



## Smoke-Free Ontario Act 2005

### How the Act Affects: Retailers

#### The Basics

- The Smoke-Free Ontario Act 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.
- Restrictions are placed on retailer displays and promotions.
- The restriction on selling tobacco to young people is strengthened.

#### Restrictions on the Display of Cigarettes and Other Tobacco Products

- 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.

#### 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
- 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.

#### 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, all retailers of cigarettes and tobacco products must post where it is clearly visible to the purchaser at the point of sale:

- *Government I.D.* signs.
- Age Restriction and Health Warning signs.

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

#### Responsibilities of the Retailer

##### *Apparent Age*

Before selling tobacco to any person 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, together with 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 cannot request a health card, it may be accepted as identification provided that it is offered by the purchaser and if it includes a picture and date of birth.

#### *Vicarious Liability*

A significant change in the act is the idea of vicarious liability. That means owners are responsible for their own actions and the actions of their employees. An owner will face an automatic prohibition if a conviction is received at the same address on two or more occasions within a five-year period.

### **Enforcement**

Local public health units will carry out inspections and investigate complaints regarding retail stores in order to enforce the act.

### **Penalties**

*There are several penalties that a retailer could face under this section of the act. Retailers are advised to familiarize themselves with the specific offences that apply to them under this act and the convictions that can result in an automatic prohibition.*

### **Ban on Selling, Storing and Accepting Delivery of Tobacco Products**

A retailer convicted of a tobacco sales offence on two or more occasions for contravention of specific provisions in the Smoke-Free Ontario Act or the sale of unmarked cigarettes provision of the Tobacco Tax Act is prohibited from selling, storing or accepting delivery of tobacco. This is referred to as an "automatic prohibition." The prohibition period ranges from six to 12 months, depending on the number of prior convictions.

### **Fines**

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

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)