

Freedom to Breathe in Tobacco Products Shops

How the Minnesota Clean Indoor Air Act applies to Tobacco Product Shops

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 applies to tobacco products shops.

Permitted sampling of tobacco

The MCIAA allows the lighting of tobacco within the indoor area of a tobacco products shop “by a customer or potential customer for the specific purpose of sampling tobacco products.”

Tobacco products shop defined

All of the following criteria must be met for a retail establishment to allow lighting of tobacco for sampling purposes.

- The retail establishment must have an entrance door opening directly to the outdoors.
- Greater than 90 percent of the shop’s gross revenue must be from the sale of tobacco, tobacco products or smoking related accessories.
- “Tobacco Products Shop” does not mean a tobacco department or section of any individual business establishment with any type of liquor, food or restaurant license.

Sign posting requirements

If sampling of lighted tobacco products is permitted anywhere within the indoor area of a tobacco products shop, the proprietor or other person in charge must post a sign on or immediately inside of all shop entrances that states: “Smoking is prohibited, except in designated areas.” In addition, any locations within a tobacco products shop where sampling is allowed must be designated with signs that state: “Smoking permitted,” the international smoking-permitted symbol, or both.

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.

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.



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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.

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

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