

Changes to the

Smoke-free Environment Act, 2005 and Tobacco Control Act

As part of Government's ongoing efforts to prevent and reduce smoking, changes have been made to the province's *Smoke-free Environment Act, 2005 and the Tobacco Control Act*. The amendments and coming into force dates are summarized in the chart below:

| Amendment | Coming into Force Date |
|---|------------------------|
| Change the name of the <i>Tobacco Control Act</i> to the <i>Tobacco and Vapour Products Control Act (TVPCA)</i> ; it has been expanded to include tobacco, e-cigarettes and non-tobacco shisha products | June 7, 2016 |
| Prohibition on persons under the age of 19 from entering or working in a hookah establishment | June 7, 2016 |
| Prohibition on the sale of e-cigarettes to minors | June 7, 2016 |
| Prohibition on the use of e-cigarettes in public places, workplaces, and in motor vehicles when occupied by a person under the age of 16 | June 7, 2016 |
| Prohibition on the sale of flavoured tobacco, including menthol cigarettes | July 1, 2017 |
| Prohibition on the sale of e-cigarettes and non-tobacco shisha in places currently prohibited from selling tobacco products | July 1, 2017 |
| Restrictions on the display and promotion of e-cigarettes and non-tobacco shisha in retail stores in the same manner as tobacco products are currently regulated | July 1, 2017 |
| Prohibition on hookah/water pipe smoking in indoor public places and workplaces including any existing hookah establishments | July 1, 2017 |

Changes to the *Smoke-Free Environment Act, 2005 and the Tobacco Control Act* aim to:

- Prevent and reduce smoking, and protect public and employee health;
- Protect children by reducing the visibility of smoking in our communities;
- Reduce chronic diseases which are costly to our health and to our health care system;
- Support non-smokers to stay smoke-free and support individuals to quit smoking; and
- Help create a healthier Newfoundland and Labrador.

Details, on each of the measures are provided in the following pages, including information on the dates the measures come into force.

Flavoured Tobacco Products

Measures have been implemented to protect children and youth from the harms of flavoured tobacco products by restricting access to these products in the Province. They complement and enhance the regulation of flavoured tobacco products by the Government of Canada and are consistent with legislation in a number of other provinces.

Prohibition on the Sale of Flavoured Tobacco Products

- Effective **July 1, 2017**, the sale of flavoured tobacco will be prohibited under the *Tobacco and Vapour Products Control Act*.
- This includes a prohibition on the sale of menthol flavoured cigarettes.
- The prohibition applies to all tobacco products including cigarettes, cigarillos (little cigars), fine-cut tobacco, smokeless tobacco (chewing tobacco, snus) and water pipe tobacco.

Exemptions

- There will be two exemptions through regulations to the prohibition on the sale of flavoured tobacco. They are:
 - Cigars with a retail price of \$4 or more, weighing 5 grams or more having a wine, port, rum or whiskey flavour.
 - Pipe tobacco having a wine, port, rum or whiskey flavour.

Definitions

- *Flavoured tobacco* is tobacco that:
 - Has a characterizing scent or flavour, other than tobacco, that is noticeable before or during use or both; or
 - By its packaging, labelling, advertising or otherwise, is represented as being flavoured.

Legislation/Regulations

- [Bill 35, An Act to Amend the *Smoke-free Environment Act, 2005* and the *Tobacco Control Act* can be viewed at \[insert link to passed Bill\].](#)

Enforcement

- Inspectors with Service NL will enforce the provisions of the *Tobacco and Vapour Products Control Act*. For retailers, the following penalties apply:
 - For a 1st offence, a fine of \$500 and a prohibition from selling tobacco products for 3 months;
 - For a 2nd offence, a fine of \$2,500 and a prohibition from selling tobacco products for 6 months;
 - For a 3rd offence and for each subsequent offence, a fine of \$5,000 and a prohibition from selling tobacco product for 9 months; and
- The public can report any violation related to the *Tobacco and Vapour Products Control Act* and the *Smoke-Free Environment Act, 2005* to a Service NL location.

Non-Tobacco Shisha

Measures have been implemented to restrict youth access to non-tobacco shisha products in the Province. The *Tobacco Control Act* prohibited the sale of tobacco products to persons under the age of 19 and restricted the display and promotion of tobacco products, including shisha products containing tobacco used in water pipes at hookah establishments. Until now, the prohibition and restrictions did not apply to non-tobacco shisha.

Sales to Minors Prohibition

- Effective **June 7, 2016**, the sale of non-tobacco shisha to persons under the age of 19 is prohibited under the *Tobacco and Vapour Products Control Act (TVPCA)*.

Places Where Non-Tobacco Shisha Cannot be Sold

- Effective **July 1, 2017**, the sale of non-tobacco shisha products will be prohibited in places where the sale of tobacco products is currently prohibited. Examples of places include pharmacies, temporary facilities, personal care homes, child care centres, schools, universities, recreational facilities and government buildings.

Display Restrictions for Non-Tobacco Shisha

- Effective **July 1, 2017**, the current restrictions in place for the display and promotion of tobacco products at retail will apply to the sale and promotion of non-tobacco shisha products. Products must not be visible inside the premises, or visible from outside the premises.
- The *Tobacco and Vapour Products Control Act* (insert hyper link to amended TVPCA) does not specify how a retailer should ensure non-tobacco shisha products are not visible. Options available for retailers to ensure the products are not visible include the use of drawers, cabinets with doors, curtains and under counters.

The display ban for non-tobacco shisha products will not apply during these times:

- Restocking of the product;
- While a retailer is doing an inventory; or
- When a retailer is receiving delivery of products or unpacking products.

Promotion Restrictions for Non-Tobacco Shisha

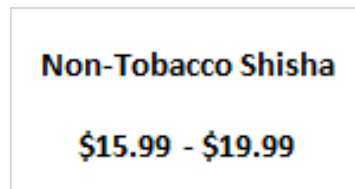
- Effective **July 1, 2017**, non-tobacco shisha products cannot be promoted or advertised as being sold in the premises by using materials such as posters and signage. Any kind of promotional material that reflects a brand of non-tobacco shisha product is prohibited in any place non-tobacco shisha products are sold. Examples of prohibited displays include:
 - Decorative panels or backdrops that feature a brand of non-tobacco shisha;
 - Backlit or illuminated panels that include non-tobacco shisha products and brand indicators; and
 - Countertop displays of non-tobacco shisha products or other products which include a brand indicator.

These restrictions also apply to any promotional material that is visible from outside a location where non-tobacco shisha products are sold.

Signage Restrictions for Non-Tobacco Shisha Products at Retail

- Regulations will be developed to allow retailers selling non-tobacco shisha to post up to three signs indicating the availability of non-tobacco shisha products in their stores. This signage will have to meet the following requirements:
 - A maximum of one sign at any till;
 - A maximum of three signs per location;
 - The text of the sign must not be visible from outside the establishment;
 - The maximum size of the sign is 216 mm by 279 mm (8.5 inches by 11 inches);
 - The sign is white with black text;
 - Brand and brand elements, colour, graphics , pictures and logos are not on the sign; and
 - The text on the sign only uses the words “shisha”, “non-tobacco shisha” and the price or price range.

Retailers will be responsible for producing their own signs, if they choose to post them in their establishment. An example is shown below:



Definitions

- *Non-tobacco shisha* is defined as a non-tobacco product containing herbs or other plants and materials intended for use in a water pipe.

Legislation/Regulations

- [Bill 35, An Act to Amend the *Smoke-free Environment Act, 2005* and the *Tobacco Control Act* can be viewed at \[insert link to passed Bill\].](#)

Enforcement

- Inspectors with Service NL will enforce the provisions of the *Tobacco and Vapour Products Control Act*. For retailers, the following penalties apply:
 - For a 1st offence, a fine of \$500 and a prohibition from selling non-tobacco shisha for 3 months;
 - For a 2nd offence, a fine of \$2,500 and a prohibition from selling non-tobacco shisha for 6 months; and
 - For a 3rd offence and for each subsequent offence, a fine of \$5,000 and a prohibition from selling non-tobacco shisha for 9 months.
- The public can report any violation related to the *Tobacco and Vapour Products Control Act* and the *Smoke-Free Environment Act, 2005* to a Service NL location.

Hookah Establishments

Measures have been implemented to protect the public and employees from the harms of hookah smoking in the province. The *Smoke-free Environment Act, 2005* has been amended to prohibit hookah smoking in indoor public places and workplaces.

Hookah Smoking in Public Places

- Effective **July 1, 2017**, smoking of non-tobacco shisha in public places and workplaces including existing hookah establishments will be prohibited in the province.

Age Restrictions

- Effective **June 7, 2016**:
 - Hookah establishments are prohibited from allowing patrons under the age of 19 into the establishment; and
 - Persons under the age of 19 years are prohibited from working in hookah establishments.

Definitions

- *Hookah establishment* is an establishment where persons smoke non-tobacco substances from a water pipe.
- *Non-tobacco shisha* is a non-tobacco product containing herbs or other plants and materials intended for use in a water pipe.

Legislation

- [Bill 35, An Act to Amend the *Smoke-free Environment Act, 2005* and the *Tobacco Control Act* can be viewed at \[insert link to passed Bill\].](#)

Enforcement

- Inspectors with Service NL will enforce the provisions of the *Smoke-free Environment Act, 2005* ([include hyper link](#)). An owner of a hookah establishment can face a fine of not less than \$500 and not more than \$5,000 if found guilty of contravening the *SFEA*.
- The public can report any violation related to the *Tobacco and Vapour Products Control Act* and the *Smoke-Free Environment Act, 2005* to a Service NL location.

Electronic Cigarettes

Measures have been implemented to protect the public, in particular children and youth, from the potential harms of e-cigarette products in the Province. The sale, display and use of e-cigarettes will be regulated in a similar way as tobacco products.

Sales to Minors Prohibition

- Effective **June 7, 2016**, the sale of vapour products to persons under the age of 19 is prohibited. Vapour products include e-cigarettes, e-substance and a cartridge for or component of an e-cigarette.

Use in Public Places, Workplaces and Motor Vehicles

- Effective **June 7, 2016**, the use of electronic cigarettes is prohibited in all public places (e.g., food premises, licensed liquor establishments, retail stores, vapour products shops, etc.), workplaces and motor vehicles when the vehicle is occupied by a person under the age of 16.
- A designated e-cigarette use room will be permitted in:
 - Long-term care facilities for use by residents of the facilities; and
 - Workplaces that are a remote worksite, as designated by the regulations, an underground mining operation or a marine installation or structure as defined by section 152 of the *Canada-Newfoundland Atlantic Accord Implementation Act (Canada)*.

A designated e-cigarette use room cannot be a room normally used or occupied by non-e-cigarette users. The room must meet the ventilation requirement of the *Smoke-free Environment Regulations*.

Places Where Vapour Products Cannot be Sold

- Effective **July 1, 2017**, the sale of vapour products will be prohibited in places where the sale of tobacco products is currently prohibited. Examples of places include pharmacies, temporary facilities, personal care homes, child care centres, schools, universities, recreational facilities and government buildings.

Display Restrictions for Vapour Products

- Effective **July 1, 2017**, the current restrictions in place for the display and promotion of tobacco products at retail will apply to the sale and promotion of vapour products. Products must not be visible inside the premises, or visible from outside the premises.
- The Act does not specify how a retailer should ensure vapour products are not visible. Options available for retailers to ensure the products are not visible include the use of drawers, cabinets with doors, curtains and under counters.

The display ban for vapour products will not apply during these times:

- Restocking of the product;
- While a retailer is doing an inventory; or
- When a retailer is receiving delivery of products or unpacking products.

Promotion Restrictions for Vapour Products

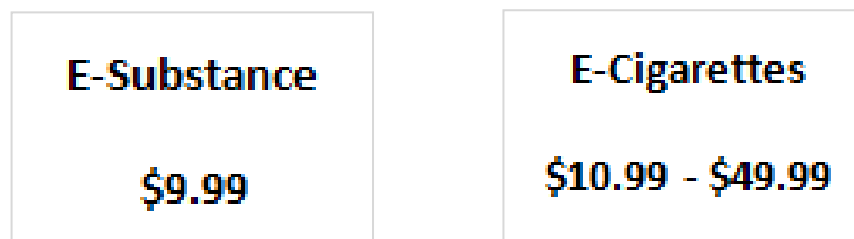
- Effective **July 1, 2017**, vapour products cannot be promoted or advertised as being sold in the premises by using materials such as posters and signage. Any kind of promotional material that reflects a brand of vapour product is prohibited in any place a vapour products is sold. Examples of prohibited displays include:
 - Decorative panels or backdrops that feature a brand of vapour product;
 - Backlit or illuminated panels that include vapour products and brand indicators; and
 - Countertop displays of vapour products or other products which include a brand indicator.

These restrictions also apply to any promotional material that is visible from outside a location where tobacco products are sold.

Signage Restrictions for Vapour Product Retailers

- Regulations will be developed to allow vapour product retailers to post up to three signs indicating the availability of vapour products in their stores. This signage would have to meet the following requirements:
 - A maximum of one sign at any till;
 - A maximum of three signs per location;
 - The text of the sign must not be visible from outside the establishment;
 - The maximum size of the sign is 216 mm by 279 mm (8.5 inches by 11 inches);
 - The sign is white with black text;
 - Brand and brand elements, colour, graphics , pictures and logos are not on the sign; and
 - The text on the sign only uses the words “vapour product”, “electronic (e) cigarette” and “electronic (e) substance” and the price or price range.

Retailers will be responsible for producing their own signs, if they choose to post them in their establishment. Two examples are shown below:



Retailers may offer customers a binder or other reference tool containing an inventory of vapour products available for purchase. Outdoor signs located on a vapour products shop, or within the boundaries of the vapour products shop, that advertise the price and/or availability of vapour products will be prohibited effective **July 1, 2017**.

Vapour Products Shop

- Vapour products shops (e.g., vape shops) will be regulated in a similar way to tobacconist shops. They will be able to display vapour products after **July 1, 2017**, provided:
 - The only business conducted is the sale of vapour products;

- Products and promotional material are not visible from outside the shop or located on the exterior of the shop; and
- The owner does not permit a person under the age of 19 to enter the premises unless accompanied by an adult.

Definitions

- *E-cigarette* is a product or device, whether or not it resembles a cigarette, containing a power source and heating element designed to vapourize an e-substance for inhalation or release into the air, or a product.
- *E-substance* is a solid, liquid or gas for use in an e-cigarette that, on being heated, produces a vapour, regardless of whether the solid, liquid or gas contains nicotine.
- *Retailer* is a person who in the ordinary course of business sells or supplies tobacco, vapour products or non-tobacco shisha to another person.
- *Vapour products shop* is a place or premises in which the only business conducted is the sale of vapour products.
- Vapour products include an e-cigarette, an e-substance, or a cartridge for or component of an e-cigarette.

Legislation/Regulations

- [Bill 35, An Act to Amend the *Smoke-free Environment Act, 2005* and the *Tobacco Control Act* can be viewed at \[insert link to passed Bill\].](#)

Enforcement

- Inspectors with Service NL will enforce the provisions of the *Tobacco and Vapour Products Control Act*. For retailers, the following penalties apply:
 - For a 1st offence, a fine of \$500 and a prohibition from selling vapour products for 3 months;
 - For a 2nd offence, a fine of \$2,500 and a prohibition from selling vapour products for 6 months; and
 - For a 3rd offence and for each subsequent offence, a fine of \$5,000 and a prohibition from selling vapour products for 9 months.
- Inspectors with Service NL will enforce the provisions of the *Smoke-free Environment Act, 2005*. An operator of a long-term care facility, owner of a public place and an employer can face a fine of not less than \$500 and not more than \$5,000 if found guilty of contravening the *Smoke-free Environment Act*.
- The public can report any violation related to the *Tobacco and Vapour Products Control Act* and the *Smoke-Free Environment Act, 2005* to a Service NL location.