

Ministry of Health



Smoke-Free Ontario Act, 2017

How the Act Affects: Duty Free Retailers

The Basics

The *Smoke-Free Ontario Act, 2017* (SFOA, 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.

The SFOA, 2017 also prohibits the sale or supply of tobacco and vapour products to anyone less than 19 years of age. 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 showing they are at least 19.

The SFOA, 2017 prohibits the display and promotion of tobacco products and tobacco product accessories at any place where tobacco products are sold.

Duty Free Retailers

A duty free retailer sells tobacco in a duty free shop as defined in the federal *Customs Act*.

Tobacco Exemption for Duty Free Retailers

A duty free retailer is exempt from the display restrictions set out in the SFOA, 2017 with respect to tobacco products and tobacco product accessories associated with a brand of tobacco product (branded tobacco product accessories), subject to the following conditions:

1. Tobacco products and branded tobacco product accessories cannot be seen from outside the duty free shop.
2. Customers can enter the place 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.
3. The duty free shop must not be a thoroughfare (e.g., passageway).

A duty free retailer that fails to meet these conditions no longer has the benefit of the exemption, and must comply with the prohibition on displaying tobacco products and branded tobacco product accessories.

Signage for Duty Free Retailers

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

In addition, 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.

All stores selling vapour products must post, in clear view of the 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](#).

Additional Obligations for Duty Free Retailers

Duty free retailers must also fully comply with the SFOA, 2017 and its regulation with respect to obligations as a tobacco retailer and a vapour product retailer (if applicable).

Enforcement

Local public health units will carry out inspections and respond to complaints regarding duty free retailers to enforce the SFOA, 2017.

Penalties

There are several penalties that a duty free retailer could face for violating the SFOA, 2017. Duty free retailers are advised to review the SFOA, 2017 to understand their responsibilities, and the fines that may result from failing to comply.

Certain activities prohibited under the SFOA, 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 Tobacco Age Restriction and Tobacco Product Identification signs;
- Selling tobacco not packaged in accordance with the regulations;
- Selling tobacco in a vending machine; and
- Some activities relating to selling unmarked cigarettes under the *Tobacco Tax Act*.

If the Ministry of Health and Long-Term Care is notified that there are two or more owner convictions for tobacco sales offences committed in the same location, even if there has been a change of ownership, within a five year period, that location will be subject to an automatic prohibition. If that were to happen, 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.

Duty free retailers are advised to review the SFOA, 2017 to understand more about this penalty.

Other activities prohibited under the SFOA, 2017 regarding vapour products are also offences subject to penalties depending on the offence and the number of convictions.

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 duty free retailers, 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.