

Ministry of Health



## Smoke-Free Ontario Act, 2017

# How the Act Affects: Specialty Vape Stores

## 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.

## Display and Promotion

Under the SFOA, 2017, registered Specialty Vape Stores are permitted to display and promote vapour products. Specialty Vape Stores may allow customers to view vapour products before the point of purchase as well as handle them.

This rule applies to heat-not-burn e-cigarette devices intended for use with tobacco but packaged without the tobacco component. However, the tobacco component of a heat-not-burn e-cigarette device (e.g., heat stick) cannot be displayed or promoted, unless the retailer is registered as a tobacconist. For more information, please see the Fact Sheet for Tobacconists.

## Testing and Sampling

Vaping is prohibited in enclosed public places and enclosed workplaces, including vapour product retailers. However, the SFOA, 2017 and its regulation provide an exemption for the testing and sampling of vapour products in Specialty Vape Stores.

A Specialty Vape Store is a business that primarily sells vapour products and is registered with the local Board of Health.

A retailer can register as a Specialty Vape Stores with the local Board of Health if the following criteria are met:

- A Specialty Vape Store must have vapour products account for at least 85 per cent of its total sales in the previous year. If the retailer has been in operation for less than a year, at least 85 per cent of the retailer's total inventory purchases or sales for that time period must be dedicated to vapour products.
- The remaining up to 15 per cent of the store's revenues or inventory would have to be dedicated to other items reasonably associated with a vapour product or branded with the name of the specialty vape store or a brand of vapour products.

In order to display and promote vapour products, and allow customers to test or sample vapour products, the specialty vape store must also comply with the following conditions:

- a) No person under 19 years of age is permitted into the store, except for the owner of the store, an employee, or a support person accompanying an adult with a disability. 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.
- b) The place of business of the specialty vape store must be a building or must be located within a building.

- c) Customers must be able to enter the place of business of the specialty vape store only 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.
- d) The place of business of the specialty vape store must not be a thoroughfare (e.g., passageway).
- e) In the case of testing or demonstrating an e-cigarette device, the customer is only permitted to hold the activated e-cigarette without inhaling or exhaling vapour from the device.
- f) In the case of sampling a vapour product, the following criteria must be met:
  - i. Only two customers may sample the vapour product in the store at the same time.
  - ii. The vapour product cannot contain tobacco, cannabis or a controlled substance.
  - iii. The e-cigarette must be the personal possession of the customer, or if the e-cigarette is supplied by the store it must come with a disposable mouthpiece for one-time use.
- g) In the case of displaying and promoting vapour products, the following criteria must be met:
  - i. Display and promotion is only permitted within the retail establishment (i.e., not in front of the retail establishment).
  - ii. Display and promotion of vapour products cannot be viewed from outside of the retail establishment.

## Signage

"No Smoking", "No Vaping", or dual "No Smoking" and "No Vaping" signs must be posted at all store entrances, exits and washrooms, in appropriate locations and sufficient numbers, so that everyone knows that smoking and vaping is not permitted.

All Specialty Vape Stores must post, in clear view of the customer at the point of sale:

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

Specialty Vape Stores that sell tobacco products for use with electronic cigarettes (e.g., heat-not-burn) 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.

For information on where to get signs, please contact your local [Public Health Unit](#).

## Registration

Applications for registered as a Specialty Vape Store are available at your local [Public Health Unit](#).

## Enforcement

Local Public Health Units will carry out inspections and respond to complaints regarding Specialty Vape Stores to enforce the SFOA, 2017.

## Penalties

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

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 and registration for Specialty Vape Shops, contact your local [Public Health Unit](#).

For more information on the *Smoke-Free Ontario Act, 2017*, please visit the [Ontario Ministry of Health website](#).