

Freedom to Breathe in Family Day Care

How the Freedom to Breathe Provisions apply to Family Home and Group Family Day care Providers

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, managers and other persons in charge and list exemptions within the amended MCIAA that affect their workplaces and facilities. This fact sheet explains how the new provisions of the law affect family day care operations.

No smoking during business hours

Smoking is not allowed anywhere within the *indoor areas* of a Minnesota licensed day care center, family home day care or group family day care provider home during hours of operation.

Smoking during non-business hours

If indoor smoking is allowed in a day care home outside of the hours of operation, the daycare provider must disclose after-hour smoking by:

1. Posting a conspicuous written notice on or immediately inside of all entrances to the daycare area *and*,
2. Orally informing parents or guardians that smoking is allowed in the home outside the hours of operation.

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.

Outdoor smoking

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

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.

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.

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

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