



## Smoke-Free Ontario Act 2005

### How the Act Affects: Manufacturers and Duty-Free Retailers

#### **The Basics**

- The Smoke-Free Ontario Act (SFOA) comes 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 persons who have quit smoking to remain smoke-free.

#### **Manufacturers and Duty-Free Retailers**

The Ministry of Health Promotion recognizes that manufacturers of tobacco products and duty-free retailers have unique business needs; therefore, certain exemptions to the retailer display ban specified in section 3.1 of the act have been created for manufacturers and duty-free retailers.

The regulation defines manufacturers as: a) one who manufactures, fabricates, or produces tobacco products for distribution, sale, or storage in Ontario and b) holds a manufacturer's registration certificate under the Tobacco Tax Act. Under the SFOA, a manufacturer must be registered with the Ministry of Health Promotion in order to be exempt from the display ban provisions in section 3.1 of the act.

A duty-free retailer is defined under subsection 2 (1) of the federal Customs Act. Registration with the Ministry of Health Promotion is not required.

#### **Exemptions for Manufacturers and Duty-Free Retailers**

A registered manufacturer or a duty-free retailer is permitted to:

- Display tobacco products by means of a countertop display;
- Display tobacco products even when the general display prohibition on tobacco products comes into effect on May 31, 2008;
- Allow purchasers to handle tobacco products prior to their purchase. It should be noted that the federal Tobacco Act (s.11) has a prohibition on this practice, so manufacturers would still have to comply with that law. The federal Tobacco Act provides licensed duty-free shops with an exemption from the handling restrictions.

#### **Responsibilities Common to both Registered Manufacturers and Duty-Free Retailers**

All manufacturers and duty-free retailers must comply fully with the Act and regulation. This includes:

- Ensuring that tobacco products and tobacco product accessories are not visible from outside the manufacturer's or duty-free retailer's place of business.
- Allowing customers to enter the establishment only from outdoors or indoor common areas. This means that customers cannot enter the manufacturer's location or a duty-free retailer from another store.
- The manufacturer's or duty-free retailer's place of business must not be a thoroughfare. For example, this means a person cannot enter the business from outdoors to pass through to access an indoor common area such as another store or a shopping mall.

## **Exemptions for registered Manufacturers Only**

A registered manufacturer is permitted to:

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

All other provisions of the SFOA will apply to a manufacturer or a duty-free retailer, including required signs for posting (please see below).

## **Responsibilities of Manufacturers Only**

- Registering with the Ministry of Health Promotion for the purposes of the exemption.
- Not permitting a person who is less than 19 years old from entering the Manufacturer outlet unless the person is accompanied by somebody who is at least 19. If a person appears to be less than 25 years old, the Manufacturer must request identification and be satisfied that the person is at least 19 years old.

## **Signage for Manufacturers and Duty-Free Retailers**

*No Smoking* signs must be posted at all entrances, exits, washrooms, and other appropriate locations in order to ensure that everyone knows that smoking is prohibited.

All 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.

## **Signage for Retail Purposes (Applicable to Duty-Free Retailers)**

Signs referring to sale of tobacco products are permitted only to inform customers that a retailer sells tobacco products and the product price. Further:

- The size of the sign can not 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.

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

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

Applications for registering as a Manufacturer 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).

## **Enforcement**

Local public health units will carry out inspections and investigations in manufacturer outlets and duty-free retail outlets in order to enforce 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 at:

<http://www.smokefreeeast.ca/contact.php>

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 website:

[http://www.mhp.gov.on.ca/english/health/smoke\\_free/legislation.asp](http://www.mhp.gov.on.ca/english/health/smoke_free/legislation.asp)