

Freedom to Breathe General Information

Background

The Freedom to Breathe (FTB) provisions amended the Minnesota Clean Indoor Air Act (MCIAA) to further protect employees and the public from the health hazards of secondhand smoke. The FTB amendments became effective October 1, 2007.

The MCIAA describes where smoking is prohibited, outlines the responsibilities of employers, managers and other persons in charge and lists exemptions that affect their workplaces and facilities.

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 kills more than 3,000 adult nonsmokers from lung cancer, approximately 46,000 from coronary heart disease, and an estimated 430 newborns from sudden infant death syndrome."¹

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.

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.

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.

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, hotels and motels
- 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 – during work hours
- Public and private educational facilities
- Auditoriums, arenas and meeting rooms
- Day care premises
- Health care facilities and clinics

Permitted smoking

The law does **not** prohibit smoking in the following locations or circumstances:

- Outdoor smoking, regardless of distance from building openings
- Private places, such as private homes, residences or automobiles when they are not being used as places of employment
- Sleeping rooms of hotels and motels
- Cabs of commercial motor vehicles that weigh over 26,000 pounds
- Family farm buildings, farm trucks and equipment, if certain conditions are met
- Patients of licensed residential healthcare facilities in designated separate, enclosed areas that meet applicable regulations

- Patients in a locked psychiatric unit in a separated well-ventilated area, as approved by the treating physician
- Tobacco product shops - when customers are sampling tobacco products
- Approved scientific study participants
- Traditional Native American ceremonies
- Theatrical productions, that is, actors and actresses who are smoking as part of the theatrical performance
- Disabled Veterans Rest Camp in Washington County

Responsibilities of proprietors

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

- Make reasonable efforts to prevent indoor smoking
- 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 the premises
- Refrain from providing ashtrays and other smoking equipment
- Refuse to serve noncompliant persons

Outdoor smoking

The MCIAA does not prohibit outdoor smoking, regardless of distance from building openings such as doors and windows.

Compliance and Enforcement

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.

Local government ordinances

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

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:

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

Citation

U.S. Department of Health and Human Services. [The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General](#). Atlanta, Georgia: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Coordinating Center for Health Promotion, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2006. Available from: <http://www.surgeongeneral.gov/library/secondhandsmoke/report>