

Ministry of Health



## **Smoke-Free Ontario Act, 2017**

# How the Act Affects: Restaurants and Bars Including Patios

### **The Basics**

The *Smoke-Free Ontario Act, 2017* prohibits the smoking of tobacco, the use of electronic cigarettes (e-cigarettes) to vape any substance, and the smoking of cannabis (medical and recreational) in enclosed workplaces and enclosed public places, as well as other designated places in Ontario, to protect workers and the public from second-hand smoke and vapour.

Smoking refers to the smoking or holding of lighted tobacco or cannabis (medical or recreational).

Vaping refers to inhaling or exhaling vapour from an electronic cigarette or holding an activated electronic cigarette, whether or not the vapour contains nicotine.

### **Bar and Restaurants**

It is illegal to smoke or vape inside a bar or restaurant, as they are considered to be enclosed workplaces and enclosed public places.

### **Outdoor Bar and Restaurant Patios**

It is illegal to smoke or vape on all restaurant and bar patios, and public areas within a nine metre radius of any point on the perimeter of the patio, subject to the exemption described below.

A restaurant or bar patio is defined as an area:

- The public can access or that employees frequent;
- Where food or drink is served or sold or offered for consumption, or that is operated alongside an area where food or drink is served or sold or offered; and
- That is not a private dwelling.

## Exemption

Uncovered patios created by a branch of the Royal Canadian Legion or another veterans' organization before November 18, 2013, are exempt from this law provided that they do not permit the smoking of cannabis, or the vaping of cannabis or a controlled substance.

"Uncovered" means that the patio is not covered in whole or in part by any physical barriers, whether temporary or permanent, that protects from rain, the movement of air, or both.

"Veterans' organization" means an organization that is registered as a charity under the Income Tax Act (Canada), whose primary purpose is to provide programs or services to veterans of armed forces or to such veterans and their families, and that may include members who are veterans of armed forces.

However, the smoking and vaping law for tobacco, cannabis, and e-cigarettes applies to all patios created by a legion or veterans' organization after November 18, 2013, and any covered or partially covered legion and veteran patio created prior to that date.

## Owner Responsibilities

Restaurant and bar owners or employers are required to ensure that the smoking and vaping laws are respected.

Every owner and employer of a restaurant or bar must:

- Give notice to staff and patrons that smoking or vaping is not allowed in the smoke-free and vape-free areas.
- Post “No Smoking” and “No Vaping” signs, or a dual “No Smoking and No Vaping” sign at entrances, exits and washrooms of the smoke-free and vape-free areas, in appropriate locations and in sufficient numbers, to ensure that staff and customers are aware that smoking and vaping is not allowed.
- Ensure that no ashtrays or similar items remain in the smoke-free and vape-free areas.
- Ensure that workers and customers do not smoke or vape in smoke-free and vape-free areas.
- Ensure that someone who refuses to comply with Ontario's smoking and vaping laws does not remain in the smoke-free and vape-free area.

## Enforcement

Local public health units will carry out inspections and respond to complaints regarding smoking or vaping inside restaurants and bars, on their patios, and public areas within a nine metre radius of any point on the perimeter of the patio.

## Penalties

An individual who violates the prohibition on smoking or vaping inside a restaurant or bar, on a restaurant and bar patio, or in a public area within nine metres of the patio may be charged with an offence, and if convicted, could face a maximum fine of \$1,000 (for a first offence) or \$5,000 (for any further offence).

An employer or owner of a restaurant or bar who fails to fulfill their responsibility under the law may be charged with an offence and if convicted, could face a maximum fine.

Signage responsibilities

- For individuals: \$2,000 (for a first offence); \$5,000 (for a second offence); \$10,000 (for a third offence); \$50,000 (four or more offences).

- For corporations: \$5,000 (for a first offence); \$10,000 (for a second offence); \$25,000 (for a third offence); \$75,000 (four or more offences).

#### Other responsibilities

- For individuals: \$1,000 (for a first offence); \$5,000 (two or more offences).
- For corporations: \$100,000 (for a first offence); \$300,000 (two or more offences).

This fact sheet is intended as a quick reference only and should not be considered to be legal advice. For more information, please contact your local Public Health Unit.

You may also obtain information by calling toll-free:

- **INFOline** 1-866-532-3161
- **TTY** 1-800-387-5559

Hours of operation: Monday to Friday, 8:30 a.m. - 5:00 p.m. (Eastern Standard Time)

For specific information on smoking and vaping laws applicable to bar and restaurant patios, contact your local Public Health Unit. To find the public health unit serving your region, please visit their website at:

<http://www.health.gov.on.ca/en/common/system/services/phu/locations.aspx>.

For more information on the *Smoke-Free Ontario Act, 2017*, please visit the Ontario Ministry of Health website: [ontario.ca/smokefree](http://ontario.ca/smokefree).