

# Freedom to Breathe in Bars and Restaurants

How the Freedom to Breathe Provisions apply to Bars and Restaurants

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## Background

The Freedom to Breathe (FTB) provisions were signed into law by Governor Tim Pawlenty on May 16, 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); the new provisions become effective on October 1, 2007.

The FTB provisions describe where smoking is prohibited, outline the responsibilities of employers and facility managers and list exemptions that affect their workplaces and facilities. This fact sheet explains how the new provisions of the law affect employers and managers of bars and restaurants.

## Indoor smoking not permitted

Beginning October 1, 2007, smoking is prohibited in all areas within bars and restaurants. Special indoor “smoking rooms” are not permitted. There are no exceptions to the prohibition.

## Outdoor smoking

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

## 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.

## Definition of “smoking”

Smoking means inhaling or exhaling smoke from a lighted tobacco product or any other lighted plant product intended for inhalation. Carrying a lighted tobacco product or lighted plant product is also considered smoking.

## Responsibilities of proprietors

Employers and facility managers continue to play an important role in controlling smoking in their bar or restaurant. 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 they refuse to do so
- Use lawful methods consistent with handling disorderly persons or trespassers for any person who refuses to comply after being asked to leave
- Refrain from providing ashtrays and other smoking equipment
- Refuse to serve noncompliant persons

## 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 MCIAA and may delegate compliance activities to local units of government. MDH, a local board of health or any affected person can request a court order directing a repeat MCIAA violator to stop.



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

### Retaliation prohibited

An employer, manager or other person in charge cannot fire, refuse to hire, penalize, discriminate or retaliate against an employee, applicant, or customer who exercises any right to a smoke-free environment provided under the MCIAA.

### Local government ordinances

Local governments retain the authority to adopt and enforce more stringent measures to protect individuals from secondhand smoke.

### For more information

Contact the Minnesota Department of Health to receive a copy of the MCIAA, or to receive additional educational materials please visit the MDH website at:

[www.health.state.mn.us/freedomtobreathe](http://www.health.state.mn.us/freedomtobreathe)

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