

Freedom to Breathe

A summary of the Freedom to Breathe Provisions in the Minnesota Clean Indoor Air Act

Background

The Freedom to Breathe (FTB) provisions were signed into law by Governor Tim Pawlenty on May 17, 2007, to protect employees and the public from the health hazards of secondhand smoke. The FTB provisions are an expansion of the current Minnesota Clean Indoor Air Act (MCIAA) that becomes effective on October 1, 2007. This fact sheet explains the important provisions.

The FTB provisions describe where smoking is prohibited, outlines the responsibilities of proprietors and lists facilities and circumstances that are exempt from prohibitions.

Public Health Issue

Secondhand smoke is a leading cause of preventable death in the United States. In 2005, it was estimated that exposure to secondhand smoke in the United States kills more than 3,000 adult nonsmokers from lung cancer and approximately 46,000 from coronary heart disease.

According to the U.S. Surgeon General, there is no safe level of exposure to secondhand smoke. Secondhand smoke causes premature death and disease in children and in adults who do not smoke.

Smoking-prohibited areas

Smoking will be prohibited in virtually all *indoor* public places and *indoor* places of employment, including:

- Bars, restaurants, and private clubs
- Office and industrial workplaces
- Retail stores

- Common areas of rental apartment buildings and hotels
- Public transportation, including taxis
- Work vehicles, if more than one person is present
- Home offices with one or more on-site employees, or used as a place to meet or deal with customers
- Public and private educational facilities
- Auditoriums, arenas and meeting rooms
- Day care premises
- Health care facilities and clinics

Definition of "Indoor Area"

"Indoor Area" means all space between a floor and a ceiling that is bounded by walls, doorways, or windows, whether open or closed, covering more than 50 percent of the combined surface area of the vertical planes [wall space] constituting the perimeter of the area, whether temporary or permanent. A [standard] window screen is not considered a wall.

The FTB provisions do not prohibit outdoor smoking, regardless of distance from building openings such as doors, windows and ventilation intakes.

Responsibility of proprietors

Proprietors continue to play an important role in controlling smoking in their place of business. In general, they are required to:

- Post "No Smoking" signs
- Ask persons who smoke in prohibited areas to refrain from smoking and to leave if that person refuses to refrain from smoking
- Use lawful methods consistent with handling disorderly persons for patrons that refuse to comply



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- Refrain from providing ashtrays and other smoking equipment
- Withhold service for noncompliant patrons

Permitted smoking

The law does not prohibit smoking under the following circumstances:

- Approved scientific study participants
- Traditional Native American ceremonies
- Private places, such as private homes, private residences or private automobiles when they are not being used as places of employment
- Tobacco product shops that allow customers to light tobacco in order to sample the product
- Cabs of certain heavy commercial vehicles that weigh 26,001 pounds or greater
- Farm trucks, implements of husbandry, and special mobile equipment, when they are being used for their intended purpose
- Family farm buildings, provided certain conditions are met
- Disabled Veterans Rest Camp in Washington County
- Theatrical productions, that is, actors and actresses as part of the theatrical performance

Compliance and Enforcement

As part of the Minnesota Department of Health's (MDH) compliance strategy, emphasis will be placed on educating the public and business owners on the new provisions. MDH has compliance authority over the FTB provisions and may delegate compliance activities to local units of government. To date, compliance issues with the Minnesota Clean Indoor Air Act have been dealt with on a complaint-received basis. MDH anticipates a similar compliance program as a result of the FTB provisions.

In addition to the compliance authority provided to MDH, local law enforcement has the authority to issue petty misdemeanor citations to proprietors or individuals who knowingly fail to comply.

Local government ordinances

Local governments will retain the power to adopt more stringent measures to protect individuals from secondhand smoke.

Other provisions of the act

- Charitable gambling impact study. The state Gambling Control Board will prepare a report on the law's possible impact on charitable gambling. The act requires the board to submit a report to the Governor and the Legislature before March 31, 2008.
- Dislocated worker program; allocation of funds. The Minnesota Jobs Skills Partnership Board will provide services under the dislocated worker program to certain employees who become unemployed between October 1, 2007 and October 1, 2009, because of the provisions of the act.

For more information

Contact the Minnesota Department of Health to receive a copy of the MCIAA, to file a smoking complaint against a proprietor, or to request a copy of the act in another format. Additional educational materials are available on secondhand smoke.

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