

Ministry of Health



## Smoke-Free Ontario Act, 2017

# How the Act Affects: Child Care Centres and Home Child Care<sup>1</sup>

### 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 or 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.

### Child Care Centres, Home Child Care and Early Years Program

Smoking and vaping is not permitted in a child care centre, a place where home child care is provided, or a place where an early years program or service is provided, as defined in the *Child Care and Early Years Act, 2014*. The entire premises must be smoke- and vape-free at all times whether or not children are present. The sale of tobacco or vapour products is also prohibited in a child care

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<sup>1</sup> A “child care centre” refers to a child care centre within the meaning of the *Child Care and Early Years Act, 2014*, and “home child care” refers to a place where home child care is provided within the meaning of the *Child Care and Early Years Act, 2014*.

centre and a place where home child care is provided.

Important Note: Under the *Child Care and Early Years Act, 2014*, unlicensed home child care is not considered a “child care centre” or “home child care”. As a result, the provisions in the *Smoke-Free Ontario Act, 2017* regarding a child care centre and home child care do not apply in unlicensed home child care settings.

Operators of unlicensed home child care settings may wish to consult with legal counsel if they have any questions regarding the application of the SFOA, 2017 or other applicable laws to their specific business operations.

## Responsibilities of Proprietors

The *Smoke-Free Ontario Act, 2017* requires that the owner, proprietor or person in charge of a child care centre, home child care or early years program ensure that the law against smoking and vaping in the places described above is respected.

These proprietors must:

- Give notice to the employees and visitors to the place that smoking and vaping is prohibited.
- Post “No Smoking” and “No Vaping” signs, or a dual “No Smoking and No Vaping” sign at entrances, exits and washrooms of the place, in appropriate locations and in sufficient numbers, so that everyone knows that smoking and vaping is not permitted.
- Ensure that no ashtrays or similar items remain in the place.
- Ensure that no one smokes or vapes in the place.
- Ensure that someone who refuses to comply with Ontario's smoking and vaping laws does not remain in the place.

## Enforcement

Local public health units will carry out inspections and respond to complaints regarding smoking and vaping in child care centres or places that provide home child care or early years programs.

## Penalties

An individual who violates the prohibition on smoking or vaping in a smoke-free and vape-free place may be charged with an offence, and on conviction could be subject to a maximum fine of \$1,000 (for a first offence) or \$5,000 (for any further offences).

Any individual convicted of an offence for selling tobacco or vapour products in a child care centre or a place where home child care is provided could be subject to a maximum fine ranging from \$2,000 to \$50,000, depending on the individual's number of prior convictions.

Any corporation convicted of an offence for selling tobacco in a child care centre or a place where home child care is provided could be subject to a maximum fine, ranging from \$5,000 to \$75,000, depending on the corporation's number of prior convictions.

The proprietor responsible for a child care centre, home child care or early years program 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 Time)

For specific information on smoking and vaping laws applicable to child care centres, home child care and early years programs, 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).