

# Freedom to Breathe for Public Transportation

How the Minnesota Clean Indoor Air Act applies to Public Transportation

## 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 list exemptions that affect their workplaces and facilities. This fact sheet explains how the law affects public transportation.

## No smoking in transit terminals

Smoking is not allowed in indoor areas of public transportation terminals and indoor areas of bus and transit stops.

## No smoking in public transportation vehicles

Employers, managers and other persons in charge cannot permit employees or the general public to smoke in public transportation vehicles when passengers are present. "Public transportation" includes vehicles such as: light and commuter rail, buses, taxis, vans, limousines, and other for hire-vehicles, but does not include except rental vehicles.

## Private smoking by drivers

Drivers of public transportation vehicles may smoke when the vehicle is being used for personal use. "Personal use" means that the vehicle is being used by the driver for private purposes and no for-hire passengers are present. If a driver smokes in a public transportation vehicle when passengers are not present, the driver must post a conspicuous sign inside the vehicle notifying passengers that smoking occurs when the vehicle is being privately used.

## 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 prohibit outdoor smoking, regardless of distance from building openings such as doors, windows and ventilation intakes.

## Responsibilities of proprietors

Employers, managers and other persons in charge continue to play an important role in controlling smoking in public transportation. 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

## 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, local law enforcement has the authority to issue petty misdemeanor citations to proprietors or individuals who knowingly fail to comply with the MCIAA.



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### **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:

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

### **Minnesota Department of Health**

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