



## Smoke-Free Ontario Act

### How the Act Affects: Tobacconists

#### The Basics

- The Smoke-Free Ontario Act came into force on May 31, 2006.
- The act prohibits smoking in enclosed workplaces and enclosed public places in Ontario in order to protect workers and the public from the hazards of second-hand smoke.
- The act has a display ban for tobacco products that will be fully in effect as of May 31, 2008. Its goal is to prevent young persons from beginning to smoke and to assist those who have quit to remain smoke-free.

#### Tobacconists

Since the Ministry of Health Promotion recognizes that some businesses primarily sell specialty tobacco products that are not attractive to youth, an exemption to the retail display ban has been created for tobacconists.

#### Retailer Display Ban

- Countertop displays of tobacco products are prohibited.
- Customers are not allowed to handle cigarettes or other tobacco products prior to purchase.
- Between May 31, 2006 and May 31, 2008, cigarettes can be displayed only in individual packages, separately wrapped. Cartons are not permitted.
- As of May 31, 2008, no tobacco products may be displayed.

The regulation defines tobacconist based on the percentage of specialty tobacco products (e.g., cigars, pipes, humidors) that the retailer sells. A retailer can register as a tobacconist with the Ministry of Health Promotion if specialty tobacco products accounts for at least 50 per cent of its total sales in the previous twelve months. If the retailer has been in operation for less than a year, at least 50 per cent of the retailer's total inventory purchases must consist of specialty tobacco products. Specialty tobacco products do not include cigarettes.

Being registered, a Tobacconist is permitted to:

- Display *specialty tobacco products* by means of a countertop display;
- Display *specialty tobacco products* even when the general display prohibition on tobacco products comes into effect on May 31, 2008; and
- Allow purchasers to handle *specialty tobacco products* prior to their purchase. It should be noted that the federal *Tobacco Act* (s.11) has a prohibition on this practice, so tobacconists would still have to comply with that law.
- Specialty tobacco products do not include cigarettes.

All other provisions of the SFOA will apply to a Tobacconist, including restrictions on the promotion of tobacco products and required signs for posting (please see page 2). The exemption allows for the display of specialty products only, not cigarettes.



## **How do I register as a Tobacconist?**

Applications for registering as a Tobacconist are available at the Ministry of Health Promotion website at [http://www.mhp.gov.on.ca/english/health/smoke\\_free/legislation.asp](http://www.mhp.gov.on.ca/english/health/smoke_free/legislation.asp).

## **Responsibilities of Proprietors who are Registered Tobacconists**

All proprietors of tobacconist retail stores must comply fully with the act and regulation. This includes:

- Allowing customers to enter the establishment only from outdoors or indoor common areas. This means that customers cannot enter the Tobacconist retail store from another store.
- The Tobacconist retail store must not be a thoroughfare. For example, this means a person cannot enter the store from outdoors to pass through to access an indoor common area such as a mall.
- Not permitting a person who is less than 19 years old from entering a Tobacconist retail store unless the person is accompanied by somebody who is at least 19. If a person appears to be less than 25 years old, the Tobacconist must request identification and be satisfied that the person is at least 19 years old.
- Complying with all other applicable sections relating to sale display and promotion.

## **My store acts as a cigar lounge for my customers. Will my customers still be allowed to smoke their cigars in my store?**

As a Tobacconist premise is considered an “enclosed public place” under the Smoke Free Ontario Act, smoking is prohibited.

## **Restrictions on the Promotion of Cigarettes and Other Tobacco Products**

Any kind of promotional material that reflects a particular brand of tobacco product is prohibited.

Some examples of prohibited displays 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 is permitted to display up to 3 signs referring to sale of tobacco products, in order to inform customers that a retailer sells tobacco products. Further:

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

*Required Signs*

All retailers must post No Smoking signs at all entrances, exits, washrooms, and other appropriate locations in order to ensure that everyone knows that smoking is prohibited. Further, retailers of tobacco products must post where it is clearly visible to the purchaser at the point of sale:

- an *Age Restriction and Health Warning* sign.
- a *Government I.D.* sign.

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

## **Enforcement**

Local public health units will carry out inspections and investigations in tobacconist retail outlets in order to ensure compliance with the act.

## **Penalties**

An individual could be subject to a maximum fine of \$4,000 for a first offence and \$100,000 for a third offence or more. A corporation could be subject to a maximum fine of \$10,000 for a first offence and \$150,000 for a third offence or more.

This fact sheet is intended as a quick reference only. For more information, please contact your local public health unit.

You may also obtain information by calling toll-free:

- **INFOline** 1-866-396-1760
- **TTY** 1-800-387-5559

Hours of operation: Monday to Friday, 8:30am - 5:00pm

For more information on the Smoke-Free Ontario Act, please visit the Ontario Ministry of Health Promotion and Sport website: [Ontario.ca/smokefree](http://Ontario.ca/smokefree)

January 2007