



Smoke-Free Ontario Act

How the Act Affects: Tobacco Retailers

The Basics

The *Smoke-Free Ontario Act* (SFOA) prohibits smoking tobacco in all enclosed workplaces and enclosed public places, as well as other designated places in Ontario, to protect workers and the public from the hazards of second-hand smoke.

The Act also prohibits the sale and supply of tobacco products to anyone who is less than 19 years old and prohibits the display and promotion of tobacco products at any place where tobacco products are sold.

Tobacco Retailers

Tobacco retailers have a legal responsibility to ensure that they and their employees understand and comply with the requirements under the SFOA.

Tobacco products include:

- Cigarettes
- Cigars
- Cigarillos
- Pipe tobacco
- Other specialty tobacco products, including chewing tobacco, snus and snuff.

Restrictions on the Display of Cigarettes and Other Tobacco Products

No tobacco products may be displayed in a retail store. This means:

- Tobacco products must be hidden from view before they are purchased. Customers are not allowed to handle cigarettes or other tobacco products before they purchase them.
- Store owners must ensure that tobacco 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 – whether intentional or unintentional – could result in charges to the salesperson or store owner.

Acceptable Storage

Examples of **acceptable** tobacco product storage and dispensing systems include:

- 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;
- Devices that cover shelves with a top-hinge “flip up” cover that close automatically or immediately by gravity. These must be no larger than 30.5 cm (or one foot) in height by 61 cm (2 feet) in length, and must open one at a time;
- Slim drawers that open in sections and expose only the spine of cigarette packages;
- Countertop devices and rotating trays of tobacco products where only the clerk can see them.

Unacceptable Storage

Examples of **unacceptable** tobacco product storage and dispensing systems include:

- Garage door style covers which, when open, show allow a large portion of the tobacco products;
- Large cupboards 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;
- Curtains or blinds;
- Horizontal sliding doors such as closet doors.

Small tags are permitted on the outside of storage units to help a clerk find the particular tobacco products contained in each unit. Price information is not permitted on these identification tags. The tags must:

- Use black type on a white background
- Use letters up to 14 point type size
- Not use logos or colour
- Not be larger than 2" x 1" (5 cm x 2.5 cm)

Restrictions on the Promotion of Cigarettes and Other Tobacco Products

The SFOA prohibits stores from promoting the sale of tobacco products through product association, product enhancement or any type of promotional material, including promotional items that are included in the sale of tobacco products at nominal or no cost.

Any kind of promotional material that reflects a particular brand of tobacco product is not permitted. Some examples of prohibited displays that are considered to assist in promoting tobacco products are:

- Decorative panels and backdrops associated with particular brands (often referred to as “power walls”)
- Backlit or illuminated panels
- Promotional lighting
- Three-dimensional exhibits

A retailer may post up to three signs referring to sale of tobacco products, in order to inform customers that they sell tobacco products. Further:

- The size of the sign cannot be greater than 968 square centimeters.
- Sales signs must be black text and white background.
- The text of a sign must not be visible from outside the store.
- A retailer may post a maximum of three signs referring to tobacco products or accessories.
- Signs must not identify a brand of tobacco or related product.

Required Signs

No Smoking signs must be posted at all store entrances, exits, washrooms, and other appropriate locations so that everyone knows that smoking is not permitted.

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

- a *Tobacco Age Restriction and Health Warning* sign
- a *Tobacco Identification* sign.

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

Responsibilities of the Retailer

Age-Based Sales Restrictions

Before selling tobacco 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 it must reasonably appear to have been issued by a government. Some examples are:

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

While retailers may not request an Ontario health card, it can be accepted as identification if it is offered by the customer and includes their picture and date of birth.

Owner Liability

The SFOA states that the business owner is liable for any violation of the Act's age-based sales restrictions committed in their business, unless the owner exercised due diligence to avoid a violation (e.g. properly trained employees on the requirements of the Act).

100% Smoke-Free

Business owners have a responsibility to ensure that the entire premises are smoke-free at all times. For more information on the obligations of a tobacco retailer as the proprietor/employer of an enclosed workplace and enclosed public place, please refer to the "*Smoke-Free Ontario Act – How the Act Affects: Enclosed Public Places*" and "*Smoke-Free Ontario Act – How the Act Affects: Enclosed Workplaces* facts sheets.

Enforcement

Local public health units will carry out inspections and respond to complaints regarding tobacco retailers to enforce the SFOA.

Penalties

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

Certain activities prohibited under the Act 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 identification and tobacco age restriction and health warning signs;
- selling tobacco without the appropriate health warnings;
- participating in 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 convictions for tobacco sales offences committed by the owner in the same location 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 12 months, depending on the number of convictions for tobacco sales offences that have taken place within the five year period.

Tobacco retailers are advised to review the SFOA to understand more about this penalty.

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.

For specific information on smoking laws for retailers contact your local [Public Health Unit](#).

For more information on the *Smoke-Free Ontario Act*, please visit the Ontario Ministry of Health and Long-Term Care website: ontario.ca/smokefree