

Smoke Free Ontario Act, 2017

TO: Chair and Members of the Board of Health

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Recommendations

It is recommended that the Board of Health:

1. **Receive this report for information.**

Key Points

- The *Smoke-Free Ontario Act, 2017* (SFOA) was enacted October 17, 2018 and regulates the sale, supply, use, display and promotion of tobacco and vapour products. It also regulates where smoking or vaping cannabis (both medical and non-medical) is prohibited.¹
- Additional areas where smoking tobacco, using an e-cigarette and smoking/vaping cannabis is prohibited are now included in the SFOA. These areas include: community recreation facilities and public areas within 20 metres of the facilities grounds, public areas within 20 metres of school grounds and public areas within 9 metres of restaurant and bar patios.
- The visible display of tobacco and vapour products at retail outlets is prohibited unless the business is registered as a tobacconist or speciality vape store with Wellington-Dufferin-Guelph Public Health (WDGPH). Tobacco product promotion is prohibited, whereas vapour product promotion is permitted under the *Act*.
- The registration of tobacconists and specialty vape stores by WDGPH is a new requirement under the SFOA.

- Outreach activities were conducted to inform stakeholders (the public, vendors, schools, municipalities, and workplaces) of their responsibilities under the SFOA.

Discussion

Background

The SFOA was set to take effect on July 1, 2018 but was paused shortly before this date. This pause allowed the provincial government to review additional research surrounding electronic cigarettes (e-cigarettes) and vaping. On October 17, 2018 the SFOA was officially enacted and the previous SFOA, and the *Electronic Cigarette Act, 2015* (ECA) were repealed and replaced with a single legislative framework.¹ The SFOA regulates the sale, supply, use, display and promotion of tobacco and vapour products and the smoking and vaping of cannabis (both medical and non-medical). In the future, additional substances could also be made subject to the SFOA.

SFOA

Places of Use

For a list of places where smoking tobacco, e-cigarette use and smoking/vaping cannabis are prohibited, please see Appendix “A”.

Sale and Supply to Minors

Existing provisions in the previous SFOA and ECA that prohibited the sale or supply of tobacco products and vapour products to a person who is less than 19 years old, were carried forward. A limited exemption to this is now included in the SFOA and allows a person under 19 to obtain a vapour product for medical cannabis purposes. The medical cannabis user could obtain the vapour product from a parent, guardian or caregiver, or a person who is authorized to produce and distribute medical cannabis under Federal law.

Display and Promotion

The SFOA prohibits the display and promotion of tobacco products and branded tobacco accessories (e.g. lighters, matches, etc.) where they are sold or offered for sale. Vapour products (including the e-cigarette, an e-substance or any component of the e-cigarette or the packaging) are no longer permitted to be displayed at retail. However, promotion of these products is still acceptable.

Registration of Tobacconists and Specialty Vape Stores

Tobacconists

A tobacconist is a business that primarily sells specialty tobacco products, including, cigars, pipes, humidors, etc. Previously, all tobacconists had to register with the Ministry of Health and Long-Term Care (MOHLTC). Under the new SFOA, the responsibility for registration of tobacconists has shifted to health units. To qualify as a tobacconist, the business must demonstrate that specialty tobacco products account for 85% of sales from the previous year and the remaining 15% of sales from cigarettes or other items reasonably associated with a tobacco product or branded with the name of the tobacconist or a brand of tobacco. To verify this, WDGPH will require any tobacconist to provide proof of this through a formal application process which includes sign off by a certified professional accountant.

A tobacconist receives some exemptions from the display and promotion of specialty tobacco products under the SFOA. These exemptions are only permitted as long as (i) the tobacconist does not allow someone under 19 to enter the store, unless they are the owner, an employee or a support person accompanying an adult with a disability, and (ii) specialty tobacco products and promotional materials are not visible from outside the place of business.

Specialty Vape Stores

Specialty vape stores must register with WDGPH annually. A specialty vape store is a business that primarily sell specialty vapour products, including-cigarettes, e-juice (or e-substances), chambers/tanks, e-cigarette batteries, etc. As with tobacconists, 85% of revenue from the previous year must be from specialty vape products and the remaining 15% from items reasonably associated with specialty vape products or branded with the name/logo of the specialty store or a vape product. This must be validated in the registration process by a certified professional accountant.

Registered specialty vape stores may not permit someone under 19 years of age to enter the store. Registered specialty vape stores receive certain exemptions under the SFOA. These exemptions include: the display of vapour products, the handling of products by customers for testing purposes and the sampling of products (e-juices) within the store. Sampling of products is restricted to two (2) customers, at a time, and they must use their own device or a single use disposable mouth piece.

Implementation and Enforcement

Public Health Units are responsible for implementing and enforcing the SFOA. WDGPH will use a progressive enforcement approach, focusing on education and later enforcement, as needed.

Outreach Activities

WDGPH has identified and completed the following activities to notify stakeholders affected by the SFOA:

Public

A media release was issued on October 31, 2018 regarding SFOA changes with information posted to the WDGPH website: <https://www.wdgpublichealth.ca/sfoa2017>

Vendors

In person education sessions were provided to each vendor that may be eligible to register as a specialty vape store or tobacconist and registration forms and guidelines have been provided. Currently four (4) stores have been registered as specialty vape stores and one (1) as a tobacconist. This registry will change over time.

Other tobacco and e-cigarette vendors will have in-person education sessions conducted by designated inspectors during their regular compliance inspection. These will take place throughout the remainder of 2018 and into 2019 and the required signage, fact sheets, and additional educational materials will be distributed at this time. Charges will not be laid during the initial compliance visit to these vendors.

Schools

A letter and fact sheet were provided to each school board for distribution to all elementary and secondary schools. This letter is also being provided to secondary schools during their annual inspection and a consultation with administrators will be offered during this time. Enforcement reports, used by schools to report continued smoking on school property, have been updated on the WDGPH website and are currently available for school use.

Municipalities

Each municipality will receive a letter outlining the changes to the SFOA along with the relevant MOHLTC provided fact sheets. 'No smoking, no vaping' signage will also be provided to each municipality for distribution and posting in required areas.

Some municipalities within Wellington-Dufferin-Guelph (WDG) have chosen to create bylaws that are more restrictive than the SFOA regarding cannabis use. WDGPH is working to support municipalities by providing evidence-based policy options and resources.

Workplaces

Information packages containing a letter informing workplaces of their responsibilities under the SFOA, a factsheet, and two (2) 'No Smoking, No Vaping' dual signs were prepared and mailed to 1856 workplaces across WDG. Targeted businesses included: construction, manufacturing, public administration, retail trade and services. Additionally, 757 similar packages with appropriate materials were sent to restaurants and food vendors. Additional signs and consultations are available to workplaces upon request.

Conclusion

The SFOA came into effect on October 17, 2018 replacing the previous SFOA and ECA to create a single legislative framework where tobacco, electronic cigarettes and cannabis can be used. WDGPH is responsible for SFOA education and enforcement and have outreached to stakeholders regarding the changes to the SFOA.

Ontario Public Health Standard

Substance Use and Injury Prevention

Goal: To reduce the burden of preventable injuries and substance use.

Requirements: The board of health shall enforce the *Smoke-Free Ontario Act, 2017* in accordance with the *Tobacco, Vapour and Smoke Protocol, 2018* (or as current)

WDGPH Strategic Direction(s)

Health Equity: We will provide programs and services that integrate health equity principles to reduce or eliminate health differences between population groups.

Organizational Capacity: We will improve our capacity to effectively deliver public health programs and services.

Service Centred Approach: We are committed to providing excellent service to anyone interacting with WDG Public Health.

Building Healthy Communities: We will work with communities to support the health and well-being of everyone.

Health Equity

Certain groups are particularly vulnerable to tobacco and/or cannabis use. Individuals who identify as Indigenous, the LGBTQ community and people with low socio-economic status, are more likely to use tobacco, while youth (aged 15-24 years) are more likely to use cannabis and are particularly vulnerable to cannabis related harms.^{2,3} Reducing tobacco and cannabis use, exposures and their associated negative health impacts are important ways to reduce social inequalities in health.

References

1. *Smoke-Free Ontario Act, 2017* [Internet]. 2017, S.O. [cited 2018 Nov 9]. Available from: <https://www.ontario.ca/laws/statute/17s26>
2. Smoke-Free Ontario Scientific Advisory Committee. Evidence to Guide Action: Comprehensive Tobacco Control in Ontario (2016). [Internet]. 2017 April. [Cited 2018 July 16]. Available from: http://www.publichealthontario.ca/en/eRepository/SFOSAC%202016_FullReport.pdf
3. Government of Canada. Canadian Tobacco Alcohol and Drugs (CTADS): 2015 summary [Internet]. 2017 Jun 27 [cited 2018 Aug 13]. Available from: <https://www.canada.ca/en/health-canada/services/canadian-tobacco-alcohol-drugs-survey/2015-summary.html>

Appendices

Appendix “A” – Places where smoking tobacco, e-cigarette use and smoking/vaping cannabis are prohibited under the *SFOA, 2017*.

Appendix “A”

Places where smoking tobacco, e-cigarette use, and smoking/vaping cannabis are prohibited under the *SFOA, 2017*:

1. Enclosed public places;
2. Enclosed workplaces;
3. On the grounds of primary and secondary schools;
4. Indoor common areas in condominiums, apartment buildings and university/college residences;
5. Child care centres;
6. Places where home child care is provided (whether or not children are present);
7. Places where an early years program or service is provided;
8. Reserved seating areas of outdoor sports or entertainment venues;
9. Restaurant and bar patios;
10. Children’s playgrounds and public areas within 20 metres of playgrounds;
11. In cars transporting children under 16 years of age;
12. Sporting areas (excluding golf courses), adjacent spectator areas and public areas within 20 metres of these places;
13. The outdoor grounds of public hospitals, private hospitals and psychiatric facilities;
14. Nine metres from any entrance or exit of a long-term care home or independent health facility;
15. The outdoor grounds of prescribed Ontario government office buildings;
16. Public areas within 20 metres from the perimeter of the grounds of elementary and secondary schools;
17. The outdoor grounds of a community recreation facility and public areas within 20 metres of the perimeter of the grounds;
18. Public areas within 9 metres of a restaurant or bar patio;