



# Guidelines for Registration as a Specialty Vape Store

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## Introduction

The *Smoke-Free Ontario Act, 2017* (SFOA, 2017) prohibits the use of electronic cigarettes in enclosed workplaces and enclosed public places, such as retail stores (also known as the “places of use” ban). The SFOA, 2017 defines “use” to include the holding of an activated electronic cigarette (i.e., turning it “on”), as well as inhaling and exhaling vapour from the electronic cigarette. The SFOA, 2017 also restricts the display and promotion of vapour products.

The Ontario Ministry of Health and Long-Term Care (the “ministry”) recognizes that some retailers’ main business activity is selling vapour products, and that the display and promotion restrictions and places of use ban may place a burden on these businesses that previously displayed and promoted vapour products, and allowed customers to test and sample vapour products in store prior to purchase.

In recognition of this, the SFOA, 2017 has certain exemptions that allow specialty vape stores to display, promote and test/sample vapour products. To access this exemption, Ontario Regulation 268/18 under the SFOA, 2017 (the “regulation”) specifies that a retail establishment must be registered as a specialty vape store with the local board of health for the public health unit in which the business is located. **Registration is location-specific.**

To be registered as a specialty vape store for a specific location, a retail establishment must meet certain criteria as outlined below.

## Sales and inventory

- At least **85%** of the establishment’s **total sales** from the previous twelve months is from vapour products, **or**
- If the establishment has been in operation for less than one year:
  - at least **85%** of the establishment’s **total inventory purchases** for the time it has been in existence consists of vapour products; or
  - at least **85%** of the total sales for the time it has been in existence consists of vapour products;
- The remaining sales or inventory are from other items reasonably associated with a vapour product or branded with the name of the specialty vape store or a

brand of vapour product.

### **Additional criteria**

- Minors (younger than age 19) shall not be permitted to enter the establishment, other than the store owner, employees, or a support person accompanying a person with a disability who is at least 19 years old.
- The establishment must be a building or located inside a building.
- Customers can only enter the establishment from the outdoors or from the areas of an enclosed shopping mall that are:
  - Open to the public,
  - Common to most of the retail establishments or other businesses within the mall, and
  - Not part of the retail establishment or other business within the mall.
- The establishment must not be a thoroughfare.

### **Rules for display and promotion**

Under the regulation, registered specialty vape stores can display and promote vapour products, but only within the retail establishment. Displays and promotions in front of the retail establishment are not permitted.

### **Rules for in-store testing and sampling**

Under the regulation, activating an electronic cigarette (i.e., turning it “on”) in a registered specialty vape store is permitted, if the following conditions are met:

- Activation is for the purpose of testing the electronic cigarette or demonstrating to customers how the device can be activated.
- No vapour is inhaled or exhaled from the activated electronic cigarette.

Under the regulation, using an electronic cigarette (including inhaling and exhaling vapour from an electronic cigarette) in a registered specialty vape store is permitted, if the following conditions are met:

- Use is for the purpose of sampling a vapour product.
- No more than two persons may sample a vapour product at the same time.
- Specialty vape stores must provide fresh, one-time use disposable mouthpieces for sampling, unless the electronic cigarette is the personal possession of the person holding it.

- The electronic cigarette must not contain cannabis, tobacco, (e.g., Heat-Not-Burn tobacco products), or a controlled substance.

## **Responsibilities of Retailers who are Registered Specialty Vape Stores**

A retailer who operates a specialty vape store must comply with other applicable provisions in the SFOA, 2017 and the regulation.

### **Display and Promotion of Tobacco Products**

Retailers that sell tobacco for use in electronic cigarettes (e.g. heat sticks or capsules used in Heat-Not-Burn devices) must comply with the prohibition on displaying and promoting tobacco products, unless they register as a tobacconist (see Guidelines for Registration as a Tobacconist).

An electronic cigarette or component of an electronic cigarette that is manufactured or sold for use with tobacco products (e.g. Heat-Not-Burn devices), but packaged *without* a tobacco component, are considered to be vapour products, not tobacco product accessories for the purposes of display and promotion rules. As a result, they are subject to rules for the display and promotion of vapour products (see above), and not the display and promotion rules for tobacco product accessories.

### **Age-Based Sales Restrictions**

Before selling tobacco or vapour products 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 reasonably appear to have been issued by a government or the Liquor Control Board of Ontario. Some examples are:

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

### **Required Signs**

All retailers must post 'No Smoking' and 'No Vaping' signs, or a dual 'No Smoking and No Vaping' sign at all entrances, exits, and washrooms, in appropriate locations and

sufficient numbers, to ensure that everyone knows that smoking and vaping is prohibited inside the establishment.

### *Vapour Product Retailers*

All stores selling vapour products at retail must post, in clear view of the seller and customer at the point of sale:

- A Vapour Product Age Restriction sign.
- A Vapour Product Identification sign.

### *Tobacco Retailers*

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

- A Tobacco Product Age Restriction sign.
- A Tobacco Product Identification sign.

**Note:** Tobacco retailers include those who sell tobacco products for use with electronic cigarettes (e.g., Heat-Not-Burn). In order to sell tobacco products, you are required to have an Ontario Tobacco Retail Dealer's Permit. Please contact the Ministry of Finance for more information at 1-866-ONT-TAXS (1-866-668-8297).

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

## **Registering as a Specialty Vape Store**

To register as a specialty vape store with the board of health for the public health unit in which the establishment is located, please review and complete the following forms:

- **Application for Registration as a Specialty Vape Store**
- **Statement of Professional Accountant**

An accurate and fully-completed application is required to process the registration request.

In order to demonstrate to the board of health that your retail location satisfies the sales/inventory requirements described on page 1 of this guide, the **Statement of Professional Accountant** section of the application form must be completed by a certified professional accountant. The accountant must certify as true and verifiable your

proportion of total sales or inventory that are derived from specialty vapour products.

Examples of Vapour Products for Specialty Vape Stores	Examples of Other Acceptable Products for Specialty Vape Stores (remaining sales/inventory up to 15%)
<ul style="list-style-type: none"> <li>• E-cigarettes</li> <li>• E-juice</li> <li>• Mouthpiece</li> <li>• Chambers/tanks</li> <li>• E-cigarette Batteries/power sources</li> <li>• Heat-Not-Burn devices</li> <li>• Tobacco component of Heat-Not-Burn devices (e.g. heat stick or capsule)</li> </ul>	<ul style="list-style-type: none"> <li>• Branded clothing or accessories</li> <li>• Branded water bottles or food items</li> <li>• Branded coffee cups</li> <li>• Carrying cases for vapour products and accessories</li> </ul> <p>*Refer to <i>Tobacco and Vaping Products Act</i> (Canada) for additional restrictions on branded items</p>

The **Statement of Accountant** section must be completed and signed by a person who is a licensed professional accountant. This means that the person holds a Chartered Professional Accountant (CPA) designation, or one of three legacy accounting designations:

- Certified General Accountant (CGA)
- Chartered Accountant (CA)
- Certified Management Accountant (CMA)

In order to locate a licensed professional accountant who holds one of the above accounting designations, you may contact:

### Chartered Professional Accountants of Ontario

69 Bloor Street East  
 Toronto, ON M4W 1B3  
 Tel: 1 800 387.0735  
 Fax: 416 962.8900  
 E-mail: [customerservice@cpaontario.ca](mailto:customerservice@cpaontario.ca)

Completed applications must be submitted to your local board of health for the public health unit in which your establishment is located. You can find your public health unit by going to <http://www.health.gov.on.ca/en/common/system/services/phu/locations.aspx>

By submitting this application, the applicant agrees that at any time during the application process or following registration as a specialty vape store, the board of

health may request the applicant to submit any records on which this application was based, and on which continuing registration is based. Any misrepresentation made in an application may result in a decision to decline the application or revoke a registration.

If there is a change to any of the information provided on the Application for Registration as a Specialty Vape Store, it must be reported to the local board of health immediately.

**Note:** A change in address will require a new application to be submitted.

To get more information about registration, please contact your local public health unit.