

# *The Tobacco and Vaping Products Act (TVPA)*

## Tobacco Products and Promotions

Definition of a tobacco product - Section 2 of the TVPA:

"tobacco product means a product made in whole or in part of tobacco, including tobacco leaves. It includes papers, tubes and filters intended for use with that product, a device, other than a water pipe, that is necessary for the use of that product and the parts that may be used with the device."

The following requirements under the TVPA have been enacted to protect young persons and others from inducements to use tobacco products and the consequent dependence on them:

- **Prohibits** the promotion of a tobacco product, including by means of the packaging, in a manner that is false, misleading or deceptive with respect to, or that is likely to create an erroneous impression about, the characteristics, health effects or health hazards of the tobacco product or its emissions (Subsection 20(1) of the TVPA).
- **Prohibits** the promotion of a tobacco product, including by means of the packaging, in a manner that could cause a person to believe that the product or its emissions are less harmful than other tobacco products or their emissions (Paragraph 20.1(a) of the TVPA).
- **Prohibits** the promotion of a tobacco product by means of a testimonial or an endorsement, however displayed or communicated (Subsection 21(1) of the TVPA).
- **Prohibits** the promotion of a tobacco product by means of advertising that depicts, in whole or in part, a tobacco product, its package or a tobacco product-related brand element or that evokes a tobacco product or a tobacco product-related brand element (Subsection 22(1) of the TVPA).
- **Prohibits** the promotion of a tobacco product using lifestyle advertising or advertising for which there are reasonable grounds to believe that it could be appealing to young persons (i.e. advertising that associates a product with, or evokes a way of life that includes, but is not limited to, glamour, recreation, excitement, vitality, risk, or daring) (Subsection 22(1) and 22(3) of the TVPA).

- **Allows** the advertisement of a tobacco product by means of information advertising or brand-preference advertising that is in:
  - A publication that is addressed and sent to an adult who is identified by name (Paragraph 22(2)(a) of the TVPA); or
  - Signs in a place where young persons are not permitted by law (Paragraph 22(2)(c) of the TVPA).
- **Prohibits** the promotion or sale of a device that is a tobacco product or a part that may be used with such a device that has an appearance, shape, or other sensory attribute or a function that could make the product appealing to young persons (Section 23.3 of the TVPA).
- **Prohibits** the promotion of a tobacco product-related brand element or the name of a tobacco product manufacturer in a manner that is likely to create an association between the brand element or the name and a person, entity, event, activity or permanent facility (Subsection 24(1) of the TVPA).
- **Prohibits** the use, directly or indirectly, a tobacco product-related brand element or the name of a tobacco product manufacturer in the promotional material related to a person, entity, event, activity or permanent facility (Subsection 24(2) of the TVPA).
- **Prohibits** the display a tobacco product-related brand element or the name of a tobacco product manufacturer on a permanent facility, as part of the name of the facility or otherwise, if the facility is used for a sports or cultural event or activity (Section 25 of the TVPA).
- **Prohibits** the promotion of a tobacco product by a manufacturer or retailer which offers:
  - To provide or offer to provide any consideration, for the purchase of a tobacco product, including a gift to a purchaser or a third party, bonus, premium, cash rebate or right to participate in a game, draw, lottery or contest.
  - To furnish or offer to furnish a tobacco product without monetary consideration or in consideration of the purchase of a product or service or the performance of a service.
  - To furnish or offer to furnish an accessory that displays a tobacco product-related brand element without monetary consideration or in consideration of the purchase of a product or service or the performance of a service (Section 29 of the TVPA).

As a regulated party, it is your responsibility to ensure that you understand how the law applies to you, and to ensure your products, activities, and processes comply with the TVPA and its regulations and all other applicable laws in Canada.

Failure to comply with the requirements of the applicable legislation may result in further compliance and enforcement actions. Offences related to these sections may result in fines up to \$500,000 or imprisonment for up to two years, or both.

## Provincial Legislation and Municipal By-Laws

In addition to federal legislation, and depending on the location of your business, there may be applicable provincial laws and municipal bylaws which further restrict the sale and promotion of vaping products.

**For more information, please contact Health Canada:**

**By email:** [tcp.questions-plt@hc-sc.gc.ca](mailto:tcp.questions-plt@hc-sc.gc.ca)

**By phone:** 1-866-318-1116 (toll free)

The TVPA may be consulted at:

<https://laws-lois.justice.gc.ca/eng/acts/t-11.5/FullText.html>

