

# Minnesota Clean Indoor Air Act

## Frequently Asked Questions

---

### **What is the “Freedom to Breathe” (FTB)?**

FTB refers to amendments, established by the 2007 Minnesota legislature, which expanded the Minnesota Clean Indoor Air Act (MCIAA), effective October 1, 2007.

### **What is the intention of the most recent changes?**

The amended MCIAA is intended to protect employees and the public from the health hazards of secondhand smoke.

### **Why is it important to protect nonsmokers from secondhand smoke?**

Secondhand smoke is a leading cause of preventable death in the United States. In 2005, it was estimated that, each year 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.

### **What are some examples of smoking prohibited areas?**

Smoking is 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
- Daycare premises
- Health care facilities and clinics

### **Is there a difference in the way the MCIAA applies to owned and leased facilities?**

No.



Indoor Air Unit  
PO Box 64975  
St. Paul, MN 55164-0975  
651-201-4601  
[www.health.state.mn.us/divs/eh/air](http://www.health.state.mn.us/divs/eh/air)

## MCIAA Frequently Asked Questions – page 2

---

### **What is the 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.

### **What are the responsibilities of proprietors?**

In general they are required to:

- Post “No Smoking” signs at or near all public entrances
- Ask persons who smoke in prohibited areas to refrain from smoking or require the person to leave the facility if they refuse to refrain from smoking
- Use lawful methods consistent with handling disorderly persons or patrons that refuse to comply
- Refrain from providing ashtrays and other smoking equipment
- Withhold service for noncompliant patrons

### **Are there provisions in the law about smoking outside?**

The MCIAA does not regulate smoking outside of buildings. At this time there is no statewide law regulating the act of smoking outside buildings, regardless of distance from a building or building opening. Property owners may choose to create restrictions regarding smoking areas outside of their buildings on their property. Some county and city governments do prohibit smoking within a certain distance outside of their buildings and at outdoor parks and recreation facilities. Check with your local county or city government to determine if such rules apply.

### **Are there penalties if a proprietor allows smoking in areas prohibited by the law?**

Any proprietor, person, or entity that owns, leases, manages, operates, or otherwise controls the use of the area in which smoking is prohibited, and knowingly fails to comply with the provisions of the law is guilty of petty misdemeanor under criminal law. MDH also has the authority to take enforcement actions that may include monetary penalties up to \$10,000. Local public health agencies have various enforcement tools as well under their own civil enforcement authority, including fines, potential license suspensions or revocations.

### **What can I do if I observe an MCIAA violation?**

If you observe a violation of the MCIAA, you should notify management of the facility and ask that corrective action be taken to comply with the MCIAA. If violators are not willing to comply once given a fair opportunity to correct observed violations, MDH should be notified to pursue formal enforcement action. Please contact the Minnesota Department of Health at 651-201-4601 or 1-800-798-9050 or by email at [health.mciaa@state.mn.us](mailto:health.mciaa@state.mn.us). You must speak directly with an MDH Indoor Air Unit staff-person to file an official MCIAA complaint.

### **Is smoking still allowed in designated smoking-permitted lounges and private offices that were approved for indoor smoking prior to October 1, 2007?**

Smoking is prohibited in virtually all public places and places of work, with very few exceptions. Smoking lounges and private offices that met the requirements of the MCIAA prior to the FTB amendments are no longer compliant as of October 1, 2007. There are no grandfathering provisions in the law that would allow the continued operation of existing designated smoking-permitted areas.

### **Can smoking be allowed in a shelter that is located some distance away from the building?**

The amended MCIAA prohibits smoking in all *indoor areas* of the state, except private homes and vehicles (when not being used as a workplace). Employee lounges are considered a place of employment as defined in the FTB amendments: “Place of employment includes, but is not limited to employee cafeterias, lounges...” As such, if it is your intention to provide shelter for smokers that complies with the new law, the structure must not meet the definition of an indoor area – it must, therefore, be an outdoor space. It can have a roof and floor, but the wall space (vertical planes of the perimeter) must be greater than 50% open or consist of standard window screen material. Actual windows (open or closed) are considered walls.

### **How does the Freedom to Breathe Act impact smoking on outdoor patios of bars and restaurants?**

The amended MCIAA prohibits smoking in *indoor areas* of bars and restaurants. It does not regulate any aspect of outdoor smoking. If the patio in question has a floor and ceiling, it is considered an indoor space if more than 50% of the surface area of the wall space (vertical planes of the perimeter) is solid (including windows – open or closed). Standard window screen material does not count as a solid material.

### **If a proprietor chooses to allow outdoor smoking, can their servers wait on the patrons outside?**

The MCIAA does not regulate outdoor smoking – regardless of distance from building openings like doors or windows. As such, there would be no restrictions for servers in outdoor areas.

### **Does the new smoking ban apply to support group meetings, e.g. AA, NA, etc, and meeting facilities?**

If a meeting is open to the public, the facility where the meeting is being held would be considered a *public place*. Smoking is prohibited in virtually all public places, with very few exceptions – the statute makes no exceptions for private clubs.

### **Will smoking be prohibited in the common areas of condominium and cooperative housing buildings?**

Common areas of condominium and cooperative housing buildings are considered *private residences*. As such, smoking in these areas is unregulated.

### **What about smoke drifting from a private residence?**

The MCIAA regulates the act of *smoking* within indoor public places and places of employment. The statute does not regulate smoke drifting from an area where smoking is unregulated – such as a private residence.

### **Is there certain distance you must be from a door or window to be allowed to smoke?**

The FTB amendments to the MCIAA prohibit smoking throughout *indoor areas* of virtually all public places and places of employment. Outdoor smoking is completely unregulated by the MCIAA, regardless of distance from building openings such as windows and doorways. Some local smoking ordinances, however, do have “smoking setback” provisions. In this case the stronger ordinance would apply and be enforced on the local level.

### **Are casinos required to comply with the MCIAA?**

Facilities that are located on tribal land are considered part of sovereign nations, and therefore, are not covered by state regulations such as the FTB amendments to the MCIAA. Establishments operated by tribal governments that are NOT located on tribal land are subject to state regulations.

### **Is an employer required to provide an outdoor smoking area for employees?**

The MCIAA does not require employers to provide areas for employees to smoke.

### **Are “smoking lounges” exempted from the MCIAA?**

No. Although the amended MCIAA permits lighting of tobacco in *retail tobacco shops* by customers for sampling purposes, the MCIAA does not allow the lighting of tobacco (or other plant products intended for inhalation) in businesses established as dedicated “smoking lounges”.

### **Are “electronic cigarettes” regulated by the MCIAA?**

No. The use of “electronic cigarettes” does not meet the definition of smoking in the MCIAA because the devices:

1. don’t have “smoke” – because there is no combustion (nothing is burning),
2. don’t contain tobacco or any other plant product intended for inhalation,
3. are not “lighted” – again, because there is no combustion.

As such, use of the e-cigarette devices in a public place, place of employment, public meeting or public transportation is not a violation of the MCIAA – although, it should be noted, this interpretation does not speak to any potential health hazards that these devices might pose.

### **Are there resources for workplaces to go smoke-free?**

CDC, Smoking and Tobacco Use, Consumer Summaries and Guides:

- Secondhand Smoke: What it Means to You  
(<http://www.surgeongeneral.gov/library/secondhandsmoke/secondhandsmoke.pdf>)
- Save Lives, Save Money: Make Your Business Smoke-Free

## MCIAA Frequently Asked Questions – page 5

---

([http://www.cdc.gov/tobacco/basic\\_information/secondhand\\_smoke/guides/business/pdfs/save\\_lives\\_save\\_money.pdf](http://www.cdc.gov/tobacco/basic_information/secondhand_smoke/guides/business/pdfs/save_lives_save_money.pdf))

The Tobacco Law Center's at the William Mitchell College of Law has information on the changes to the MCIAA. The Center's WorkSHIFTS project provides educational and policy resources on Minnesota workplace-related secondhand smoke and cessation coverage issues.

(<http://tobaccolawcenter.org/>)

### **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:

<http://www.health.state.mn.us/freedomtobreathe/>

Minnesota Department of Health

Indoor Air Unit

PO Box 64975

St. Paul, MN 55164-0975

651-201-4601

1-800-798-9050 (toll-free outside the metro area)

651-201-5797 (TTY)

[mciaa@health.state.mn.us](mailto:mciaa@health.state.mn.us)