFOA, 2017.