

Ministry of Health



Smoke-Free Ontario Act, 2017

How the Act Affects: Traditional Use of Tobacco by Indigenous Persons

The Basics

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

The Act 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 that they are at least 19 years old.

Exemption – Traditional Use of Tobacco by Indigenous Persons

The prohibition on smoking tobacco and holding lit tobacco in any smoke-free place does not apply to:

- An Indigenous person who smokes tobacco or holds lit tobacco for traditional Indigenous cultural or spiritual purposes.
- A non-Indigenous person who smokes tobacco or holds lit tobacco, if the activity is carried out with an Indigenous person for traditional Indigenous cultural or spiritual purposes.

Indigenous residents of public hospitals, private hospitals, psychiatric facilities, long-term care homes, homes for special care, community homes for opportunity, or independent health facilities have a right to request that the facility set aside an indoor

area, separate from any other area where smoking is otherwise permitted (e.g., a controlled area), for the use of tobacco for traditional Indigenous cultural or spiritual purposes.

The prohibition against selling and supplying tobacco to a minor does not apply to a person who gives tobacco to an Indigenous person who is less than 19 years old or appears to be less than 25 years old, as the case may be, if the gift is made for traditional Indigenous cultural or spiritual purposes.

NOTE: This exemption does not apply to smoking cannabis (medical or recreational) or using an e-cigarette.

Enforcement

The government recognizes that there are unique issues with respect to application of this legislation on reserve. The government is committed to engaging Indigenous communities to reduce exposure to second-hand smoke on reserve and to address the high rates of commercial tobacco use in these communities through culturally-appropriate tobacco education, cessation, and prevention activities.

Penalties

A public hospital, private hospital, long-term care home, home for special care, community home for opportunity, or independent health facility that does not comply with an Indigenous resident's request for an indoor area to use tobacco for traditional Indigenous cultural or spiritual purposes may be charged with an offence. If convicted, they could be subject to a maximum fine of \$4,000 (in the case of an individual) or \$10,000 (in the case of a corporation).

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 as they relate to Indigenous persons, 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.