



CHAPTER 15

An Act to amend the Tobacco Tax Act

Assented to June 1, 2011

Note: This Act amends the *Tobacco Tax Act*. For the legislative history of the Act, see the Table of Consolidated Public Statutes – Detailed Legislative History at www.e-Laws.gov.on.ca.

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1. (1) The definition of “acquire” in section 1 of the *Tobacco Tax Act* is amended by striking out “tobacco” wherever it appears and substituting in each case “tobacco products”.**
- (2) The definition of “consumer” in section 1 of the Act is amended,**
 - (a) by striking out “tobacco” in clause (a) and substituting “a tobacco product”;**
 - (b) by striking out “tobacco” in clause (b) and substituting “a tobacco product”;**
and
 - (c) by striking out “the tobacco” in the portion after clause (b) and substituting “it”.**
- (3) Section 1 of the Act is amended by adding the following definition:**
“council of the band” has the same meaning as in subsection 2 (1) of the *Indian Act* (Canada); (“conseil de la bande”)
- (4) The definition of “dealer” in section 1 of the Act is repealed and the following substituted:**
“dealer” means, in relation to tobacco products, any person who in Ontario sells tobacco products or offers or keeps tobacco products for sale, either at wholesale or at retail; (“marchand”)
- (5) The definition of “designated warehouse” in section 1 of the Act is amended by adding “or unmarked fine cut tobacco” at the end.**
- (6) The definition of “exporter” in section 1 of the Act is repealed.**
- (7) The definition of “importer” in section 1 of the Act is repealed.**

(8) Section 1 of the Act is amended by adding the following definition:

“Indian” has the same meaning as in subsection 2 (1) of the *Indian Act* (Canada); (“Indien”)

(9) The definition of “interjurisdictional transporter” in section 1 of the Act is repealed and the following substituted:

“interjurisdictional transporter” means the operator of a motor vehicle, the operator or shipping agent of record of a vessel, the operator of railway equipment on rails or the operator of an aircraft who engages in the transportation of raw leaf tobacco or tobacco in bulk and who operates for such purposes,

- (a) one or more motor vehicles inside and outside Ontario to which number plates are attached as required by the *Highway Traffic Act*,
- (b) one or more vessels under the *Canada Shipping Act, 2001*,
- (c) railway equipment on rails in connection with and as part of a public transportation system inside and outside Ontario, or
- (d) aircraft, the operator of which is approved as a carrier of goods or passengers under the *Aeronautics Act* (Canada), or regulations made under that Act, or the *Canada Transportation Act* or regulations made under that Act; (“transporteur interterritorial”)

(10) Section 1 of the Act is amended by adding the following definitions:

“marked fine cut tobacco” means fine cut tobacco in a package that is marked or stamped with an indicium as required under the regulations; (“tabac haché fin marqué”)

“marked tobacco product” means marked cigarettes or marked fine cut tobacco; (“produit du tabac marqué”)

(11) The definition of “mark-point” in section 1 of the Act is amended by striking out “marking cigarettes” at the end and substituting “marking or stamping cigarettes or fine cut tobacco”.

(12) The definition of “package” in section 1 of the Act is amended by striking out “tobacco” and substituting “a tobacco product”.

(13) Section 1 of the Act is amended by adding the following definition:

“police officer” means police officer as defined in subsection 2 (1) of the *Police Services Act*; (“agent de police”)

(14) Section 1 of the Act is amended by adding the following definition:

“raw leaf tobacco” means unmanufactured tobacco or the leaves and stems of the tobacco plant, but does not include seedlings; (“tabac en feuilles”)

(15) Section 1 of the Act is amended by adding the following definition:

“reserve” means a reserve as defined in subsection 2 (1) of the *Indian Act* (Canada) or an Indian settlement located on Crown land, the Indian inhabitants of which are treated by the Department of Indian and Northern Affairs in the same manner as Indians residing on a reserve; (“réserve”)

(16) The definition of “retail dealer” in section 1 of the Act is amended by striking out “tobacco” and substituting “tobacco products”.

(17) The definition of “tear tape” in section 1 of the Act is amended by adding “or a package of fine cut tobacco” after “package of cigarettes”.

(18) The definition of “tear tape manufacturer” in section 1 of the Act is amended by adding “or fine cut tobacco” after “cigarettes”.

(19) The definition of “tobacco” in section 1 of the Act is repealed and the following substituted:

“tobacco” includes tobacco products; (“tabac”)

(20) The definition of “tobacco” in section 1 of the Act, as re-enacted by subsection (19), is repealed and the following substituted:

“tobacco” means raw leaf tobacco and tobacco products; (“tabac”)

(21) The definition of “tobacco in bulk” in section 1 of the Act is amended by striking out “tobacco” and substituting “tobacco product”.

(22) Section 1 of the Act is amended by adding the following definition:

“tobacco product” means tobacco in any form in which it is used or consumed, and includes snuff; (“produit du tabac”)

(23) Section 1 of the Act is amended by adding the following definitions:

“unmarked fine cut tobacco” means fine cut tobacco that is not marked fine cut tobacco; (“tabac haché fin non marqué”)

“unmarked tobacco product” means unmarked cigarettes and unmarked fine cut tobacco; (“produit du tabac non marqué”)

(24) The definition of “wholesaler” in section 1 of the Act is amended by striking out “tobacco” and substituting “tobacco products”.

(25) Section 1 of the Act is amended by adding the following subsections:

Producing raw leaf tobacco

(2) For the purposes of this Act, a person produces raw leaf tobacco if the person plants or grows tobacco plants or harvests, cures or bales the tobacco.

Processing raw leaf tobacco

(3) For the purposes of this Act, a person processes raw leaf tobacco if the person strips, stems, threshes, redries, blends or packages it; however, processing does not include the manufacture, fabrication or production of tobacco products.

(26) Section 1 of the Act is amended by adding the following subsections:

Exporter of tobacco in bulk

(4) For the purposes of this Act and with reference to a particular date, a person is considered to be an exporter if the person takes tobacco in bulk out of Ontario during the 12 consecutive months before that date, or causes it to be taken out of Ontario during that period, and may be accountable for the tax on that tobacco to the jurisdiction receiving it.

Importer of tobacco in bulk

(5) For the purposes of this Act and with reference to a particular date, a person is considered to be an importer if the person brings tobacco in bulk into Ontario during the 12 consecutive months before that date or causes it to be brought into Ontario during that period.

(27) Section 1 of the Act is amended by adding the following subsection:

Deemed interjurisdictional transporter, tobacco in bulk

(6) If an interjurisdictional transporter transports tobacco in bulk and if the consignee or consignor of the tobacco does not hold a permit to mark cigarettes, the consignee or consignor is deemed to be an interjurisdictional transporter for the purposes of this Act.

(28) Subsection 1 (6) of the Act, as enacted by subsection (27), is amended by adding “or a permit to mark fine cut tobacco” after “permit to mark cigarettes”.

(29) Section 1 of the Act is amended by adding the following subsection:

Same, raw leaf tobacco

(7) If an interjurisdictional transporter transports raw leaf tobacco and if the consignee or consignor of the tobacco does not hold a registration certificate as a raw leaf tobacco importer or exporter, the consignee or consignor is deemed to be an interjurisdictional transporter for the purposes of this Act.

2. (1) Subsection 2 (1) of the Act is amended by striking out “tobacco” and substituting “a tobacco product”.

(2) Subsection 2 (2.3) of the Act is amended by striking out “tobacco” and substituting “tobacco products”.

(3) Subsection 2 (4) of the Act is amended by striking out “tobacco” and substituting “tobacco products”.

(4) Subsection 2 (5) of the Act is amended by striking out “tobacco” and substituting “tobacco product”.

(5) Subclause 2 (7.1) (b) (i) of the Act is amended by striking out “29 (3) or (4), 29.1 (6) or (7) or 34 (2)” at the end and substituting “29 (19) or (20), 29.1 (6) or (7), 34 (2) or 34.0.1 (2)”.

(6) Subclause 2 (7.1) (b) (ii) of the Act is amended by striking out “29 (3) or (4), 29.1 (6) or (7) or 34 (2)” and substituting “29 (19) or (20), 29.1 (6) or (7), 34 (2) or 34.0.1 (2)”.

(7) Subclause 2 (7.1) (b) (iii) of the Act is amended by striking out “29 (3) or (4), 29.1 (6) or (7) or 34 (2)” at the end and substituting “29 (19) or (20), 29.1 (6) or (7), 34 (2) or 34.0.1 (2)”.

3. (1) The Act is amended by adding the following sections:

Registration certificates for raw leaf tobacco

Raw leaf tobacco producer

2.2 (1) A person who, in Ontario, produces raw leaf tobacco shall apply for a registration certificate as a raw leaf tobacco producer.

Raw leaf tobacco processor

(2) A person who, in Ontario, processes raw leaf tobacco shall apply for a registration certificate as a raw leaf tobacco processor.

Raw leaf tobacco dealer

(3) A person who, in Ontario, sells raw leaf tobacco or offers or keeps it for sale shall apply for a registration certificate as a raw leaf tobacco dealer.

Raw leaf tobacco importer

(4) A person who brings raw leaf tobacco into Ontario, or causes it to be brought into Ontario, shall apply for a registration certificate as a raw leaf tobacco importer.

Raw leaf tobacco exporter

(5) A person who takes raw leaf tobacco out of Ontario, or causes it to be taken out of Ontario, shall apply for a registration certificate as a raw leaf tobacco exporter.

Application process

(6) Application for a registration certificate shall be made in the form and manner

required by the Minister.

Issuance

(7) The Minister shall issue a registration certificate to an applicant for the certificate who satisfies such criteria as may be prescribed and the Minister may impose such reasonable conditions and restrictions on the certificate as he or she considers appropriate.

Suspension, cancellation

(8) The Minister may suspend or cancel a registration certificate if the holder fails to comply with the conditions or restrictions imposed on the certificate and in such other circumstances as may be prescribed.

Hearing

(9) If the Minister proposes to refuse to issue a registration certificate or proposes to suspend or cancel a registration certificate, the Minister shall, before doing so, afford the person an opportunity to appear before the Minister to show cause why the registration certificate should not be refused, suspended or cancelled, as the case may be.

Duty to notify

(10) A person who holds a registration certificate issued under this section shall forthwith notify the Minister in writing of all changes in the name or nature of the person's business or of the termination of the business.

Duty to provide information

(11) A person who is required to hold a registration certificate issued under this section shall give the Minister such information as may be prescribed and shall do so in accordance with the prescribed requirements.

Deemed registration, transitional

(12) A person who holds the following licence or registration issued by The Ontario Flue-Cured Tobacco Growers' Marketing Board under the *Farm Products Marketing Act* is deemed to hold the registration certificate under this section that is specified:

1. The holder of a licence to produce unmanufactured flue-cured tobacco produced in Ontario is deemed to hold a registration certificate as a raw leaf tobacco producer, a raw leaf tobacco processor or a raw leaf tobacco dealer, as the case may be.
2. A registered buyer of unmanufactured flue-cured tobacco produced in Ontario is deemed to hold a registration certificate as a raw leaf tobacco processor or raw leaf tobacco dealer, as the case may be.

Effect of non-compliance, transitional

(13) The person ceases to be deemed to hold the registration certificate if the person fails to comply with the requirements applicable to the licence or registration under the *Farm Products Marketing Act*.

Disclosure of information, transitional

(14) The Ontario Flue-Cured Tobacco Growers' Marketing Board and the Ontario Farm Products Marketing Commission shall disclose to the Minister, or cause to be disclosed to the Minister, information that the Minister considers to be necessary for the administration and enforcement of this section.

Offence

(15) Every person who holds a registration certificate issued under this section and who fails to comply with a condition or restriction imposed on the certificate under subsection (7) is guilty of an offence and, on conviction, is liable to the following fine:

1. A maximum fine of \$10,000, if it is the person's first conviction under this

subsection.

2. A maximum fine of \$15,000, if it is the person's second conviction under this subsection.
3. A maximum fine of \$20,000, if it is the person's third or a subsequent conviction under this subsection.

Penalty

(16) Every person who holds a registration certificate issued under this section and who fails to comply with a condition or restriction imposed on the certificate under subsection (7) shall pay to the Minister a penalty, when assessed for it, equal to the following amount:

1. \$500, if it is the person's first penalty assessed under this subsection.
2. \$1,000, if it is the person's second penalty assessed under this subsection.
3. \$2,500, if it is the person's third penalty assessed under this subsection.
4. \$5,000, if the person has been assessed for a penalty under this subsection at least three times before.

Restricted activities re raw leaf tobacco

Producing

2.3 (1) No person shall, in Ontario, produce raw leaf tobacco unless the person holds a registration certificate as a raw leaf tobacco producer.

Processing

(2) No person shall, in Ontario, process raw leaf tobacco unless the person holds a registration certificate as a raw leaf tobacco processor.

Sale, by seller

(3) No person shall, in Ontario, sell raw leaf tobacco, offer or keep it for sale, deliver it or cause it to be delivered unless the person holds a registration certificate issued under section 2.2 or 7 authorizing the person to do so.

Same, to purchaser

(4) No person shall, in Ontario, sell raw leaf tobacco, offer or keep it for sale, deliver it or cause it to be delivered to a person who does not hold a registration certificate issued under section 2.2 or 7 authorizing the person to purchase it.

Purchase, by purchaser

(5) No person shall, in Ontario, purchase raw leaf tobacco or receive it unless the person holds a registration certificate issued under section 2.2 or 7 authorizing the person to do so.

Same, from seller

(6) No person shall, in Ontario, purchase raw leaf tobacco or receive it from a person who does not hold a registration certificate issued under section 2.2 or 7 authorizing the person to sell it.

Importing

(7) No person shall bring raw leaf tobacco into Ontario or cause it to be brought into Ontario unless the person holds a registration certificate as a raw leaf tobacco importer.

Exporting

(8) No person shall take raw leaf tobacco out of Ontario or cause it to be taken out of Ontario unless the person holds a registration certificate as a raw leaf tobacco exporter.

Transporting

(9) No interjurisdictional transporter shall, in Ontario, transport raw leaf tobacco unless the interjurisdictional transporter holds a registration certificate issued under section 6.

Same

(10) No person other than an interjurisdictional transporter shall, in Ontario, transport raw leaf tobacco unless,

- (a) the person holds a registration certificate issued under section 2.2 or 7; or
- (b) the person is transporting the raw leaf tobacco on behalf of a person who holds a registration certificate issued under section 2.2 or 7.

Record keeping

(11) While a person described in clause (10) (a) or (b) is transporting raw leaf tobacco, the person shall have in their possession such information and documents as may be prescribed by the Minister.

Exemptions

(12) A prohibition in this section does not apply to such persons or in such circumstances as may be prescribed.

Offences

(13) Every person who contravenes subsection (1), (2), (3), (4), (5), (6), (7), (8), (9) or (10) is guilty of an offence and, on conviction, is liable to the following fine:

1. A maximum fine of \$10,000, if it is the person's first conviction under this subsection.
2. A maximum fine of \$15,000, if it is the person's second conviction under this subsection.
3. A maximum fine of \$20,000, if it is the person's third or a subsequent conviction under this subsection.

Penalty

(14) Every person who operates as a producer, processor, dealer, importer or exporter of raw leaf tobacco in Ontario without holding the required registration certificate issued under section 2.2 shall pay to the Minister a penalty, when assessed for it, equal to the following amount:

1. \$500, if it is the person's first penalty assessed under this subsection.
2. \$1,000, if it is the person's second penalty assessed under this subsection.
3. \$2,500, if it is the person's third penalty assessed under this subsection.
4. \$5,000, if the person has been assessed for a penalty under this subsection at least three times before.

(2) Subsections 2.2 (12), (13) and (14) of the Act, as enacted by subsection (1), are repealed.

4. (1) Subsection 3 (1) of the Act is amended by striking out "tobacco" and substituting "a tobacco product".

(2) Subsection 3 (3) of the Act is amended by striking out "tobacco" and substituting "a tobacco product".

(3) Clause 3 (4) (a) of the Act is amended by striking out "tobacco" and substituting "a tobacco product".

(4) Clause 3 (4) (b) of the Act is amended by striking out "tobacco" and

substituting “a tobacco product”.

5. Subsection 3.1 (1) of the Act is amended by striking out “tobacco” and substituting “a tobacco product”.

6. (1) Subsection 4 (2) of the Act is amended by striking out “tobacco” wherever it appears and substituting in each case “tobacco products”.

(2) Clause 4 (3) (a) of the Act is amended by striking out “the sale or delivery of tobacco” and substituting “the sale or delivery of tobacco products”.

(3) Subsection 4 (4) of the Act is amended by striking out “tobacco sold or delivered” and substituting “a tobacco product sold or delivered”.

(4) The English version of subsection 4 (4) of the Act is amended by striking out “purchased tobacco” at the end and substituting “purchased the tobacco”.

(5) Subsection 4 (5) of the Act is amended by striking out “sells or delivers tobacco” and substituting “sells or delivers tobacco products”.

(6) Subsection 4 (6) of the Act is amended by striking out “sells or delivers tobacco” and substituting “sells or delivers tobacco products”.

(7) Subsection 4 (6.1) of the Act is amended by adding “on a tobacco product” before “in respect of which the importer is a consumer”.

7. (1) Subsection 5 (3) of the Act is amended by striking out “tobacco” wherever it appears and substituting in each case “tobacco products”.

(2) Clause 5 (4) (a) of the Act is amended by striking out “the sale or delivery of tobacco” and substituting “the sale or delivery of tobacco products”.

(3) Subsection 5 (5) of the Act is amended by striking out “tobacco” at the end and substituting “tobacco products”.

(4) Subsection 5 (6) of the Act is amended by striking out “purchases or acquires tobacco” and substituting “purchases or acquires tobacco products”.

(5) Subsection 5 (8) of the Act is amended by striking out “tobacco” and substituting “tobacco products”.

(6) Subsection 5 (9) of the Act is amended by striking out “tobacco” and substituting “tobacco products”.

(7) Subsection 5 (10) of the Act is amended by striking out “tobacco by the exporter” and substituting “tobacco products by the exporter”.

(8) Subsection 5 (11) of the Act is repealed and the following substituted:

Penalty

(11) An exporter who fails to comply with subsection (9) or (10) shall pay a penalty, when assessed for it, equal to the amount of the tax that would be payable under section 2 by a consumer purchasing the same quantity of tobacco products that were exported or were to be exported.

(9) Clause 5 (11.1) (a) of the Act is repealed and the following substituted:

(a) an amount equal to three times the tax that would be payable under section 2 by a consumer purchasing the same quantity of tobacco products that were imported into Ontario by the person during the period when the person did not hold a subsisting registration certificate; and

(10) Subsection 5 (11.2) of the Act is repealed and the following substituted:

Penalty on unregistered exporter

(11.2) Every person who operates as an exporter in Ontario without holding a subsisting registration certificate under this section shall pay a penalty, when assessed for it, equal to the amount of the tax that would be payable under section 2 by a consumer purchasing the same quantity of tobacco products that were exported out of Ontario by the person during the period when the person did not hold a subsisting registration certificate.

(11) Clause 5 (13) (b) of the Act is repealed and the following substituted:

(b) in respect of a conviction for operating as an importer or exporter without holding a registration certificate, to an additional fine of not less than an amount equal to three times the tax that would be payable under section 2 by a consumer purchasing the same quantity of tobacco products that were imported into or exported out of Ontario by the person during the period when the person did not hold a registration certificate.

(12) Subsection 5 (14) of the Act is amended by striking out “tobacco” in the portion before paragraph 1 and substituting “a tobacco product”.

(13) Paragraph 2 of subsection 5 (14) of the Act is repealed and the following substituted:

2. An amount equal to three times the tax that would be payable under section 2 by a consumer purchasing the same quantity of tobacco products that were purchased or received from the importer during the period when the importer did not hold a registration certificate.

8. (1) Subsection 6 (2.2) of the Act is repealed and the following substituted:

Penalty, failure to register

(2.2) Every interjurisdictional transporter transporting tobacco in bulk into or out of Ontario who does not hold a registration certificate under this Act shall pay to the Minister a penalty, when assessed for it, equal to the sum of \$500 and 5 per cent of the amount of the tax that would be payable under section 2 by a consumer purchasing the same quantity of tobacco products that were transported by the transporter into or out of Ontario during the period when the transporter did not hold a registration certificate.

(2) Subsection 6 (3) of the Act is amended by adding “every shipment of raw leaf tobacco and” after “the information prescribed by the Minister in respect of”.

(3) Section 6 of the Act is amended by adding the following subsection:

Same re raw leaf tobacco

(5.1) When transporting raw leaf tobacco, every interjurisdictional transporter shall keep in the possession of the driver of the motor vehicle in which the raw leaf tobacco is being transported,

- (a) the interjurisdictional transporter’s registration certificate issued under subsection (1); and
- (b) the information required under subsection (3).

(4) Subsection 6 (7) of the Act is amended by striking out “tobacco” and substituting “tobacco products”.

(5) Subsection 6 (8) of the Act is amended by adding “of tobacco products” after “holding or disposal” in the portion before clause (a).

(6) Clause 6 (8) (b) of the Act is amended by striking out “tobacco” and substituting “tobacco products”.

(7) Clause 6 (8) (c) of the Act is repealed and the following substituted:

- (c) that the importer or exporter for whom the tobacco products are being transported, if such is the case, holds a registration certificate under subsection 5 (1) or holds a transit permit issued under subsection 10 (1) to the owner of the tobacco products being transported.

(8) Subsection 6 (9) of the Act is repealed and the following substituted:

Penalty

(9) Tobacco products seized under subsection (7) are forfeited to the Crown to be disposed of as the Minister directs unless, within 30 days following the seizure, the person from whom the tobacco was seized, or the owner of the tobacco, pays to the Minister a penalty equal to the amount of the tax that would be payable under section 2 by a consumer purchasing the same quantity of tobacco products that were seized.

(9) Subsection 6 (10) of the Act is amended by striking out “Where tobacco has been seized” at the beginning and substituting “If tobacco products have been seized”.

(10) Subsection 6 (11) of the Act is amended by striking out “tobacco” in the portion before clause (a) and substituting “tobacco products”.

(11) Subsection 6 (12) of the Act is amended by striking out “possession of the tobacco” and substituting “possession of the tobacco products”.

(12) Subsection 6 (13) of the Act is amended by striking out “tobacco” and substituting “tobacco products”.

(13) Subsection 6 (14) of the Act is amended by striking out “the tobacco is forfeited” and substituting “the tobacco products are forfeited”.

(14) Subsection 6 (15) of the Act is amended by striking out “If a sale of tobacco is directed” at the beginning and substituting “If a sale of tobacco products is directed”.

9. (1) Clause 7 (4) (b) of the Act is repealed and the following substituted:

- (b) in respect of a conviction for operating as a manufacturer without holding a registration certificate, to an additional fine of not less than an amount equal to three times the tax that would be payable under section 2 by a consumer purchasing the same quantity of tobacco products that were manufactured by the person during the period when the person did not hold a registration certificate.

(2) Subsection 7 (5) of the Act is repealed and the following substituted:

Penalty, failure to register

(5) Every person who operates as a manufacturer in Ontario without holding a registration certificate required by this section shall pay to the Minister a penalty, when assessed for it, equal to the amount of the tax that would be payable under section 2 by a consumer purchasing the same quantity of tobacco products that were manufactured by the person during the period when the person did not hold a registration certificate.

10. (1) Clause 7.0.1 (2) (b) of the Act is repealed and the following substituted:

- (b) in respect of a conviction for importing into Ontario or possessing in Ontario equipment for manufacturing cigarettes without holding a registration certificate issued under subsection 7 (1), to an additional fine of not less than an amount equal to three times the tax that would be payable under section 2 by a consumer purchasing the same quantity of cigarettes that were manufactured by the person during the period when the person did not hold a registration certificate.

(2) Subsection 7.0.1 (3) of the Act is repealed and the following substituted:

Penalty, failure to register

(3) Every person who imports into Ontario or possesses in Ontario equipment for manufacturing cigarettes without holding a registration certificate issued under subsection 7 (1) shall pay to the Minister a penalty, when assessed for it, equal to the amount of the tax that would be payable under section 2 by a consumer purchasing the same quantity of cigarettes that were manufactured by the person during the period when the person did not hold a registration certificate.

11. (1) Subsection 7.1 (4) of the Act is repealed and the following substituted:

Cancellation of permit

(4) The Minister may cancel or suspend a permit to manufacture tear tape if a tear tape manufacturer sells, distributes or delivers,

- (a) tear tape for packages of cigarettes marked in accordance with the regulations to a person who is not a holder of a permit issued under section 8 to mark or stamp cigarettes; or
- (b) tear tape for packages of fine cut tobacco marked in accordance with the regulations to a person who is not a holder of a permit issued under section 8 to mark or stamp fine cut tobacco.

(2) Subsection 7.1 (6) of the Act is repealed and the following substituted:

Prohibition

(6) No holder of a permit to manufacture tear tape shall sell, distribute or deliver,

- (a) tear tape for packages of cigarettes marked in accordance with the regulations to a person unless the person holds a permit issued under section 8 to mark or stamp cigarettes; or
- (b) tear tape for packages of fine cut tobacco marked in accordance with the regulations to a person unless the person holds a permit issued under section 8 to mark or stamp fine cut tobacco.

(3) Subsection 7.1 (7) of the Act is repealed and the following substituted:

Penalty

(7) Every person who operates as a tear tape manufacturer without holding a permit to manufacture tear tape required by this section shall pay a penalty, when assessed for it, equal to the amount of the tax that would be payable under section 2 by a consumer purchasing the same quantity of packages of cigarettes that could have been affixed with tear tape that the person manufactured for use in Ontario during the period when the person did not hold a permit to manufacture tear tape.

(4) Subsection 7.1 (7) of the Act, as re-enacted by subsection (3), is amended by adding “or packages of fine cut tobacco” after “packages of cigarettes”.

(5) Subsection 7.1 (8) of the Act is repealed and the following substituted:

Same, holder of permit

(8) Every holder of a permit to manufacture tear tape who,

- (a) fails to mark, in accordance with the regulations, the tear tape the holder manufactures for use in Ontario;
- (b) fails to account for any tear tape in accordance with the regulations; or
- (c) sells, distributes or delivers tear tape marked in accordance with the regulations to a

person who does not hold a permit to mark or stamp cigarettes under section 8, shall pay a penalty, when assessed for it, equal to the amount of the tax that would be payable under section 2 by a consumer purchasing the same quantity of packages of cigarettes that could have been affixed with the tear tape that the manufacturer failed to mark, failed to account for, or that the manufacturer sold, distributed or delivered to a person who did not hold a permit issued under section 8 to mark or stamp cigarettes.

(6) Clause 7.1 (8) (c) of the Act, as re-enacted by subsection (5), is repealed and the following substituted:

(c) sells, distributes or delivers,

- (i) tear tape for packages of cigarettes marked in accordance with the regulations to a person who does not hold a permit issued under section 8 to mark or stamp cigarettes, or
- (ii) tear tape for packages of fine cut tobacco marked in accordance with the regulations to a person who does not hold a permit issued under section 8 to mark or stamp fine cut tobacco,

(7) Subsection 7.1 (8) of the Act, as re-enacted by subsection (5), is amended by striking out the portion after clause (c) and substituting the following:

.....

shall pay a penalty, when assessed for it, equal to the amount of the tax that would be payable under section 2 by a consumer purchasing the same quantity of packages of cigarettes or packages of fine cut tobacco that could have been affixed with the tear tape that the manufacturer failed to mark, failed to account for, or that the manufacturer sold, distributed or delivered to a person who did not hold a permit issued under section 8 to mark or stamp cigarettes or fine cut tobacco.

12. (1) Section 8 of the Act is amended by adding the following subsections:

Same, fine cut tobacco

(1.1) No person shall sell to a consumer required to pay tax under this Act a package of fine cut tobacco unless the package is marked or stamped in accordance with the regulations.

.....

Permit to mark fine cut tobacco

(2.1) No person shall mark packages of fine cut tobacco unless the person holds a permit to mark fine cut tobacco issued to the person under the regulations.

.....

Permit to stamp fine cut tobacco

(3.1) No person shall stamp packages of fine cut tobacco unless the person holds a permit to stamp fine cut tobacco issued to the person under the regulations.

(2) Subsection 8 (4) of the Act is amended by adding “or to mark or stamp fine cut tobacco” after “a permit to mark or stamp cigarettes”.

(3) Subsections 8 (5), (6), (7) and (7.1) of the Act are repealed and the following substituted:

Mark-point

(5) The Minister may specify the number and location of mark-points that the holder of a permit to mark or stamp cigarettes or to mark or stamp fine cut tobacco may establish and operate.

Same

(5.1) No person shall mark or stamp cigarettes or fine cut tobacco at a location other than a mark-point.

Storage of unmarked tobacco products

- (6) No person shall store,
- (a) unmarked cigarettes at a location other than a mark-point for unmarked cigarettes or a designated warehouse for unmarked cigarettes; or
 - (b) unmarked fine cut tobacco at a location other than a mark-point for unmarked fine cut tobacco or a designated warehouse for unmarked fine cut tobacco.

Cancellation of permit

- (7) The Minister may cancel or suspend,
- (a) a permit to mark or stamp cigarettes issued to a person who permits the marking or stamping of cigarettes at a location other than a mark-point for cigarettes; or
 - (b) a permit to mark or stamp fine cut tobacco issued to a person who permits the marking or stamping of fine cut tobacco at a location other than a mark-point for fine cut tobacco.

Tear tape acquisition

(7.1) Every holder of a permit to mark or stamp cigarettes or fine cut tobacco shall obtain all tear tape used in marking packages of cigarettes or packages of fine cut tobacco, as the case may be, for sale in Ontario from a holder of a permit issued under section 7.1 to manufacture tear tape.

(4) Subsection 8 (8) of the Act is amended by adding “or fine cut tobacco” after “a permit to mark or stamp cigarettes”.

(5) Subsections 8 (9) and (9.1) of the Act are repealed and the following substituted:

Penalty, packages of cigarettes

(9) If a holder of a permit to mark or stamp cigarettes fails to account under the regulations for any indicia or tear tape, the holder of the permit shall pay a penalty, when assessed for it, equal to the amount of the tax that would be payable under section 2 by a consumer purchasing the same quantity of packages of cigarettes that could have been affixed with the indicia or tear tape for which the holder of the permit failed to account.

Same, tear tape

(9.1) Every holder of a permit to mark or stamp cigarettes who obtains tear tape for use in Ontario from a person other than a holder of a permit to manufacture tear tape shall pay a penalty, when assessed for it, equal to the amount of the tax that would be payable under section 2 by a consumer purchasing the same quantity of packages of cigarettes that could have been affixed with the tear tape that the holder of the permit obtained from a person other than a holder of a permit to manufacture tear tape.

(6) Section 8 of the Act is amended by adding the following subsections:

Penalty, packages of fine cut tobacco

(9.2) If a holder of a permit to mark or stamp fine cut tobacco fails to account under the regulations for any indicia or tear tape, the holder of the permit shall pay a penalty, when assessed for it, equal to the amount of the tax that would be payable under section 2 by a consumer purchasing the same quantity of packages of fine cut tobacco that could have been affixed with the indicia or tear tape for which the holder of the permit failed to account.

Same, tear tape

(9.3) Every holder of a permit to mark or stamp fine cut tobacco who obtains tear tape for use in Ontario from a person other than a holder of a permit to manufacture tear tape shall pay a penalty, when assessed for it, equal to the amount of the tax that would be payable under section 2 by a consumer purchasing the same quantity of packages of fine cut tobacco that could have been affixed with the tear tape that the holder of the permit obtained from a person other than a holder of a permit to manufacture tear tape.

(7) Clause 8 (10) (b) of the Act is repealed and the following substituted:

(b) in respect of a conviction for marking or stamping cigarettes without holding a permit, to a fine of not less than an amount equal to three times the tax that would be payable under section 2 by a consumer purchasing the same quantity of cigarettes that were marked or stamped by the person during the period when the person did not hold a permit.

(8) Section 8 of the Act is amended by adding the following subsections:

Offence, marking or stamping fine cut tobacco

(13) Every person who marks or stamps fine cut tobacco without holding a permit to mark or stamp fine cut tobacco issued by the Minister under the regulations or who, being the holder of such a permit, contravenes any condition or restriction contained in the permit or any other requirement specified in this section is guilty of an offence and on conviction is liable,

(a) to a fine of not less than \$1,000 and not more than \$10,000; and

(b) in respect of a conviction for marking or stamping fine cut tobacco without holding a permit, to a fine of not less than an amount equal to three times the tax that would be payable under section 2 by a consumer purchasing the same quantity of fine cut tobacco that was marked or stamped by the person during the period when the person did not hold a permit.

Same

(14) Every holder of a permit to mark fine cut tobacco who refuses or neglects to mark packages of fine cut tobacco in accordance with the regulations is guilty of an offence and on conviction is liable to a fine of not less than \$50,000 and not more than \$1,000,000.

Same

(15) Every holder of a permit to stamp fine cut tobacco who refuses or neglects to stamp packages of fine cut tobacco in accordance with the regulations is guilty of an offence and on conviction is liable to a fine of not less than \$5,000 and not more than \$500,000.

13. Subsections 9 (4) and (5) of the Act are repealed and the following substituted:

Penalty

(4) Every person who, being the holder of a permit to purchase and sell unmarked cigarettes, sells or permits the sale of unmarked cigarettes to another person who is liable to collect or to pay tax under this Act shall pay a penalty, when assessed for it, equal to the amount of the tax that would be payable under section 2 by a consumer purchasing the same quantity of cigarettes that were sold or permitted to be sold to a person liable to collect or to pay tax under this Act.

Offence

(5) Every person who, being the holder of a permit to purchase and sell unmarked cigarettes, sells or permits the sale of unmarked cigarettes to another person who is liable to collect or to pay tax under this Act is guilty of an offence and on conviction is liable to a fine

of not less than \$1,000 and not more than \$10,000, plus an additional fine of not less than an amount equal to three times the tax that would be payable under section 2 by a consumer purchasing the same quantity of cigarettes that were sold or permitted to be sold by the permit holder.

14. The Act is amended by adding the following section:

Permit to purchase unmarked fine cut tobacco

9.0.1 (1) No person shall purchase, possess, store or sell unmarked fine cut tobacco in Ontario unless the person has applied for and been issued a permit to purchase and sell unmarked fine cut tobacco under the regulations.

Conditions and restrictions

(2) The Minister may attach such reasonable conditions and restrictions to a permit to purchase and sell unmarked fine cut tobacco as the Minister considers necessary to ensure that the unmarked fine cut tobacco received by the applicant for the permit will be dealt with in accordance with this Act and the regulations.

Notification

(3) Every holder of a permit to purchase and sell unmarked fine cut tobacco shall forthwith notify the Minister in writing of all changes in the name or nature of the person's business or of the termination of the business.

Penalty

(4) Every person who, being the holder of a permit to purchase and sell unmarked fine cut tobacco, sells or permits the sale of unmarked fine cut tobacco to another person who is liable to collect or to pay tax under this Act shall pay a penalty, when assessed for it, equal to the amount of the tax that would be payable under section 2 by a consumer purchasing the same quantity of fine cut tobacco that was sold or permitted to be sold to a person liable to collect or to pay tax under this Act.

Offence

(5) Every person who, being the holder of a permit to purchase and sell unmarked fine cut tobacco, sells or permits the sale of unmarked fine cut tobacco to another person who is liable to collect or to pay tax under this Act is guilty of an offence and on conviction is liable to a fine of not less than \$1,000 and not more than \$10,000, plus an additional fine of not less than an amount equal to three times the tax that would be payable under section 2 by a consumer purchasing the same quantity of fine cut tobacco that was sold or permitted to be sold by the permit holder.

15. Subsections 9.1 (3) and (4) of the Act are repealed and the following substituted:

Penalty

(3) Every person who contravenes subsection (1) or (2) shall pay a penalty, when assessed for it, equal to the amount of the tax that would be payable under section 2 by a consumer purchasing the same quantity of cigarettes that were delivered, or caused to be delivered, in contravention of subsection (1) or (2).

Offence

(4) Every person who contravenes subsection (1) or (2) is guilty of an offence and on conviction is liable to a fine of not less than \$1,000 and not more than \$10,000 and an additional fine of not less than an amount equal to three times the tax that would be payable under section 2 by a consumer purchasing the same quantity of cigarettes that were delivered, or caused to be delivered, in contravention of subsection (1) or (2).

16. The Act is amended by adding the following section:

Unauthorized delivery of unmarked fine cut tobacco

9.2 (1) No person shall deliver or cause to be delivered unmarked fine cut tobacco to a person in Ontario who is not authorized under this Act or the regulations to purchase, possess, store or sell unmarked fine cut tobacco.

Same

(2) Unless authorized under this Act or the regulations, no person shall deliver, or cause to be delivered, to another person unmarked fine cut tobacco that is intended to be sold to consumers.

Penalty

(3) Every person who contravenes subsection (1) or (2) shall pay a penalty, when assessed for it, equal to the amount of the tax that would be payable under section 2 by a consumer purchasing the same quantity of fine cut tobacco that was delivered, or caused to be delivered, in contravention of subsection (1) or (2).

Offence

(4) Every person who contravenes subsection (1) or (2) is guilty of an offence and on conviction is liable to a fine of not less than \$1,000 and not more than \$10,000 and an additional fine of not less than an amount equal to three times the tax that would be payable under section 2 by a consumer purchasing the same quantity of fine cut tobacco that was delivered, or caused to be delivered, in contravention of subsection (1) or (2).

17. Subsection 10 (5) of the Act is amended by striking out “marked cigarettes” at the end and substituting “marked tobacco products”.

18. Clause 11 (2) (f) of the Act is amended by striking out “tobacco” wherever it appears and substituting in each case “a tobacco product”.

19. (1) Subsection 12 (1) of the Act is repealed and the following substituted:

Information and security

(1) The Minister may demand information or additional information from any person for the purposes of evaluating the suitability of a person,

- (a) to be a collector, exporter or registered importer;
- (b) to hold a permit to mark or stamp cigarettes;
- (c) to hold a permit to mark or stamp fine cut tobacco;
- (d) to hold a permit to manufacture tear tape;
- (e) to hold a permit to purchase and sell unmarked cigarettes; or
- (f) to hold a permit to purchase and sell unmarked fine cut tobacco.

Same

(1.1) The Minister may demand information or additional information from any person to ascertain the amount of security to be furnished by a person in accordance with subsection (2).

Same

(1.2) A person shall deliver the information or further information that the Minister requires under subsection (1) or (1.1) within the time specified in the Minister’s demand.

(2) The French version of clause 12 (2) (b) of the Act is amended by striking out “ont été vendues” and substituting “étaient vendues”.

(3) Clause 12 (2) (b) of the Act is amended,

(a) by striking out “marked cigarettes” and substituting “marked tobacco products”; and

(b) by striking out “if the cigarettes were sold” and substituting “if the tobacco products were sold”.

(4) The French version of clause 12 (2) (b.1) of the Act is amended by striking out “ont été vendus” and substituting “étaient vendus”.

(5) Clause 12 (2) (b.1) of the Act is amended by striking out “marked cigarettes” and substituting “marked tobacco products”.

(6) Clause 12 (2) (c) of the Act is amended by striking out “tobacco” and substituting “tobacco products”.

(7) The French version of clause 12 (2) (d) of the Act is amended by striking out “ont été vendues” and substituting “étaient vendues”.

(8) Subsection 12 (2) of the Act is amended by adding the following clause:

(d.1) every person who applies for or is the holder of a permit to mark fine cut tobacco in an amount equal to the greater of \$1,000,000 or the average three months’ tax that would be collectable and payable by the person calculated on the basis of the 12-month period preceding the Minister’s demand if the production of marked fine cut tobacco was sold to consumers in Ontario during the 12-month period;

(9) The French version of clause 12 (2) (e) of the Act is amended by striking out “ont été vendues” and substituting “étaient vendues”.

(10) Subsection 12 (2) of the Act is amended by adding the following clause:

(e.1) every person who applies for or is the holder of a permit to stamp fine cut tobacco in an amount equal to the greater of \$500,000 or the average three months’ tax that would be collectable and payable by the person calculated on the basis of the 12-month period preceding the Minister’s demand if the production of stamped fine cut tobacco were sold to consumers in Ontario during the 12-month period;

(11) The French version of clause 12 (2) (f) of the Act is amended by striking out “qui avaient été vendues” and substituting “qui étaient vendues”.

(12) Subsection 12 (2) of the Act is amended by striking out “and” at the end of clause (f) and by adding the following clause:

(f.1) every person who applies for or is the holder of a permit to purchase or sell unmarked fine cut tobacco in an amount equal to the greater of \$500,000 or the average three months’ tax that would be collectable or payable by the person calculated on the basis of the 12-month period preceding the Minister’s demand, if the person’s acquisition of unmarked fine cut tobacco were marked fine cut tobacco that was sold to consumers in Ontario during the 12-month period; and

20. Section 13 of the Act is amended by striking out “delivery in Ontario of tobacco” and substituting “delivery in Ontario of a tobacco product”.

21. (1) Clause (b) of the definition of “returning resident” in subsection 13.1 (1) of the Act is amended by striking out “tobacco” wherever it appears in the portion before subclause (i) and substituting in each case “a tobacco product”.

(2) Subsection 13.1 (2) of the Act is amended by striking out “tobacco” wherever it appears in the portion before clause (a) and substituting in each case “a tobacco product”.

(3) Subsection 13.1 (3) of the Act is amended by striking out “the tobacco is an amount” and substituting “the tobacco product is an amount”.

(4) Subsection 13.1 (4) of the Act is amended by striking out “on tobacco under this section” and substituting “on a tobacco product under this section”.

22. (1) The definition of “cross-border buyer” in subsection 13.1.1 (1) of the Act is amended,

(a) by striking out “tobacco” in clause (a) and substituting “a tobacco product”; and

(b) by striking out “tobacco” in clause (b) and substituting “a tobacco product”.

(2) Subsection 13.1.1 (3) of the Act is amended by striking out “tobacco” wherever it appears in the portion before clause (a) and substituting in each case “a tobacco product”.

(3) Subsection 13.1.1 (4) of the Act is repealed and the following substituted:

Amount of tax payable

(4) For the purposes of subsection (3), the amount of tax payable by a cross-border buyer on the tobacco product is the amount of tax that would have been payable under section 2 by a consumer had the tobacco been purchased in Ontario.

23. (1) Subsection 13.2 (1) of the Act is amended by striking out “tobacco” in the portion before clause (a) and substituting “tobacco product”.

(2) Subsection 13.2 (2) of the Act is amended by striking out “tobacco” wherever it appears and substituting in each case “tobacco product”.

(3) Subsection 13.2 (3) of the Act is amended by striking out “tobacco” and substituting “tobacco product”.

24. (1) Subsection 13.3 (1) of the Act is amended by striking out “tobacco” at the end of the portion before clause (a) and substituting “tobacco products”.

(2) The English version of clause 13.3 (1) (a) of the Act is amended by striking out “that is” at the beginning and substituting “that are”.

(3) Clause 13.3 (1) (b) of the Act is amended by striking out “that is” at the beginning and substituting “that are”.

(4) Clause 13.3 (1) (c) of the Act is amended by striking out “that is” at the beginning and substituting “that are”.

(5) Clause 13.3 (4) (a) of the Act is amended by striking out “tobacco” and substituting “a tobacco product”.

(6) Clause 13.3 (4) (b) of the Act is amended by striking out “tobacco” at the end and substituting “the tobacco product”.

25. (1) The Act is amended by adding the following section:

Agreement with council of the band

Authority

13.5 (1) Subject to the approval of the Lieutenant Governor in Council, the Minister, on behalf of the Crown, may enter into arrangements and agreements with a council of the band with respect to tobacco.

Same

(2) The Minister, on behalf of the Crown, may enter into such arrangements and

agreements with a council of the band as the Minister considers necessary for the purposes of the administration and enforcement of this Act on a reserve.

Same

(3) An arrangement or agreement entered into under subsection (2) may authorize a system for the sale of unmarked cigarettes, cigars and other tobacco products to Indians who are exempt from the payment of the tax imposed by this Act, and the arrangement or agreement may provide for limits on the quantity of unmarked cigarettes, cigars and other tobacco products to be sold to retail dealers for resale to consumers who are Indians.

Regulations

(4) If a council of the band enters into an arrangement or agreement that provides for a system described in subsection (3) with respect to a reserve, a regulation made under clause 41 (1) (p) does not apply with respect to the reserve.

(2) Subsection 13.5 (3) of the Act, as enacted by subsection (1), is amended by striking out “unmarked cigarettes, cigars and other tobacco products” wherever it appears and substituting in each case “tobacco products and unmarked tobacco products”.

26. (1) Subsection 14 (1) of the Act is amended by striking out “tobacco” and substituting “tobacco products”.

(2) Subsection 14 (2) of the Act is amended by striking out “tobacco stock” wherever it appears and substituting in each case “stock of tobacco products”.

27. (1) Subsection 17 (1) of the Act is amended by striking out the portion before clause (a) and substituting the following:

Returns by collectors, etc.

(1) Every collector, importer, exporter, interjurisdictional transporter, wholesaler, manufacturer, holder of a transit permit or holder of a permit to mark or stamp cigarettes or fine cut tobacco, to manufacture tear tape, to purchase and sell unmarked cigarettes or to purchase and sell unmarked fine cut tobacco shall deliver to the Minister such returns as the Minister requires for the purpose of this Act,

.....

(2) Subsection 17 (4) of the Act is repealed and the following substituted:

Penalty, failure to deliver a return

(4) Every person who is a collector, importer, exporter, wholesaler, manufacturer, holder of a transit permit or holder of a permit to mark or stamp cigarettes or fine cut tobacco, to purchase and sell unmarked cigarettes or to purchase and sell unmarked fine cut tobacco who fails to deliver a return as required by subsection (1) shall pay to the Minister, when assessed for it, a penalty equal to 10 per cent of the tax collectable or 5 per cent of the tax payable, as the case may be, by the person for the period covered by the return.

28. (1) Subsection 19 (3) of the Act is amended by striking out “interjurisdictional transporter, holder of a permit to mark or stamp cigarettes or holder of a transit permit” and substituting “interjurisdictional transporter, holder of a transit permit or holder of a permit to mark or stamp cigarettes or fine cut tobacco”.

(2) Subsection 19 (3.4) of the Act is repealed and the following substituted:

Penalty for excess losses

(3.4) Every person who has excess unverifiable losses, determined in accordance with the regulations, shall pay a penalty, when assessed for it, equal to the tax that would have been collectable by the person if the quantity of tobacco product that exceeds the prescribed

threshold for an unverifiable loss had been sold to a consumer.

29. (1) Clause 20 (2) (a) of the Act is amended by striking out “tobacco” and substituting “tobacco products”.

(2) Clause 20 (2) (b) of the Act is amended by striking out “tobacco” wherever it appears and substituting in each case “tobacco products”.

(3) Subsection 20 (4) of the Act is amended by striking out “tobacco” and substituting “a tobacco product”.

(4) Clause 20 (11) (b) of the Act is amended by striking out “tobacco” wherever it appears and substituting in each case “tobacco products”.

30. (1) Subsection 20.2 (3) of the Act is amended by striking out “Every wholesaler who is found to have delivered or caused to be delivered tobacco” at the beginning of the portion before clause (a) and substituting “Every wholesaler who is found to have delivered or caused to be delivered a tobacco product”.

(2) Clause 20.2 (3) (a) of the Act is repealed and the following substituted:

- (a) three times the amount of the tax that would be payable under section 2 by a consumer purchasing the same quantity of tobacco products that the wholesaler delivered or caused to be delivered to the particular place during the period when the prohibition was in effect; and

31. Subsection 22.1 (1.1) of the Act is repealed and the following substituted:

Same, tear tape

(1.1) Every holder of a permit to mark or stamp cigarettes or fine cut tobacco or to manufacture tear tape shall keep at its principal place of business in Ontario records and books of account in the form and containing the information that will enable the accurate determination of tear tapes that have been manufactured for use in Ontario or used in marking packages of cigarettes or of fine cut tobacco for sale in Ontario.

32. (1) Subsection 23 (1) of the Act is amended by adding the following clauses:

- (b.0.1) examine any land on which raw leaf tobacco is produced;
- (b.0.2) examine any inventory of raw leaf tobacco that may be in the premises or place;

(2) Clause 23 (1) (b.1) of the Act is repealed and the following substituted:

- (b.1) examine any inventory of cigarettes or fine cut tobacco, any individual packages of cigarettes or of fine cut tobacco in any inventory and any equipment for manufacturing cigarettes or fine cut tobacco that may be in the premises or place; and

(3) Clause 23 (1) (c) of the Act is amended by striking out “tobacco” and substituting “tobacco product”.

(4) Subsection 23 (2) of the Act is amended by adding “or to mark or stamp fine cut tobacco” after “mark or stamp cigarettes” in the portion before clause (a).

(5) Clause 23 (2) (c) of the Act is repealed and the following substituted:

- (c) examine any inventory of,
 - (i) marked or unmarked tobacco products,
 - (ii) used or unused indicia, and
 - (iii) used or unused containers or materials designed to pack cigarettes or fine cut

tobacco.

(6) Subsection 23 (7) of the Act is amended by striking out “tobacco” and substituting “tobacco products”.

33. The Act is amended by adding the following sections:

Seizure of raw leaf tobacco being produced or processed

23.0.1 (1) This section applies if, on an inspection under subsection 23 (1), a person authorized by the Minister has reasonable and probable grounds to believe that either of the following circumstances exists:

1. A person is contravening subsection 2.3 (1) or (2) with respect to raw leaf tobacco.
2. A person who holds a registration certificate issued under subsection 2.2 (1) or (2) is failing to comply with a condition or restriction imposed under subsection 2.2 (7) relating to the quantity of raw leaf tobacco that the person may produce or process.

Notice of intent to seize

(2) If the person authorized by the Minister intends to seize, impound, hold or dispose of the raw leaf tobacco, he or she shall personally serve written notice of the intended action to the person referred to in paragraph 1 or 2 of subsection (1) and the notice must include such information as may be prescribed by the Minister.

No disposal of raw leaf tobacco

(3) If a person receives a notice of intent under subsection (2), the person shall not dispose of the tobacco.

Penalty for unauthorized disposal

(4) If a person contravenes subsection (3), the person shall pay a penalty, when assessed for it, equal to the sum of the following amounts:

1. \$8 for every kilogram of raw leaf tobacco disposed of contrary to subsection (3).
2. An amount equal to,
 - i. \$500, if it is the person’s first penalty assessed under this subsection,
 - ii. \$1,000, if it is the person’s second penalty assessed under this subsection,
 - iii. \$2,500, if it is the person’s third penalty assessed under this subsection, or
 - iv. \$5,000, if the person has been assessed for a penalty under this subsection at least three times before.

Determining amount of raw leaf tobacco

(5) For the purposes of paragraph 1 of subsection (4), the person making the inspection is authorized to determine the amount of raw leaf tobacco disposed of contrary to subsection (3) and shall do so in such manner and form and by such procedure as the Minister considers adequate and expedient.

Request to defer seizure

(6) If the person to whom the notice is given wishes to avoid having the intended action taken under subsection (2), the person shall make a written request to the Minister within five days after receiving the notice that the intended action be deferred to enable the person to appear before the Minister or his or her delegate to show why the Minister should not take the intended action.

Latest date for appearance before the Minister

(7) If the person makes a written request under subsection (6), the day on which the person may appear before the Minister or his or her delegate must not be more than 15 days

after the day the notice of intent was given by the Minister under subsection (2).

Provision of information to the Minister

(8) The Minister shall not take the intended action under subsection (2) if, after the person has appeared before the Minister or his or her delegate, the Minister is satisfied that the following criteria has been met:

1. If the person was alleged to have been contravening subsection 2.3 (1) or (2), that the person was not in contravention, or has ceased contravening, the applicable subsection.
2. If the person was alleged to have been failing to comply with a condition or restriction referred to in paragraph 2 of subsection (1), that the person was not failing to comply with the condition or restriction or has discontinued the non-compliance.

Authority to seize, etc.

(9) In any of the following circumstances, the person authorized by the Minister may seize, impound, hold or dispose of the raw leaf tobacco in accordance with the notice of intent given under subsection (2):

1. If the person to whom the notice is given does not make a written request in accordance with subsection (6) that the intended action be deferred.
2. If the person makes a written request under subsection (6) but fails to appear before the Minister or his or her delegate within the time specified in subsection (7).
3. If, after the person appears before the Minister or his or her delegate, the Minister is not satisfied that the alleged contravention or non-compliance was not occurring or is not satisfied that the person has ceased the contravention or non-compliance.

Forfeiture to the Crown

(10) Raw leaf tobacco seized under this section is forfeited to the Crown to be disposed of as the Minister directs.

Seizure of raw leaf tobacco being purchased, sold, etc.

23.0.2 (1) If, on an inspection under subsection 23 (1), a person authorized by the Minister discovers raw leaf tobacco that the person has reasonable and probable grounds to believe has been brought into Ontario or has been purchased, sold, transported or delivered in contravention of section 2.3, the person may, subject to subsection (2), seize, impound, hold and dispose of the raw leaf tobacco.

Application to court

(2) Raw leaf tobacco seized under subsection (1) is forfeited to the Crown to be disposed of as the Minister directs unless, within 30 days following the seizure, the person from whom the tobacco was seized, or the owner of the tobacco, applies to the Superior Court of Justice to establish the right to possession of the tobacco.

Right to possession of raw leaf tobacco

(3) For the purposes of an application under subsection (2), the applicant has a right to possession of the raw leaf tobacco if, at the time the seizure was made,

- (a) the applicant was the holder of a registration certificate issued under section 2.2, 6 or 7; and
- (b) the raw leaf tobacco was brought into Ontario or was purchased, sold, transported or delivered in accordance with the conditions or restrictions, if any, on the applicant's registration certificate.

Disposal of tobacco

(4) Subsections 23.1 (4), (5), (6) and (7) apply, with necessary modifications, with respect to the disposal of the seized tobacco.

34. (1) Subsection 23.1 (1) of the Act is amended by striking out “subsection 29 (1)” and substituting “subsection 29 (1) or (1.0.1)”.

(2) Subsection 23.1 (1) of the Act is amended by striking out “subsection 29 (1) or (1.0.1)” and substituting “subsection 29 (1) or (2)”.

(3) Section 23.1 of the Act is amended by adding the following subsection:

Seizure of unmarked fine cut tobacco

(1.1) If, on an inspection under subsection 23 (1), a person authorized by the Minister discovers that a wholesaler or retail dealer is in possession of unmarked fine cut tobacco, and the person has reasonable and probable grounds to believe that the possession is contrary to subsection 29 (1) or (2), the person may, subject to subsection (2), seize, impound, hold and dispose of the unmarked fine cut tobacco.

(4) Subsection 23.1 (2) of the Act is repealed and the following substituted:

Application to court

(2) Unmarked tobacco products seized under subsection (1) or (1.1) are forfeited to the Crown to be disposed of as the Minister directs unless, within 30 days following the seizure, the person from whom the unmarked tobacco products were seized, or the owner of the unmarked tobacco products, applies to the Superior Court of Justice to establish the right to possession of the unmarked tobacco products.

(5) Subsection 23.1 (3) of the Act is amended by striking out “a mark-point or designated warehouse” and substituting “a mark-point for cigarettes or a designated warehouse for cigarettes”.

(6) Section 23.1 of the Act is amended by adding the following subsection:

Right to possession of unmarked fine cut tobacco

(3.1) For the purposes of an application under subsection (2), the applicant has a right to possession of the unmarked fine cut tobacco if, at the time the seizure was made, the premises from which the unmarked fine cut tobacco was seized was a mark-point for unmarked fine cut tobacco or a designated warehouse for fine cut tobacco and the applicant was the holder of a valid permit issued under subsection 9.0.1 (1) with respect to the premises.

(7) Subsection 23.1 (4) of the Act is amended by striking out “unmarked cigarettes” and substituting “unmarked tobacco products”.

(8) Subsection 23.1 (5) of the Act is repealed and the following substituted:

Order

(5) If the court is satisfied on an application under subsection (2) that the applicant has a right to possession of the unmarked tobacco products, the court may order that the unmarked tobacco products be returned to the applicant or that the proceeds of sale of the unmarked tobacco products be paid to the applicant.

(9) Subsection 23.1 (6) of the Act is amended by striking out “unmarked cigarettes” and substituting “unmarked tobacco products”.

(10) Subsection 23.1 (7) of the Act is amended by striking out “unmarked cigarettes” wherever it appears and substituting in each case “unmarked tobacco products”.

35. (1) The definition of “other tobacco” in subsection 23.1.1 (1) of the Act is

repealed and the following substituted:

“other tobacco” means tobacco products other than cigarettes and cigars.

(2) The definition of “other tobacco” in subsection 23.1.1 (1) of the Act, as re-enacted by subsection (1), is repealed and the following substituted:

“other tobacco” means tobacco products other than cigarettes, cigars and fine cut tobacco.

(3) Subsection 23.1.1 (2) of the Act is amended by striking out “is contrary to the provisions of subsection 29.1 (2)” and substituting “is contrary to subsection 29.1 (2) or (2.0.1)”.

(4) Clause 23.1.1 (4) (b) of the Act is repealed and the following substituted:

(b) the applicant is permitted under this Act or the regulations to have in his or her possession cigars and other tobacco for which he or she cannot prove that the tax that would be payable under section 2 by a consumer purchasing the same cigars or other tobacco has been paid;

(5) The English version of clause 23.1.1 (4) (c) of the Act is amended by striking out “cigars or tobacco” and substituting “cigars or other tobacco”.

36. (1) Section 23.2 of the Act is amended by striking out “all tobacco for sale” and substituting “all tobacco products for sale”.

(2) Section 23.2 of the Act is amended by striking out “unmarked cigarettes seized under section 23.1” at the end and substituting “unmarked tobacco products seized under subsection 23.1 (1) or (1.1)”.

37. (1) Clause 24 (1) (d) of the Act is amended by adding “or fine cut tobacco” after “cigarettes”.

(2) Subsection 24 (3) of the Act is amended by striking out “subsections (4), (4.1), (5) and (6)” in the portion before paragraph 1 and substituting “subsections (4), (4.1), (4.2), (5), (6) and (6.1)”.

(3) Subsection 24 (3) of the Act is amended by adding the following paragraphs:

1.1 Any amount of unmarked fine cut tobacco is found in the control of a person who does not hold a permit under subsection 9.0.1 (1) and who is not otherwise authorized by this Act or the regulations to purchase, possess, store, sell or transport unmarked fine cut tobacco.

.....

2.1 Any amount of unmarked fine cut tobacco is being transported or stored in Ontario for a person described in paragraph 1.1.

(4) Subsection 24 (3) of the Act is amended by adding the following paragraph:

5. Any amount of raw leaf tobacco is being transported or stored by a person.

(5) Subsection 24 (4.1) of the Act is repealed and the following substituted:

Saving, unmarked tobacco products

(4.1) Despite subsection (3), if an unmarked tobacco product is found following a detention under subsection (1), no seizure, impounding, holding or disposal shall be made of the tobacco if the person from whom it would have been seized,

(a) is an interjurisdictional transporter registered under subsection 6 (1) who has the documents and information described in subsection 6 (5) in their possession; or

- (b) has in their possession the original or a true copy of a transit permit issued to the owner of the unmarked tobacco product under subsection 10 (1).

(6) Section 24 of the Act is amended by adding the following subsection:

Saving, raw leaf tobacco

(4.2) Despite subsection (3), if raw leaf tobacco is found following a detention under subsection (1), the raw leaf tobacco shall not be seized, impounded, held or disposed of,

- (a) if the person from whom it would have been seized is an interjurisdictional transporter registered under subsection 6 (1) and has the documents described in subsection 6 (5.1) in his, her or its possession;
- (b) if the person from whom it would have been seized holds a registration certificate under section 2.2 or 7 and has the documents described in subsection 2.3 (11); or
- (c) if the person from whom it would have been seized is transporting the raw leaf tobacco on behalf of another person who holds a registration certificate under section 2.2 or 7 and if the person from whom it would have been seized has the documents described in subsection 2.3 (11).

(7) Subsection 24 (6) of the Act is amended by adding “with respect to tobacco products” after “For the purposes of an application under subsection (5)” at the beginning.

(8) Section 24 of the Act is amended by adding the following subsection:

Same, raw leaf tobacco

(6.1) For the purposes of an application under subsection (5) with respect to raw leaf tobacco, the applicant has a right to possession of the tobacco if,

- (a) the owner, or the person for whom the tobacco was being transported, was, at the time the seizure was made, a person specified in subsection (4.2) as someone from whom tobacco was not to be seized; or
- (b) the owner, at the time the seizure was made, was in compliance with the conditions and restrictions of the owner’s registration certificate.

(9) Clause 24 (12) (a) of the Act is repealed and the following substituted:

- (a) the amount that is three times the tax that would be payable under section 2 by a consumer purchasing the same quantity of tobacco that was seized under subsection (3); and

(10) Subclause 24 (12) (b) (i) of the Act is amended by striking out “29 (3) or (4), 29.1 (6) or (7) or 34 (2)” at the end and substituting “29 (19) or (20), 29.1 (6) or (7), 34 (2) or 34.0.1 (2)”.

(11) Subclause 24 (12) (b) (ii) of the Act is amended by striking out “29 (3) or (4), 29.1 (6) or (7) or 34 (2)” and substituting “29 (19) or (20), 29.1 (6) or (7), 34 (2) or 34.0.1 (2)”.

(12) Subclause 24 (12) (b) (iii) of the Act is amended by striking out “29 (3) or (4), 29.1 (6) or (7) or 34 (2)” at the end and substituting “29 (19) or (20), 29.1 (6) or (7), 34 (2) or 34.0.1 (2)”.

38. (1) Clause 28 (3) (b) of the Act is amended by striking out “a permit to mark or stamp cigarettes or” and substituting “a permit to mark or stamp cigarettes or fine cut tobacco or”.

(2) Clause 28 (3) (c) of the Act is amended by striking out “a permit to mark or

stamp cigarettes or” and substituting “a permit to mark or stamp cigarettes or fine cut tobacco or”.

39. (1) Subsection 29 (1) of the Act is repealed and the following substituted:

Prohibitions re unmarked cigarettes

Possession, etc., for purpose of sale

(1) No person shall, unless permitted under this Act or the regulations to do so, possess, purchase or receive any quantity of unmarked cigarettes for the purpose of sale.

Possession of unmarked cigarettes

(1.0.1) No person shall, unless permitted under this Act or the regulations to do so, possess any quantity of unmarked cigarettes.

(2) Subsection 29 (1.1) of the Act is amended by striking out “subsection (1)” in the portion before clause (a) and substituting “subsection (1) or (1.0.1)”.

(3) Section 29 of the Act is amended by adding the following subsections:

Seizure of unmarked cigarettes in plain view

(1.1.0.1) A police officer or a person authorized by the Minister may, without a warrant, seize, impound, hold and dispose of unmarked cigarettes, subject to subsection (1.2),

(a) if, in the lawful course of his or her duty, he or she discovers the unmarked cigarettes in plain view; and

(b) if he or she has reasonable and probable grounds to believe that the unmarked cigarettes are in the possession of a person contrary to subsection (1) or (1.0.1).

Requirement re identification

(1.1.0.2) A police officer or a person authorized by the Minister who seizes unmarked cigarettes under subsection (1.1.0.1) may require the person from whom the cigarettes are seized to provide identification for the purpose of assessing a penalty against the person under this section, or charging the person with an offence under this section.

(4) Subsection 29 (1.1.1) of the Act is amended by striking out “subsection (1.1)” and substituting “subsection (1.1) or (1.1.0.2)”.

(5) Subsection 29 (1.2) of the Act is amended by striking out “subsection (1.1)” and substituting “subsection (1.1) or (1.1.0.1)”.

(6) Subsection 29 (2) of the Act is repealed and the following substituted:

Offence, possession, etc., of unmarked cigarettes for purpose of sale

(2) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable to,

(a) a fine of not less than \$500 and not more than \$10,000 and an additional fine of not less than an amount equal to three times the tax that would be payable under section 2 by a consumer purchasing the same quantity of cigarettes; and

(b) a term of imprisonment of not more than two years in addition to the fine and additional fine under clause (a),

(i) if the person was in possession of 10,000 or more unmarked cigarettes, or

(ii) if it is not the person’s first conviction under this section.

Offence, possession of unmarked cigarettes

(2.0.1) Every person who contravenes subsection (1.0.1) and is found to be in possession of 10,000 or fewer unmarked cigarettes is guilty of an offence and on conviction is

liable to the following penalties:

1. If the quantity of cigarettes is 200 or fewer, the penalty is a fine of \$100 and an additional fine equal to three times the amount of tax that would have been payable under section 2 by a consumer purchasing the same quantity of cigarettes.
2. If the quantity of cigarettes is more than 200 but fewer than 1,001, the penalty is a fine of \$250 and an additional fine equal to three times the amount of tax that would have been payable under section 2 by a consumer purchasing the same quantity of cigarettes.
3. If the quantity of cigarettes is more than 1,000 but fewer than 10,001, the penalty is a fine of \$500 and an additional fine equal to three times the amount of tax that would have been payable under section 2 by a consumer purchasing the same quantity of cigarettes.
4. If it is not the person's first conviction under this section, there is an additional penalty that is a term of imprisonment of not more than two years.

Same, more than 10,000 unmarked cigarettes

(2.0.2) Every person who contravenes subsection (1.0.1) and is found to be in possession of more than 10,000 unmarked cigarettes is guilty of an offence and on conviction liable to,

- (a) a fine of not less than \$500 and not more than \$10,000 and an additional fine of not less than an amount equal to three times the tax that would be payable under section 2 by a consumer purchasing the same quantity of cigarettes; and
- (b) a term of imprisonment of not more than two years in addition to the fine and additional fine under clause (a).

(7) Subsection 29 (2.1) of the Act is amended by striking out “offence under subsection (2)” and substituting “offence under subsection (2), (2.0.1) or (2.0.2)”.

(8) Subsection 29 (3) of the Act is amended by striking out “on all of the unmarked cigarettes sold, offered for sale or kept for sale” in the portion before clause (a).

(9) Clause 29 (3) (a) of the Act is repealed and the following substituted:

- (a) an amount equal to three times the tax that would be payable under section 2 by a consumer purchasing the same quantity of cigarettes that were sold, offered for sale or kept for sale by the person; and

(10) Clause 29 (4) (a) of the Act is repealed and the following substituted:

- (a) an amount equal to three times the tax that would be payable under section 2 by a consumer purchasing the same quantity of cigarettes that were possessed, purchased or received by the person; and

(11) Subsection 29 (5) of the Act is repealed and the following substituted:

Additional penalty

(5) If the quantity of unmarked cigarettes is 10,000 or more, a person liable to a penalty under subsection (3) or (4) may be assessed an additional penalty equal to five times the amount of the tax that would be payable under section 2 by a consumer purchasing the same quantity of cigarettes for which the person is assessed a penalty under subsection (3) or (4).

(12) Section 29 of the Act is repealed and the following substituted:

**Prohibitions re unmarked tobacco products
Possession, etc., for purpose of sale**

29. (1) No person shall, unless permitted under this Act or the regulations to do so, possess, purchase or receive any quantity of unmarked cigarettes or unmarked fine cut tobacco for the purpose of sale.

Possession of unmarked tobacco products

(2) No person shall, unless permitted under this Act or the regulations to do so, possess any quantity of unmarked cigarettes or unmarked fine cut tobacco.

Seizure of unmarked tobacco products

(3) If a person authorized by the Minister has reasonable and probable grounds to believe that a person is in possession of any unmarked cigarettes or any unmarked fine cut tobacco contrary to subsection (1) or (2), the person authorized by the Minister may, without a warrant,

- (a) stop and detain the person;
- (b) inspect the person's personal belongings for unmarked tobacco products;
- (c) if any unmarked tobacco products are found, require the person to provide identification for the purpose of,
 - (i) assessing a penalty against the person under this section, or
 - (ii) charging the person with an offence under this section; and
- (d) subject to subsection (7), seize, impound, hold and dispose of the unmarked tobacco products.

Seizure of unmarked tobacco products in plain view

(4) A police officer or a person authorized by the Minister may, without a warrant, seize, impound, hold and dispose of unmarked cigarettes or unmarked fine cut tobacco, subject to subsection (7),

- (a) if, in the lawful course of his or her duty, he or she discovers the unmarked cigarettes or unmarked fine cut tobacco in plain view; and
- (b) if he or she has reasonable and probable grounds to believe that an individual possesses the unmarked cigarettes or unmarked fine cut tobacco contrary to subsection (1) or (2).

Requirement re identification

(5) A police officer or a person authorized by the Minister who seizes an unmarked tobacco product under subsection (4) may require the person from whom the unmarked tobacco product is seized to provide identification for the purpose of assessing a penalty against the person under this section, or charging the person with an offence under this section.

Same

(6) A person who is required under subsection (3) or (5) to provide identification shall identify himself or herself by giving his or her correct name and address and displaying supporting documentation sufficient for identification purposes.

Application for possession

(7) Any unmarked tobacco product seized under subsection (3) or (4) is forfeited to the Crown to be disposed of as the Minister directs unless, within 30 days following the seizure, the person from whom it was seized, or the owner of the unmarked tobacco product, applies to the Superior Court of Justice to establish a right to possession of the unmarked tobacco product.

Right to possession of unmarked tobacco products

(8) For the purposes of an application under subsection (7), the applicant has a right to possession of the unmarked tobacco product if, at the time the seizure was made,

- (a) the applicant was an individual who brought the tobacco product into Ontario or received delivery of the tobacco product in Ontario in circumstances in which section 13 applies and had paid the tax required under that section; or
- (b) the applicant was the holder of a valid permit issued under,
 - (i) subsection 9 (1) if the application is for the right to possess unmarked cigarettes, or
 - (ii) subsection 9.0.1 (1) if the application is for the right to possess unmarked fine cut tobacco.

Disposal pending final determination by court

(9) If a final order under this section is not made within 60 days after the filing of the application under subsection (7), the Minister may dispose of the unmarked tobacco product and retain the proceeds, if any, pending the determination of the application.

Order

(10) If the court is satisfied on an application under subsection (7) that the applicant has a right to possession of the unmarked tobacco product, the court may order that the unmarked tobacco product be returned to the applicant or that the proceeds of sale of the unmarked tobacco product be paid to the applicant.

Forfeiture after dismissal of application

(11) On dismissal of an application under subsection (7) and the expiry of the appeal period provided therefor, the unmarked tobacco product is forfeited to the Crown to be disposed of as the Minister directs.

Proceeds of sale

(12) If a sale of an unmarked tobacco product is authorized under subsection (7) or (11), or if the proceeds of a sale are retained under subsection (9) and the application is dismissed, the proceeds of the sale remaining after payment of the costs incurred by the Minister in seizing, storing and disposing of the unmarked tobacco product shall be paid into the Consolidated Revenue Fund.

Offence, possession, etc., of unmarked tobacco product for purpose of sale

(13) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable to,

- (a) a fine of not less than \$500 and not more than \$10,000 and an additional fine of not less than an amount equal to three times the tax that would be payable under section 2 by a consumer purchasing the same quantity of cigarettes or fine cut tobacco; and
- (b) a term of imprisonment of not more than two years in addition to the fine and additional fine under clause (a),
 - (i) if the person was in possession of 10,000 or more unmarked cigarettes or 10,000 or more grams of fine cut tobacco, or
 - (ii) if it is not the person's first conviction under this section.

Offence, possession unmarked cigarettes

(14) Every person who contravenes subsection (2) and is found to be in possession of 10,000 or fewer unmarked cigarettes is guilty of an offence and on conviction is liable to the following penalties:

1. If the quantity of cigarettes is 200 or fewer, the penalty is a fine of \$100 and an additional fine equal to three times the amount of tax that would have been payable under section 2 by a consumer purchasing the same quantity of cigarettes.
2. If the quantity of cigarettes is more than 200 but fewer than 1,001, the penalty is a fine of \$250 and an additional fine equal to three times the amount of tax that would have been payable under section 2 by a consumer purchasing the same quantity of cigarettes.
3. If the quantity of cigarettes is more than 1,000 but fewer than 10,001, the penalty is a fine of \$500 and an additional fine equal to three times the amount of tax that would have been payable under section 2 by a consumer purchasing the same quantity of cigarettes.
4. If it is not the person's first conviction under this section, there is an additional penalty that is a term of imprisonment of not more than two years.

Same, more than 10,000 unmarked cigarettes

(15) Every person who contravenes subsection (2) and is found to be in possession of more than 10,000 unmarked cigarettes is guilty of an offence and on conviction is liable to,

- (a) a fine of not less than \$500 and not more than \$10,000 and an additional fine of not less than an amount equal to three times the tax that would be payable under section 2 by a consumer purchasing the same quantity of cigarettes; and
- (b) a term of imprisonment of not more than two years, in addition to the fine and additional fine under clause (a).

Offence, possession of unmarked fine cut tobacco

(16) Every person who contravenes subsection (2) and is found to be in possession of 10,000 or fewer grams of unmarked fine cut tobacco is guilty of an offence and on conviction is liable to the following penalties:

1. If the quantity of fine cut tobacco is 200 or fewer grams, the penalty is a fine of \$100 and an additional fine equal to three times the amount of tax that would have been payable under section 2 by a consumer purchasing the same quantity of fine cut tobacco.
2. If the quantity of fine cut tobacco is more than 200 grams but fewer than 1,001 grams, the penalty is a fine of \$250 and an additional fine equal to three times the amount of tax that would have been payable under section 2 by a consumer purchasing the same quantity of fine cut tobacco.
3. If the quantity of fine cut tobacco is more than 1,000 grams but fewer than 10,001 grams, the penalty is a fine of \$500 and an additional fine equal to three times the amount of tax that would have been payable under section 2 by a consumer purchasing the same quantity of fine cut tobacco.
4. If it is not the person's first conviction under this section, there is an additional penalty that is a term of imprisonment of not more than two years.

Same, more than 10,000 grams of unmarked fine cut tobacco

(17) Every person who contravenes subsection (2) and is found to be in possession of more than 10,000 grams of unmarked fine cut tobacco is guilty of an offence and on conviction is liable to,

- (a) a fine of not less than \$500 and not more than \$10,000 and an additional fine of not less than an amount equal to three times the tax that would be payable under section 2 by a consumer purchasing the same quantity of fine cut tobacco; and

- (b) a term of imprisonment of not more than two years in addition to the fine and additional fine under clause (a).

Forfeiture

(18) Any unmarked tobacco product in respect of which a person is convicted of an offence under subsection (13), (14), (15), (16) or (17) is forfeited to the Crown to be disposed of in any manner determined by the Minister, to the extent the unmarked tobacco product has not been forfeited or disposed of under another provision of this Act.

Penalty, sale, etc.

(19) Every person who, except as permitted under this Act or the regulations, sells or offers for sale or keeps for sale in Ontario unmarked cigarettes or unmarked fine cut tobacco shall pay a penalty, when assessed for it, equal to the sum of,

- (a) an amount equal to three times the tax that would be payable under section 2 by a consumer purchasing the same quantity of cigarettes or fine cut tobacco that was sold, offered for sale or kept for sale by the person; and
- (b) the amount of,
 - (i) \$500 if the person has not previously been assessed a penalty under this subsection or subsection (20) or under subsection 2 (7.1), 24 (12), 29.1 (6) or (7), 34 (2) or 34.0.1 (2),
 - (ii) \$2,500 if the person has previously been assessed a penalty under this subsection or subsection (20) or under subsection 2 (7.1), 24 (12), 29.1 (6) or (7), 34 (2) or 34.0.1 (2), but has not been previously assessed more than one penalty in total under this subsection and those subsections,
 - (iii) \$5,000 if the person has previously been assessed more than one penalty in total under this subsection or subsection (20) or under subsection 2 (7.1), 24 (12), 29.1 (6) or (7), 34 (2) or 34.0.1 (2).

Penalty, possession, etc.

(20) Every person who, except as permitted under this Act or the regulations, has in the person's possession or has purchased or received any quantity of unmarked cigarettes or unmarked fine cut tobacco for any purpose shall pay a penalty, when assessed for it, equal to the sum of,

- (a) an amount equal to three times the tax that would be payable under section 2 by a consumer purchasing the same quantity of cigarettes or fine cut tobacco that was possessed, purchased or received by the person; and
- (b) the amount of,
 - (i) \$500 if the person has not been previously assessed a penalty under this subsection or subsection (19) or under subsection 2 (7.1), 24 (12), 29.1 (6) or (7), 34 (2) or 34.0.1 (2),
 - (ii) \$2,500 if the person has previously been assessed a penalty under this subsection or subsection (19) or under subsection 2 (7.1), 24 (12), 29.1 (6) or (7), 34 (2) or 34.0.1 (2), but has not been previously assessed more than one penalty in total under this subsection and those subsections,
 - (iii) \$5,000 if the person has previously been assessed more than one penalty in total under this subsection or subsection (19) or under subsection 2 (7.1), 24 (12), 29.1 (6) or (7), 34 (2) or 34.0.1 (2).

Additional penalty, unmarked cigarettes

(21) If the quantity of unmarked cigarettes is 10,000 or more, a person liable to a penalty under subsection (19) or (20) may be assessed an additional penalty equal to five times the amount of tax that would be payable under section 2 by a consumer purchasing the same quantity of cigarettes for which the person is assessed a penalty under subsection (19) or (20).

Additional penalty, unmarked fine cut tobacco

(22) If the quantity of unmarked fine cut tobacco is 10,000 grams or more, a person liable to a penalty under subsection (19) or (20) may be assessed an additional penalty equal to five times the amount of the tax that would be payable under section 2 by a consumer purchasing the same quantity of fine cut tobacco for which the person is assessed a penalty under subsection (19) or (20).

40. (1) The definition of “other tobacco” in subsection 29.1 (1) of the Act is repealed and the following substituted:

“other tobacco” means tobacco products other than cigarettes and cigars.

(2) The definition of “other tobacco” in subsection 29.1 (1) of the Act is repealed and the following substituted:

“other tobacco” means tobacco products other than cigarettes, cigars and fine cut tobacco.

(3) Subsection 29.1 (2) of the Act is repealed and the following substituted:

Possession of untaxed cigars and other tobacco

(2) No person shall, unless permitted to do so under this Act or the regulations, have in his or her possession more than 50 cigars or more than one kilogram of other tobacco for which the person cannot prove that an amount equal to the tax that would be payable under section 2 by a consumer purchasing the same cigars or other tobacco has been paid to the person or entity from whom the cigars or other tobacco were obtained.

Same, possession for the purpose of resale

(2.0.1) No person shall, unless permitted to do so under this Act or the regulations, have in his or her possession for the purposes of resale, or purchase or receive for the purposes of resale, any cigars or other tobacco for which the person cannot prove that an amount equal to the tax that would be payable under section 2 by a consumer purchasing the same cigars or other tobacco has been paid to the person or entity from whom the cigars or other tobacco were obtained.

(4) Subsection 29.1 (2.1) of the Act is amended by striking out “subsection (2)” and substituting “subsection (2) or (2.0.1)”.

(5) Clause 29.1 (2.3) (b) of the Act is repealed and the following substituted:

(b) the applicant was permitted under this Act or the regulations to have in his or her possession the cigars or other tobacco for which he or she cannot prove that the tax that would be payable under section 2 by a consumer purchasing the same cigars or other tobacco has been paid; or

(6) Subsection 29.1 (3) of the Act is repealed and the following substituted:

Offence, possession of untaxed cigars and other tobacco

(3) Every person who contravenes subsection (2) and is found in possession of 200 or fewer cigars or 10 kilograms or less of other tobacco is guilty of an offence and on conviction is liable to,

(a) a fine of \$1,000 and an additional fine of an amount equal to three times the tax that would be payable under section 2 by a consumer purchasing the same quantity of

cigars or other tobacco that the person possessed in contravention of subsection (2);
and

(b) a term of imprisonment of not more than two years, in addition to the fine and additional fine under clause (a), if it is not the person's first conviction under this section.

Same, more than 200 cigars or more than 10 kilograms of other tobacco

(4) Every person who contravenes subsection (2) and is found to be in possession of more than 200 cigars or more than 10 kilograms of other tobacco is guilty of an offence and on conviction is liable to,

(a) a fine of not less than \$1,000 and not more than \$50,000 and an additional fine of not less than an amount equal to three times the tax that would be payable under section 2 by a consumer purchasing the same quantity of cigars or other tobacco that the person possessed in contravention of subsection (2); and

(b) a term of imprisonment of not more than two years, in addition to the fine and additional fine under clause (a).

Offence, possession for the purpose of resale

(4.1) Every person who contravenes subsection (2.0.1) is guilty of an offence and on conviction is liable to,

(a) a fine of not less than \$1,000 and not more than \$50,000 and an additional fine of not less than an amount equal to three times the tax that would be payable under section 2 by a consumer purchasing the same quantity of cigars or other tobacco that the person possessed in contravention of subsection (2.0.1); and

(b) a term of imprisonment of not more than two years, in addition to the fine and additional fine under clause (a),

(i) if the person was found to be in possession of 200 or more cigars or 10 kilograms or more of other tobacco, or

(ii) if it is not the person's first conviction under this section.

(7) Subsection 29.1 (6) of the Act is amended by striking out the portion before clause (a) and substituting the following:

Penalty, selling

(6) Every person who, except as permitted under this Act or the regulations, sells or offers or keeps for sale in Ontario cigars or other tobacco for which the person cannot prove that an amount equal to the tax that would be payable under section 2 by a consumer purchasing the same quantity of cigars or other tobacco sold or offered or kept for sale has been paid to the person or entity from whom the cigars or other tobacco were obtained shall pay a penalty, when assessed for it, equal to the sum of,

.....

(8) Clause 29.1 (6) (a) of the Act is repealed and the following substituted:

(a) an amount equal to three times the tax that would be payable under section 2 by a consumer purchasing the same quantity of cigars sold, offered for sale or kept for sale in Ontario by the person; and

(9) Subclause 29.1 (6) (b) (i) of the Act is amended by striking out "29 (3) or (4) or 34 (2)" at the end and substituting "29 (19) or (20), 34 (2) or 34.0.1 (2)".

(10) Subclause 29.1 (6) (b) (ii) of the Act is amended by striking out "29 (3) or (4)

or 34 (2)” and substituting “29 (19) or (20), 34 (2) or 34.0.1 (2)”.

(11) Subclause 29.1 (6) (b) (iii) of the Act is amended by striking out “29 (3) or (4) or 34 (2)” at the end and substituting “29 (19) or (20), 34 (2) or 34.0.1 (2)”.

(12) Subsection 29.1 (7) of the Act is repealed and the following substituted:

Penalty, possession

(7) Every person who possesses cigars or other tobacco in contravention of subsection (2) or (2.0.1) shall pay a penalty, when assessed for it, equal to the amount determined under subsection (7.1).

(13) Clause 29.1 (7.1) (a) of the Act is repealed and the following substituted:

(a) an amount equal to three times the tax that would be payable under section 2 by a consumer purchasing the same quantity of cigars or other tobacco for which the person is assessed a penalty under subsection (7); and

(14) Subclause 29.1 (7.1) (b) (i) of the Act is amended by striking out “29 (3) or (4) or 34 (2)” at the end and substituting “29 (19) or (20), 34 (2) or 34.0.1 (2)”.

(15) Subclause 29.1 (7.1) (b) (ii) of the Act is amended by striking out “29 (3) or (4) or 34 (2)” and substituting “29 (19) or (20), 34 (2) or 34.0.1 (2)”.

(16) Subclause 29.1 (7.1) (b) (iii) of the Act is amended by striking out “29 (3) or (4) or 34 (2)” at the end and substituting “29 (19) or (20), 34 (2) or 34.0.1 (2)”.

(17) Subsection 29.1 (8) of the Act is repealed and the following substituted:

Additional penalty

(8) If the amount of cigars referred to in subsection (6) or (7) is 200 or more or the amount of other tobacco referred to in subsection (6) or (7) is 10 kilograms or more, a person liable to a penalty under that subsection may also be assessed an additional penalty equal to five times the amount of the tax that would be payable under section 2 by a consumer purchasing the same quantity of cigars or other tobacco for which the person is assessed a penalty under subsection (6) or (7).

41. (1) Subsection 31 (1) of the Act is repealed and the following substituted:

Penalty for selling or delivering tobacco without a wholesaler’s permit

(1) Every person who sells or delivers a tobacco product in Ontario for resale without holding a subsisting wholesaler’s permit under section 3 shall, when assessed for it, pay a penalty of not less than \$1,000 and not more than \$10,000 and an additional penalty calculated as follows:

1. For cigarettes, an amount equal to three times the tax that would be payable under section 2 by a consumer purchasing the same quantity of cigarettes that were sold or delivered by the person for resale without holding a subsisting wholesaler’s permit.
2. For tobacco products other than cigarettes or cigars, an amount equal to three times the tax that would be payable under section 2 by a consumer purchasing the same quantity of tobacco products that were sold or delivered by the person for resale without holding a subsisting wholesaler’s permit.
3. For every cigar, 170 per cent of the price at which the cigar was sold.

(2) Subsection 31 (2) of the Act is amended by striking out the portion before paragraph 1 and substituting the following:

Offence

(2) Every person who sells or delivers a tobacco product in Ontario for resale without holding a wholesaler's permit issued under section 3 is guilty of an offence and is liable to the following on conviction:

.....

(3) Subparagraph 1 i of subsection 31 (2) of the Act is repealed and the following substituted:

- i. a fine of not less than \$500 and not more than \$10,000 and an additional fine of not less than an amount equal to three times the tax that would be payable under section 2 by a consumer purchasing the same quantity of cigarettes that were sold or delivered by the person for resale in Ontario without holding a wholesaler's permit, and

(4) Paragraph 3 of subsection 31 (2) of the Act is repealed the following substituted:

3. If the tobacco is unmarked fine cut tobacco,

- i. a fine of not less than \$500 and not more than \$10,000 and an additional fine of not less than an amount equal to three times the tax that would be payable under section 2 by a consumer purchasing the same quantity of fine cut tobacco that was sold or delivered by the person for resale in Ontario without holding a wholesaler's permit, and
- ii. a term of imprisonment of not more than two years, in addition to the fine and additional fine under subparagraph i,
 - A. if the person was found to be in possession of 10 kilograms or more of unmarked fine cut tobacco, or
 - B. if it is not the person's first conviction under this subsection.

4. If the tobacco is marked fine cut tobacco,

- i. a fine of \$8 for each 200 grams of marked fine cut tobacco, and
- ii. a term of imprisonment of not more than two years, in addition to the fine under subparagraph i, if it is not the person's first conviction under this subsection.

5. If the tobacco is not cigarettes or fine cut tobacco,

- i. a fine of not less than \$1,000 and not more than \$50,000, and
- ii. a term of imprisonment of not more than two years, in addition to the fine under subparagraph i,
 - A. if the person was found to be in possession of 200 or more cigars or 10 kilograms or more of other tobacco products, or
 - B. if it is not the person's first conviction under this subsection.

(5) Subsection 31 (3) of the Act is amended by striking out "All tobacco" at the beginning and substituting "Every tobacco product".

42. Section 32 of the Act is amended by adding the following subsection:

Exception re reserves

(7.2) A person employed by the Government of Ontario may, in the course of the person's duties in connection with the administration and enforcement of this Act, permit information or a copy of any record or thing obtained by or on behalf of the Minister for the

purposes of this Act to be disclosed to a council of the band,

- (a) if the council of the band and the Minister have entered into an arrangement or an agreement under section 13.5 or an agreement under a regulation made under this Act;
- (b) if the information, record or thing is relevant to the arrangement or agreement; and
- (c) if the information, record or thing will not be used or disclosed by the council of the band for any purpose other than as is required for the arrangement or agreement.

43. (1) Subsection 32.1 (1) of the Act is amended by adding the following paragraph:

1.1 Each person who holds a registration certificate issued under section 2.2.

(2) Subsection 32.1 (1) of the Act is amended by adding the following paragraphs:

7.1 Each person who holds a permit referred to in subsection 8 (2.1) to mark fine cut tobacco.

.....

8.1 Each person who holds a permit referred to in subsection 8 (3.1) to stamp fine cut tobacco.

.....

9.1 Each person who holds a permit referred to in subsection 9.0.1 (1) to purchase and sell unmarked fine cut tobacco.

(3) Paragraph 10 of subsection 32.1 (1) of the Act is amended by striking out “tobacco” and substituting “tobacco products”.

(4) Paragraph 11 of subsection 32.1 (1) of the Act is amended by striking out “tobacco” and substituting “tobacco products”.

44. (1) Subsection 33 (1) of the Act is amended by striking out “tobacco” and substituting “a tobacco product”.

(2) Subsection 33 (1) of the Act is repealed and the following substituted:

No indicia outside Ontario

(1) No person shall affix an Ontario tax indicium to,

(a) a package of cigarettes or to the tear tape of a package of cigarettes or to a carton, case or container of any description for a tobacco product for sale to a consumer outside Ontario; or

(b) a package of fine cut tobacco or to the tear tape of a package of fine cut tobacco for sale to a consumer outside Ontario.

45. (1) Subclause 34 (2) (a) (i) of the Act is repealed and the following substituted:

(i) an amount equal to three times the tax that would be payable under section 2 by a consumer purchasing the same quantity of cigarettes, and

(2) Sub-subclause 34 (2) (a) (ii) (A) of the Act is amended by striking out “29 (3) or (4) or 29.1 (6) or (7)” at the end and substituting “29 (19) or (20), 29.1 (6) or (7) or 34.0.1 (2)”.

(3) Sub-subclause 34 (2) (a) (ii) (B) of the Act is amended by striking out “29 (3) or (4) or 29.1 (6) or (7)” and substituting “29 (19) or (20), 29.1 (6) or (7) or 34.0.1 (2)”.

(4) Sub-subclause 34 (2) (a) (ii) (C) of the Act is amended by striking out “29 (3) or (4) or 29.1 (6) or (7)” and substituting “29 (19) or (20), 29.1 (6) or (7) or 34.0.1 (2)”.

(5) Subclause 34 (2) (b) (i) of the Act is repealed and the following substituted:

(i) an amount equal to five times the tax that would be payable under section 2 by a consumer purchasing the same quantity of cigarettes, and

(6) Sub-subclause 34 (2) (b) (ii) (A) of the Act is amended by striking out “29 (3) or (4) or 29.1 (6) or (7)” and substituting “29 (19) or (20), 29.1 (6) or (7) or 34.0.1 (2)”.

(7) Sub-subclause 34 (2) (b) (ii) (B) of the Act is amended by striking out “29 (3) or (4) or 29.1 (6) or (7)” at the end and substituting “29 (19) or (20), 29.1 (6) or (7) or 34.0.1 (2)”.

46. The Act is amended by adding the following section:

Offence re fine cut tobacco

34.0.1 (1) Every person who affixes to a package of fine cut tobacco or to the tear tape of a package of fine cut tobacco a false, forged, fraudulent, spurious or counterfeit indicium or an indicium that has been used before, or who prints on a container of any description for packaging fine cut tobacco a false, forged, fraudulent, spurious or counterfeit indicium is guilty of an offence and on conviction is liable to a fine of not less than \$500 and not more than \$100,000 or to imprisonment for a term of not more than two years or both.

Penalty

(2) Every holder of a permit to mark or stamp fine cut tobacco and every dealer who possesses fine cut tobacco in a package that has previously been used as a marked package under this Act or the regulations or has been fraudulently marked shall pay a penalty equal to,

(a) if it is the first time a penalty is assessed against the holder of the permit or the dealer under this subsection, the sum of,

(i) an amount equal to three times the tax that would be payable under section 2 by a consumer purchasing the same quantity of fine cut tobacco, and

(ii) the amount of,

(A) \$500 if the person has not been previously assessed a penalty under this subsection or under subsection 2 (7.1), 24 (12), 29 (19) or (20), 29.1 (6) or (7) or 34 (2),

(B) \$2,500 if the person has previously been assessed a penalty under subsection 2 (7.1), 24 (12), 29 (19) or (20), 29.1 (6) or (7) or 34 (2), but has not been previously assessed more than one penalty in total under those subsections,

(C) \$5,000 if the person has previously been assessed more than one penalty in total under subsection 2 (7.1), 24 (12), 29 (19) or (20), 29.1 (6) or (7) or 34 (2); or

(b) if a penalty has been previously assessed against the holder of the permit or the dealer under this subsection, the sum of,

(i) an amount equal to five times the tax that would be payable under section 2 by a consumer purchasing the same quantity of fine cut tobacco, and

(ii) the amount of,

(A) \$2,500 if the person has previously been assessed not more than one penalty in total under this subsection or subsection 2 (7.1), 24 (12), 29

(19) or (20), 29.1 (6) or (7) or 34 (2), or

(B) \$5,000 if the person has previously been assessed more than one penalty in total under this subsection or subsection 2 (7.1), 24 (12), 29 (19) or (20), 29.1 (6) or (7) or 34 (2).

47. (1) Subsection 34.1 (3) of the Act is repealed and the following substituted:

Penalty

(3) Every person who fails to comply with subsection (1) or (2) shall pay a penalty, when assessed for it, equal to the tax that would be payable under section 2 by a consumer purchasing the same quantity of packages of cigarettes that could have been affixed with the tear tape sold, distributed, delivered or possessed by the person in contravention of subsection (1) or (2).

(2) Subsection 34.1 (3) of the Act, as re-enacted by subsection (1), is amended by adding “or packages of fine cut tobacco” after “packages of cigarettes”.

48. (1) Subsection 35 (2) of the Act is amended by striking out “tobacco” in the portion before paragraph 1 and substituting “a tobacco product”.

(2) Subparagraph 1 i of subsection 35 (2) of the Act is repealed and the following substituted:

- i. a fine of not less than \$500 and not more than \$10,000 and an additional fine of not less than an amount equal to three times the tax that would be payable under section 2 by a consumer purchasing the same quantity of cigarettes that were purchased or received for resale, and

(3) Paragraph 3 of subsection 35 (2) of the Act is repealed and the following substituted:

3. If the tobacco is unmarked fine cut tobacco,

- i. a fine of not less than \$500 and not more than \$10,000 and an additional fine of not less than an amount equal to three times the tax that would be payable under section 2 by a consumer purchasing the same quantity of fine cut tobacco that was purchased or received for resale, and
- ii. a term of imprisonment of not more than two years, in addition to the fine and additional fine under subparagraph i,
 - A. if the person was found to be in possession of 10 kilograms or more of unmarked fine cut tobacco, or

B. if it is not the person’s first conviction under this subsection.

4. If the tobacco is marked fine cut tobacco,

- i. a fine of \$8 for each 200 grams of marked fine cut tobacco, and
- ii. a term of imprisonment of not more than two years, in addition to the fine under subparagraph i, if it is not the person’s first conviction under this subsection.

5. If the tobacco is not cigarettes or fine cut tobacco,

- i. a fine of not less than \$1,000 and not more than \$50,000, and
- ii. a term of imprisonment of not more than two years, in addition to the fine under subparagraph i,

A. if the person was found to be in possession of 200 or more cigars or 10

kilograms or more of other tobacco products, or

B. if it is not the person's first conviction under this subsection.

(4) Subsection 35 (2.0.1) of the Act is amended by striking out “3 (1), 8 (2) or 9 (1)” in the portion before paragraph 1 and substituting “3 (1), 8 (2) or (2.1), 9 (1) or 9.0.1 (1)”.

(5) Subparagraph 1 i of subsection 35 (2.0.1) of the Act is repealed and the following substituted:

- i. a fine of not less than \$500 and not more than \$10,000 and an additional fine of not less than an amount equal to three times the tax that would be payable under section 2 by a consumer purchasing the same quantity of cigarettes that were delivered, stored, transported or possessed, and

(6) Paragraph 3 of subsection 35 (2.0.1) of the Act is repealed and the following substituted:

3. If the tobacco is unmarked fine cut tobacco,

- i. a fine of not less than \$500 and not more than \$10,000 and an additional fine of not less than an amount equal to three times the tax that would be payable under section 2 by a consumer purchasing the same quantity of fine cut tobacco that was delivered, stored, transported or possessed, and
- ii. a term of imprisonment of not more than two years, in addition to the fine and additional fine under subparagraph i,
 - A. if the person was found to be in possession of 10,000 grams or more of unmarked fine cut tobacco, or
 - B. if it is not the person's first conviction under this subsection.

4. If the tobacco is marked fine cut tobacco,

- i. a fine of \$8 for each 200 grams of marked fine cut tobacco, and
- ii. a term of imprisonment of not more than two years, in addition to the fine under subparagraph i, if it is not the person's first conviction under this subsection.

5. If the tobacco is not cigarettes or fine cut tobacco,

- i. a fine of not less than \$1,000 and not more than \$50,000, and
- ii. a term of imprisonment of not more than two years, in addition to the fine under subparagraph i,
 - A. if the person was found to be in possession of 200 or more cigars or 10 kilograms or more of other tobacco products, or
 - B. if it is not the person's first conviction under this subsection.

(7) Subsection 35 (2.1) of the Act is amended by striking out “All tobacco” at the beginning and substituting “Every tobacco product”.

(8) Subsection 35 (4) of the Act is amended,

(a) by striking out “Every person who purchases tobacco for resale” at the beginning of the portion before paragraph 1 and substituting “Every person who purchases a tobacco product for resale”; and

(b) by striking out “possesses tobacco” in the portion before paragraph 1 and

substituting “possesses a tobacco product”.

(9) Paragraphs 1 and 2 of subsection 35 (4) of the Act are repealed and the following substituted:

1. If the tobacco is cigarettes, an amount equal to three times the tax that would be payable under section 2 by a consumer purchasing the same quantity of cigarettes that were purchased, stored, delivered, transported or possessed.
2. If the tobacco is not cigarettes or cigars, an amount equal to three times the tax that would be payable under section 2 by a consumer purchasing the same quantity of tobacco that was purchased, stored, delivered, transported or possessed.

49. (1) Subsection 35.1 (2) of the Act is amended by striking out “tobacco” in the portion before clause (a) and substituting “tobacco products”.

(2) Subsection 35.1 (2) of the Act is amended by striking out “subsection 9.1 (4), 31 (2)” in the portion before clause (a) and substituting “subsection 9.1 (4), 9.2 (4), 31 (2)”.

50. Subsection 37 (1) of the Act is amended,

- (a) by striking out “tobacco by persons” and substituting “tobacco products by persons”; and**
- (b) by striking out “of tobacco that is transferred” and substituting “of a tobacco product that is transferred”.**

51. Subsection 39 (1) of the Act is amended by striking out “tobacco from Ontario” in the portion before clause (a) and substituting “a tobacco product from Ontario”.

52. (1) Clause 41 (1) (f) of the Act is amended by striking out “tobacco” wherever it appears and substituting in each case “tobacco products”.

(2) Clause 41 (1) (l) of the Act is amended by striking out “tobacco” and substituting “tobacco products”.

(3) The English version of clause 41 (1) (p) of the Act is amended by striking out “tobacco” wherever it appears and substituting in each case “tobacco products”.

(4) Clause 41 (1) (p) of the Act, as amended by subsection (3), is amended by striking out “unmarked cigarettes, cigars and other tobacco products” wherever it appears and substituting in each case “tobacco products and unmarked tobacco products”.

(5) Subsection 41 (1) of the Act is amended by adding the following clause:

- (p.1) providing for the furnishing to the Minister of information relating to raw leaf tobacco by persons who are required to hold a registration certificate under section 2.2;**

(6) Clause 41 (2) (c) of the Act is amended by adding “or to mark or stamp fine cut tobacco” after “mark or stamp cigarettes”.

53. The Act is amended by adding the following section:

Fees

43. The Minister may establish and charge fees for anything that the Minister or the Ministry is required or authorized to do under this Act.

Commencement

54. (1) Subject to subsections (2), (3) and (4), this Act comes into force on the day

it receives Royal Assent.

Same

(2) Subsection 3 (2) comes into force on a day to be named by proclamation of the Lieutenant Governor.

Same

(3) The following provisions come into force on October 1, 2012:

- 1. Subsections 1 (9), (14), (20), (25), (27) and (29).**
- 2. Subsection 3 (1).**
- 3. Subsections 8 (2) and (3).**
- 4. Subsection 32 (1).**
- 5. Section 33.**
- 6. Subsections 37 (2), (4), (6), (7) and (8).**
- 7. Subsection 43 (1).**
- 8. Subsection 52 (5).**

Same

(4) The following provisions come into force on April 1, 2013:

- 1. Subsections 1 (5), (10), (11), (17), (18), (23) and (28).**
- 2. Subsections 2 (5), (6) and (7).**
- 3. Subsections 11 (1), (2), (4), (6) and (7).**
- 4. Subsections 12 (1) to (4), (6) and (8).**
- 5. Sections 14, 16 and 17.**
- 6. Subsections 19 (1), (3), (5), (8), (10) and (12).**
- 7. Subsection 25 (2).**
- 8. Section 27.**
- 9. Subsection 28 (1).**
- 10. Section 31.**
- 11. Subsections 32 (2), (4) and (5).**
- 12. Subsections 34 (2) to (10).**
- 13. Subsection 35 (2).**
- 14. Subsection 36 (2).**
- 15. Subsections 37 (1), (3), (5), (10), (11) and (12).**
- 16. Section 38.**
- 17. Subsection 39 (12).**
- 18. Subsections 40 (2), (9), (10), (11), (14), (15) and (16).**
- 19. Subsection 41 (4).**
- 20. Subsection 43 (2).**
- 21. Subsection 44 (2).**

22. Subsections 45 (2), (3), (4), (6) and (7).

23. Section 46.

24. Subsection 47 (2).

25. Subsections 48 (3), (4) and (6).

26. Subsection 49 (2).

27. Subsections 52 (4) and (6).

Short title

55. The short title of this Act is the *Supporting Smoke-Free Ontario by Reducing Contraband Tobacco Act, 2011*.

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