



Guidelines for Registration as a Tobacconist

Introduction

Under the *Smoke-Free Ontario Act, 2017* (SFOA, 2017), restrictions have been placed on the display and promotion of tobacco products and tobacco product accessories in places where they are sold or offered for sale. The SFOA, 2017 also prohibits the use of electronic cigarettes (including heat-not-burn electronic cigarettes that use tobacco) in enclosed workplaces and enclosed public places. The “use” of an electronic cigarette includes the holding of an activated electronic cigarette (i.e. turning it “on”).

The Ontario Ministry of Health and Long-Term Care (the “ministry”) recognizes that some retailers’ main business activity is selling specialty tobacco products (e.g., cigars, pipe tobacco, heat-not-burn products, and accessories such as humidors, but excluding cigarettes) and that elements of the display, promotion and electronic cigarette use bans would place a burden on these businesses.

In recognition of this, the SFOA, 2017 provides exemptions for the following activities for retailers that register as a tobacconist:

1. Displaying and promoting specialty tobacco products
2. Holding an activated electronic cigarette for the purposes of testing the electronic cigarette or demonstrating to customers how to activate the electronic cigarette.

To access these exemptions, Ontario Regulation 268/18 under the SFOA, 2017 (the “regulation”) specifies that a retail establishment must be registered as a tobacconist with the local board of health for the public health unit in which the business is located.

Registration is location-specific.

To be registered as a tobacconist for a specific location, a retail establishment must meet certain criteria as outlined below.

Sales and inventory

- At least **85%** of the establishment’s **total sales** from the previous twelve months is from specialty tobacco products, **or**
- If the establishment has been in operation for less than one year:
 - at least **85%** of the establishment’s **total inventory purchases** for the

- time it has been in existence consists of specialty tobacco products; or
- at least **85%** of the total sales for the time it has been in existence consists of specialty tobacco products;
- 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.
- If a tobacconist was previously registered with the Ministry as of October 16, 2018, then the 85% sales requirement described above does not apply, and instead the tobacconist must show that, at the time of registration with the board of health, at least 85% of the inventory in its possession consists of specialty tobacco products, and the remaining inventory consisting of cigarettes or other items reasonably associated with a tobacco product or branded with the name of the tobacconist or a brand of tobacco. For every 12 month period following registration with the board of health, the tobacconist must meet the sales requirement described above.

The term “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.

Additional criteria

- Minors (younger than age 19) shall not be permitted to enter the establishment, other than the store owner, employees, or a support person accompanying a person with a disability who is at least 19 years old.
- Products and promotions cannot be visible from outside the establishment.
- The establishment must be a building or located inside a building.
- Customers can only enter the establishment 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 the retail establishment or other business within the mall.
- The establishment must not be a thoroughfare.

In other words, customers can enter the establishment only from the outdoors or from an indoor common area such as a mall concourse. This means that customers cannot enter the tobacconist from another store.

Rules for in-store testing

Under the regulation, activation of an electronic cigarette (i.e., turning it “on”) in a

registered tobacconist is permitted, if the following conditions are met:

- Activation is for the purpose of testing the electronic cigarette or demonstrating to customers how the device can be activated.
- No vapour is inhaled or exhaled from the activated electronic cigarette.

Responsibilities of Retailers who are Registered Tobacconists

A retailer who operates a tobacconist store must comply with other applicable provisions in the SFOA, 2017 and the regulation.

Display and Promotion of Vapour Products

Retailers that sell vapour products (including Heat-Not-Burn devices packaged without a tobacco component) may promote, but not display, vapour products, as long as the promotion complies with the restrictions set out in the *Tobacco and Vaping Products Act* (Canada) . If a retailer wishes to display vapour products, they will need to register as a specialty vape store.

Age-Based Sales Restrictions

Before selling tobacco or vapour products to anyone who appears to be less than 25 years old, a retailer must request identification and be satisfied that the person is at least 19 years old. Acceptable identification must include a photograph of the person, the person's date of birth, and reasonably appear to have been issued by a government or the Liquor Control Board of Ontario. Some examples are:

- Ontario driver's license
- Canadian passport
- Canadian citizenship
- Canadian Armed Forces identification card
- Ontario photo card
- Liquor Control Board of Ontario photo card

Required Signs

All retailers must post 'No Smoking' and 'No Vaping' signs, or a dual 'No Smoking and No Vaping' sign at all entrances, exits, and washrooms, in appropriate locations and sufficient numbers, to ensure that everyone knows that smoking and vaping is prohibited inside the establishment.

Tobacco Retailers

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

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

Vapour Product Retailers

All stores selling vapour products 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.

Note: Vapour product retailers include those who sell electronic cigarettes for use with a tobacco product (e.g., Heat-Not-Burn devices).

For information on obtaining required signage, please contact your local public health unit.

Registering as a Tobacconist

To register as a tobacconist with the board of health for the public health unit in which the establishment is located, please review and complete the following forms:

- **Application for Registration as a Tobacconist**
- **Statement of Professional Accountant**

An accurate and fully-completed application is required to process the registration request.

In order to demonstrate to the board of health that your retail location satisfies the sales/inventory requirements described on page 1 of this guide, the **Statement of Professional Accountant** section of the application form must be completed by a certified professional accountant. The accountant must certify as true and verifiable your proportion of total sales or inventory that are derived from specialty tobacco items.

Examples of Specialty Tobacco Products for Tobacconists	Examples of Other Acceptable Products for Tobacconists (remaining sales/inventory up to 15%)
<ul style="list-style-type: none"> • Cigars • Pipe tobacco • Humidors • Lighters • Pipes • Heat-Not-Burn devices • Heat-Not-Burn tobacco (heat sticks or capsules) 	<ul style="list-style-type: none"> • Cigar clips • Snuff • Ashtrays <ul style="list-style-type: none"> • Cigarettes • Branded clothing or accessories • Branded water bottles or food items • Branded coffee cups • Carrying cases, such as tobacco cigarette tins <p>*Refer to the <i>Tobacco and Vaping Products Act (Canada)</i> for additional restrictions on branded items</p>

The **Statement of Accountant** section must be completed and signed by a person who is a licensed professional accountant. This means that the person holds a Chartered Professional Accountant (CPA) designation, or one of three legacy accounting designations:

- Certified General Accountant (CGA)
- Chartered Accountant (CA)
- Certified Management Accountant (CMA)

In order to locate a licensed professional accountant who holds one of the above accounting designations, you may contact:

Chartered Professional Accountants of Ontario

69 Bloor Street East
 Toronto, ON M4W 1B3
 Tel: 1 800 387.0735
 Fax: 416 962.8900
 E-mail: customerservice@cpaontario.ca

Completed applications must be submitted to your local board of health for the public health unit in which your establishment is located. You can find your public health unit by going to <http://www.health.gov.on.ca/en/common/system/services/phu/locations.aspx>

By submitting this application, the applicant agrees that at any time during the application process or following registration as a tobacconist, the board of health may

request the applicant to submit any records on which this application was based, and on which continuing registration is based. Any misrepresentation made in an application may result in a decision to decline the application or revoke a registration.

If there is a change to any of the information provided on the Application for Registration as a Tobacconist, it must be reported to the local board of health immediately.

Note: A change in address will require a new application to be submitted.

To get more information about registration, please contact your local public health unit.