

Ministry of Health

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

Last updated July, 2020

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

# Table of Contents

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<b>Content</b>	<b>Slide #</b>
Table of contents	2-3
Context	4
Definitions	5-6
Age	7
Identification	8
Three Easy Steps for Checking I.D.	9
Signs	10
Required Signs	11-14
Allowable Signs for Tobacco Products	15
Allowable Signs for Vapour Products	16
Allowable Informational Document	17
Display	18
Promotion	19
Examples of Prohibited Tobacco Displays and Promotions	20
Examples of Prohibited Vapour Product Displays and Promotions	21
Acceptable/Unacceptable Storage	22-24
Flavoured Tobacco Products	25
Flavoured Vapour Products	26
Vapour Products and Nicotine Concentration	27
Tobacco Product Accessories	28
Packaging	29
Tobacco Product Packaging	30-31

# Table of Contents (Continued)

<b>Content</b>	<b>Slide #</b>
Smoking Tobacco, Cannabis and Using Electronic Cigarettes	32
Vending Machines	33
Penalties and Seizure	34
Offences and Fines	35
Automatic Prohibition	36
Automatic Prohibition Signs	37
Illegal and Counterfeit Tobacco	38
Tobacconists and Specialty Vape Stores	39
Display and Promotion Rules for Tobacconists	40
Display and Promotion Rules for Specialty Vape Stores	41
Process for Registering as a Tobacconist or Specialty Vape Store	42
Sampling and Demonstration Exemptions	43
Tobacco Display Exemption for Duty-Free Retailers	44
Appendix A – Tips for Store Owners and Operators	45
Appendix B – Additional Resources	46
Appendix C – Checking a Driver's Licence	47
Sign-off Sheet	48

# 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 (e-cigarettes) to vape any substance, and the smoking of cannabis (medical and recreational).
- 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.
- Local public health units will carry out inspections and respond to complaints regarding retailers to enforce the SFOA, 2017.
- 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.
- **Flavoured vapour product** is any vapour 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
  - a) with respect to a tobacco product, one or more artificial or natural ingredients contained in any of the component parts of the tobacco product, as a constituent or an additive, that impart a distinguishing aroma or flavour other than tobacco, including that of a spice or herb, either before or during the consumption of the tobacco product; and
  - b) with respect to a vapour product, one or more artificial or natural ingredients contained in any of the component parts of the vapour product, as a part or an additive, that impart a distinguishing aroma or flavour, including that of a spice or herb, either before or during the consumption of the vapour product.

# Definitions (Continued)

In this guide and under the SFOA, 2017:

- **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.
- **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. For example, cigarettes, cigars, cigarillos, pipe tobacco, heat-not-burn tobacco (heat sticks or capsules) and other specialty tobacco products (including chewing tobacco, snus and snuff).
- **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 (including e-liquid pods), 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 or supplied tobacco or vapour products.
- Before selling or supplying 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 regulations under the Occupational Health and Safety Act set the minimum age of 14 years for most types of work, including stores.
- 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

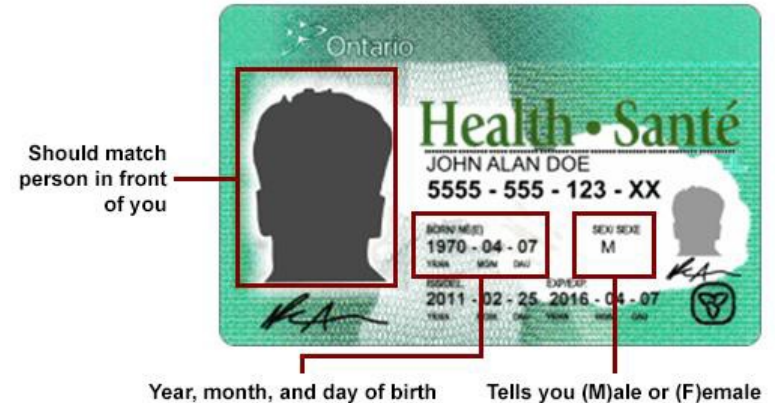
- Before selling a tobacco or vapour product to someone who appears to be less than 25 years old, you must:
  - Ask for I.D. to confirm that the customer is at least 19 years old;
  - Familiarize yourself with the acceptable I.D.;
  - Recognize fake I.D.; and
  - Not sell tobacco/vapour products if in 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 the 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.

See Appendix C for checking a driver's licence.



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:

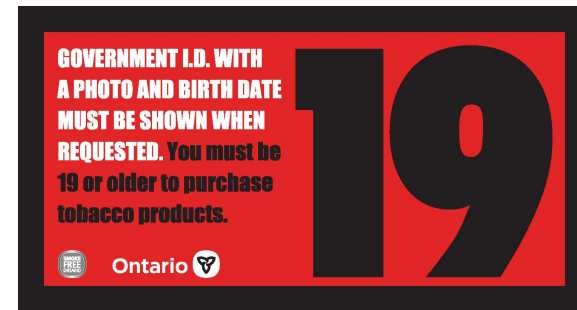
## Tobacco Age-Restriction Sign



The sign must be:

- 18 cm in height and 35 cm in width.
- A copy of the sign entitled "Tobacco Product Age Restriction", dated April 1, 2020 available on the Ontario government website. However, the Ontario Trillium and Smoke-Free Ontario logos on the sign may differ from what is depicted on the 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 April 1, 2020 available on the Ontario government website. However, the Ontario Trillium and Smoke-Free Ontario logos on the sign may differ from what is depicted on the 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 April 1, 2020 available on the Ontario government website. However, the Ontario Trillium and Smoke-Free Ontario logos on the sign may differ from what is depicted on the 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 April 1, 2020 available on the Ontario government website. However, the Ontario Trillium and Smoke-Free Ontario logos on the sign may differ from what is depicted on the 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
- Include the information and informational symbols on the sign entitled "Tobacco Sign for Employers" or "Tobacco Sign for Proprietors", dated April 1, 2020 available on the Ontario government [website](#).



The sign must be:

- At least 10 centimetres in height and at least 10 centimetres in width; and
- Include the information and informational symbols on the sign entitled "Electronic Cigarette Sign for Employers" or "Electronic Cigarette Sign for Proprietors", dated April 1, 2020 available on the Ontario government [website](#).

Note: These signs are not available at local 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
- Include the information and informational symbols on the sign entitled “Tobacco and Electronic Cigarette Sign for Employers” or “Tobacco and Electronic Cigarette Sign for Proprietors”, dated April 1, 2020 available on the Ontario government [website](#).

# Allowable Signs for Tobacco Products

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



- 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.

# Allowable Signs for Vapour Products

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



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



# Informational Document

A retailer may make available an informational document (e.g., brochure, catalogue) about tobacco products, tobacco product accessories, or vapour products, and their price, if the following conditions are met:

- The document is only be made available for viewing inside the retail store and is not removed from the store; and
- The document cannot be viewed by a person who is less than 19 years old, other than the owner/occupier of the retail store or one of their employees.

(For the purposes of this condition, a person who appears to be less than 25 years old is deemed to be less than 19 years old unless the person making the document available has required that person to provide identification and is satisfied that the person is at least 19 years old).

# Display

Tobacco and vapour products must not be displayed in a retail store. In addition, tobacco product accessories associated with a brand of tobacco (branded tobacco accessories) (e.g., lighters) also cannot be displayed. This means:

- Tobacco products, branded tobacco accessories, and vapour products must be hidden from view before they are purchased.
- Customers are not allowed to handle tobacco products, branded tobacco accessories, or vapour products before they purchase them.
- Store owners must ensure that tobacco products, branded tobacco accessories, and vapour products are not displayed to a potential consumer while re-stocking, conducting inventory checks or opening the storage units at any other time.
- The brief time when a seller opens and closes the storage unit and transfers the product to a customer following purchase is not considered “displaying” the product.

Any inappropriate display of tobacco products, branded tobacco accessories, or vapour products – whether intentional or unintentional – could result in charges to the salesperson or store owner.

Note: Retailers that wish to display and promote tobacco products, branded tobacco accessories, or vapour products must register as Tobacconists or Specialty Vape Stores.

# Promotion

- The SFOA, 2017 restricts how tobacco products, tobacco product accessories and vapour products are promoted at places where they are sold or offered for sale (stores). This includes inside the store and in front of the store.
- Please see slide 5 for a definition of "promotion".
- 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 40 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 15-17).
- With respect to vapour products, different rules apply depending on whether you are a specialty vape store, cannabis retail store, or another type of retailer. If you are a specialty vape store, please refer to slide 41 of this Guide. If you are a licensed cannabis retail store (within the meaning of the *Cannabis Licence Act, 2018*), you can promote and display, vapour products. If you are any other type of retailer, you can only promote vapour products using the allowable signs and information document described earlier in this document (see slides 16-17).

Note: Retailers that wish to display and promote tobacco products, branded tobacco accessories, or vapour products must register as Tobacconists or Specialty Vape Stores.

# Examples of Prohibited Tobacco Displays and Promotions



# Examples of Prohibited Vapour Product 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 where only the clerk can see the products.
  - Below-the-counter drawers or cabinets where only the clerk can see the products.
  - Single package dispensing, gravity-fed devices.
  - Slim drawers that open in sections and expose only the spine of cigarette packages.
  - Countertop devices and rotating trays of tobacco and vapour products where only the clerk can see them.
  - Devices that cover shelves with a top-hinge “flip up” cover that close automatically or immediately by gravity.
    - These “flip up” covers must not be larger than 30.5 cm (or one foot) in height by 61 cm (two feet) in length.
    - Must open one at a time.
- Small tags are permitted on the outside of the storage unit in order to help a clerk find the particular products contained in each unit prior to opening the storage unit.
  - However, in the case of tobacco, branded tobacco accessories, and vapour products 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.
- Small product identification stickers on the inside of storage units are permitted in order to help a clerk find particular products once a storage bin is open, but only if the stickers are not seen by customers and used in conjunction with the exterior tags described above.



# 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 tobacco accessories, or vapour products to customers.
- The following storage examples would **not** be acceptable:
  - 'Garage door' style covers which, when open, show a large portion of tobacco products, branded tobacco accessories or vapour products.
  - Large cupboard doors which, when open, allow the customer to see a large selection of the products.
  - Retrofit devices that "flip down" on a bottom hinge, that do not close automatically and would remain open unless properly closed.
  - Horizontal sliding doors such as closet doors.
  - Curtains or blinds.

# Unacceptable Storage of Tobacco and vapour products (Continued)



Never leave a shipment of tobacco, branded tobacco accessories or vapour products 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 or wholesale.
- 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 exempt from the above prohibition:
  - 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.

# Flavoured Vapour Products

- It is against the law to sell or offer to sell flavoured vapour products at retail, unless you are a Specialty Vape Store or Cannabis Retail Store or the flavoured vapour product is exempt from this prohibition.
- See slide 5 for definitions of flavoured vapour products.
- **Exemptions:**
  - These rules do not apply to flavoured vapour products whose only flavouring agent is one that imparts a flavor or aroma of menthol, mint or tobacco.
  - This means that vapour product retailers that are not Specialty Vape Stores or Cannabis Retail Stores may only sell menthol, mint or tobacco flavoured vapour products.

# Vapour Products and Nicotine Concentration

- **Restrictions on the Retail Sale of Vapour Products based on Nicotine Concentration:**
  - It is against the law to sell or offer to sell vapour products with a concentration of more than 20 mg/ml at retail unless you are a Specialty Vape Store.

# Tobacco Product Accessories

- As noted earlier, retailers cannot display or permit the display of tobacco product accessories associated with a brand of tobacco (“branded tobacco accessories”).
- Retailers also cannot promote tobacco product accessories (whether or not they are associated with a brand of tobacco), except through allowable signs and an informational document (see slides 15 - 17).
- Exemptions exist for tobacconists (see slide 40).
- 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 but are not packaged 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.

Note: As of July 1, 2020 there are new *Vaping Products Labelling and Packaging Regulations* under the *Tobacco and Vapour Products Act* (Canada) for vapour products. For more information please visit: <https://www.canada.ca/en/health-canada/news/2019/12/backgrounder-regulation-of-vaping-products-in-canada.html> or <https://laws-lois.justice.gc.ca/eng/regulations/SOR-2019-353/index.html>

# 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](#)
- Packages must include the following:

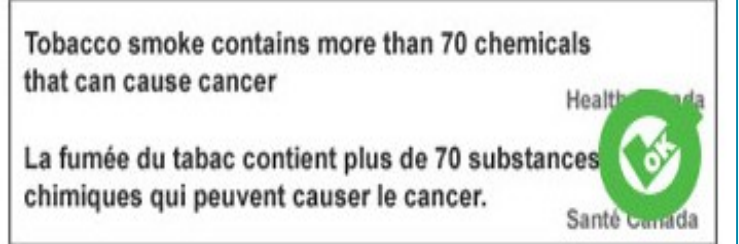
Health warning that covers 75% of the front and back of the package



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.



Note: The *Tobacco Products Regulations (Plain and Standardized Appearance)* under the *Tobacco and Vaping Products Act (Canada)* requires plain and standardized packaging for all tobacco products. Most of these plain and standardized packaging requirements are in force and apply to the retail sale of all tobacco products, except for cigars. Retailers have until May 8, 2021 to comply with requirements for cigars. Other requirements, which relate to slide-and-shell packaging and beveled edges for tobacco cigarettes, come into force on November 9, 2021. Retailers have to comply with all requirements for cigarettes by February 9, 2022.

For more information please visit: <https://www.canada.ca/en/health-canada/services/health-concerns/tobacco/legislation/federal-regulations/products-regulations-plain-standardized-appearance/facts.html>

# 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, such as a retail store.
- As the employer/proprietor of an enclosed workplace and enclosed public place, you have a responsibility to ensure that the entire premise is 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 product sales offence under the SFOA, 2017, the store owner may also be charged.
- Penalties for store owners that are corporations can be higher than those for an individual.
- An [automatic prohibition](#) will be issued if there are two or more tobacco sales offence convictions against any owner at the same place of business within a 5 year period.
- Owners and managers should train their employees on the responsibilities of selling tobacco and vapour products under the SFOA, 2017 and should keep employee training records.

## Seizure:

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

# Offences and 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>
Selling or offering to sell at retail a flavoured vapour product or a vapour product with a nicotine concentration greater than 20 mg/ml.	<ul style="list-style-type: none"> <li>• Not applicable</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>

# Automatic Prohibition

- Automatic Prohibition (AP) means that a store will lose the ability to sell or store any tobacco products for a period of time. 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, within a 5 year period, against any owner for tobacco sales offences committed at the **same place of business**.
- 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 any owner(s) (i.e., corporation, partnership, sole proprietor) that operated a business at the retail location.
- The payment of a fine indicates a guilty plea to the offence in question and is registered as a conviction.
- Examples of Tobacco Sales Offences:
  - Sale or supply of tobacco to someone under the age of 19.
  - Failing to request identification from someone appearing to be less than 25.
  - Selling tobacco without posting required age restriction and I.D. signs.
  - Sale of improperly packaged tobacco.
  - Sale of tobacco in vending machine.
  - Sale or storage of tobacco during an AP.
  - Selling unmarked or unstamped tobacco in violation of section 8 or 9 of the *Tobacco Tax Act*.

# Automatic Prohibition – Signs

- The owner or occupier 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 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 April 1, 2020 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 April 1, 2020 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 register with the board of health for the public health unit in which the store is located and satisfy certain conditions.
- 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><b>For a tobacconist that registered with its local Board of Health prior to January 1, 2020:</b></p> <ul style="list-style-type: none"> <li>• Specialty tobacco products must account for at least 50% of the retailer's total inventory purchases at the time of registration.</li> <li>• For every 12 month period after registering with the local Board of Health, specialty tobacco products must account for at least 50% of the tobacconist's total sales in the previous year.</li> <li>• There are no restrictions on the remaining sales/inventory for tobacconists that register with their local Board of Health prior to January 1, 2020.</li> </ul> <p><b>For a tobacconist that registers with its local Board of Health on or after January 1, 2020:</b></p> <ul style="list-style-type: none"> <li>• Specialty tobacco products must account for at least 85% of its total sales in the previous year. If the retailer has been in operation for less than a year, at least 85% of the retailer's total inventory purchases or sales during that time period must relate to specialty tobacco products.</li> <li>• The remaining up to 15% 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.</li> </ul>	<p>At least <b>85%</b> of the establishment's <b>total sales revenue</b> from the previous twelve months is 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>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> <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 can display and promote specialty tobacco products inside its retail establishment, if the following conditions are met:

- 1) The specialty tobacco products and related 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 I.D 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 (i.e., located in a passageway or hallway used to connect two places).



# 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 following conditions are met:

- 1) 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 I.D 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 (i.e., located in a passageway or hallway used to connect two places).
- 5) Display and promotion of vapour products cannot be viewed from outside of the retail establishment at any time of day.

# 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

**Retailers 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.

**Retailers registered as tobacconists** may allow the holding of an activated electronic cigarette (i.e., heat-not-burn device containing tobacco), 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 (but not promote them), 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 (i.e., located in a passageway or hallway used to connect two places).

# 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 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 by requesting I.D.
- 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 Ministry of Long-Term Care](#)
- [Ontario Ministry of Finance](#)

# Appendix C: Checking A Driver's Licence

1. Ultraviolet inks are used during the manufacturing process to enhance the security background and also to add two distinct UV features, an Ontario logo on the front and a stylized Trillium flower on the back. Both are visible only under an ultraviolet (blacklight) source.



2. Raised lettering on driver's licence number and date of birth.

3. Protected secondary photo and signature at the bottom right corner.

4. "AGE 19" banner will only appear on cards issued for individuals aged 16 to 18.

5. The machine-readable barcode contains licensee-related data.



# 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 retailers 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 under the SFOA, 2017.