

**Michigan's Smoke Free Workplace Law
PA 188 of 2009
Frequently Asked Questions**

Beginning May 1, 2010, smoking is prohibited in most public places in Michigan. The law will cover any workplace and any food service establishment. This law covers indoor public places, including, but not limited to, restaurants, bars, shopping malls, bowling alleys, concert halls, arenas, museums, mechanic shops, health facilities, nursing homes, education facilities, and child care centers.

Why was the law passed? The Michigan legislature passed the Dr. Ron Davis Smoke-Free Air Law on December 10, 2009 to preserve and improve the health, comfort, and environment of the people of the state by limiting exposure to secondhand smoke. Governor Granholm signed the bill into law on December 18, 2009.

Where are people not allowed to smoke? Under the new law, smoking is prohibited in public places and food service establishments. A public place means an (i) enclosed indoor area owned or operated by a state or local governmental agency and used by the general public; (ii) an enclosed indoor area used by the general public and is an educational facility, a home for the aged, nursing home, hospice, or hospital long-term care unit, auditorium, arena, theater, museum, concert hall, or any other facility during the period of its use for a performance or exhibit of the arts; (iii) unless otherwise exempted, a place of employment. Place of employment means an enclosed indoor area that contains one or more work area for one or more persons employed by a public or private employer.

How are multi-unit apartment buildings and condominium buildings affected by the smoke-free law? All indoor common areas of apartment and condominium buildings must be smoke-free as of May 1, 2010. Living units of apartment and condominium buildings are not covered by the law. However, owners of apartment and condominium buildings are free to adopt smoke-free policies for their buildings which make the entire building smoke-free, including all living units.

How is a place of employment defined? A place of employment means an enclosed indoor area that contains one or more work areas for one or more persons employed by a public or private employer. Work area means a site within a place of employment at which one or more employees perform services for an employer.

Is my home office exempt from the ban? Yes. You may smoke in a structure used primarily as the residence of the owner or lessee that is also used as an office for the owner/lessee and for no other employees is exempt from the ban.

Can I smoke in my private office in a commercial work establishment? No.

What do business operators need to do to comply with this law? Business operators shall prohibit smoking in areas where it is not permitted. Compliance is determined by the following:

- Clearly and conspicuously post "no smoking" signs or the international "no smoking" symbol at each entrance and in other areas where smoking is prohibited under this act. These other areas may include outdoor areas such as patios or rooftops where patrons are intended to receive service or consume food, beverages, or both.

- Removing ashtrays and other smoking paraphernalia from anywhere where smoking is prohibited. "Smoking paraphernalia" means any equipment, apparatus, or furnishing that is used in or necessary for the activity of smoking.
- Informing individuals smoking in violation of this act that they are in violation of state law and are subject to penalties.
- Refusing service to an individual smoking in violation of this act.
- Asking an individual smoking in violation of this act to refrain from smoking and, if the individual continues to smoke in violation of this act, ask him or her to leave.

Where are employees or patrons permitted to smoke? Smoking may be allowed in outdoor areas.

How should I respond if someone is smoking in my establishment? You should politely ask the individual to stop smoking and inform them that they are in violation of the Smoke Free Law and they are subject to penalties. If the individual continues to smoke, you should refuse service to that individual and ask him or her to leave. It is recommended that you communicate this incident with your staff and log it into any tracking mechanism your establishment may have to document your actions.

How far do people have to be from a building or entrance to smoke? The law is silent on distance requirements. However, please be advised there may be local regulations or ordinances that dictate distance requirements.

Where does signage need to be placed? "No Smoking" signs or the international "no smoking" symbol must be clearly and conspicuously posted at all entrances to public places, food service establishments, and casinos subject to the smoke free law.

Are hotel/motel guest rooms included in the smoke free law? Yes. Guest rooms must be smoke free as of May 1, 2010.

Where is smoking prohibited in a restaurant? Smoking is not allowed in any indoor area as well as outdoor areas such as patios or rooftops where patrons are intended to receive service or consume food, beverages, or both.

Where are restaurant guests or employees permitted to smoke? Smoking may be allowed in outdoor areas where food, beverages, or both are not intended to be served or consumed.

My establishment only has a liquor license does the smoke free law still apply to me? Yes, your establishment is still considered a food service establishment under the Food Law Act No. 92 of 2000 as amended.

What do food service establishment operators need to do to comply with this law?

Food service establishment operators shall prohibit smoking in areas where it is not permitted. Compliance is determined by the following:

- Clearly and conspicuously post "no smoking" signs or the international "no smoking" symbol at each entrance and in other areas where smoking is prohibited under this act. These other areas may include outdoor areas such as patios or rooftops where patrons are intended to receive service or consume food, beverages, or both.

- Removing ashtrays and other smoking paraphernalia from anywhere where smoking is prohibited. "Smoking paraphernalia" means any equipment, apparatus, or furnishing that is used in or necessary for the activity of smoking.
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- Refusing service to an individual smoking in violation of this act.
- Asking an individual smoking in violation of this act to refrain from smoking and, if the individual continues to smoke in violation of this act, ask him or her to leave.

How should I respond if someone is smoking in my establishment? You should politely ask the individual to stop smoking and inform them that they are in violation of the Smoke Free Law and they are subject to penalties. If the individual continues to smoke, you should refuse service to that individual and ask him or her to leave. It is recommended that you communicate this incident with your staff and log it into any tracking mechanism your establishment may have to document your actions.

How far do people have to be from my bar/restaurant to smoke? There is no specific distance requirement that people are required to be from a food service establishment to be able to smoke. However it is recommended that smoking not be allowed at entrances or other areas that may allow smoke to infiltrate the establishment.

Are there any places that are not required to comply with the smoke free law?

Yes. Cigar bars, tobacco specialty retail stores, and the gaming floors of non-tribal casinos, casinos that are on tribal land are granted exemptions from the smoke free law.

How can my bar become a cigar bar? Cigar bars must file an affidavit for an exemption with the Michigan Department of Community Health on or before June 1, 2010 and must renew that exemption by January 31 of each subsequent year. Cigar bar must meet very specific requirements.

How can I become a Tobacco Specialty Retail Store? Tobacco specialty retail stores must file an affidavit for an exemption with the Michigan Department of Community Health on or before June 1, 2010 and must renew that exemption by January 31 of each subsequent year. The tobacco specialty retail store must meet very specific requirements.

What happens if I sell my cigar bar or tobacco specialty retail store? Both you and the purchaser of the establishment must notify the Department of Community Health of the sale in order to update the exemption information on file. The establishment will retain its exemption for the remainder of the calendar year, but the new owner/operator must file an affidavit with the Department after January 1 but before January 31 of each subsequent year.

What happens if I relocate my cigar bar or tobacco specialty retail store? You must notify the Department of Community Health of the relocation in order to update the exemption information on file.

What are the requirements for casinos? The gaming areas of Detroit's three casinos are exempted from the smoke free law. Every bar, restaurant, conference room, and lobby space outside of the gaming floor will be required to be smoke free. However, state law does not govern Native American land, so smoking may be allowed at tribal casinos.

How does the smoke free law apply to bingo halls and private clubs? Bingo halls are **not** exempt from the smoke free law. Any establishment that serves food or beverages for which a license from the state is required to be smoke free. If clubs don't serve food or beverages, but employ at least one person, they must be smoke free.

Can I serve food in a tobacco specialty retail store? A tobacco specialty retail store may sell packaged, non-potentially hazardous foods, bottled beverages, or both, in incidental amounts, such as less than five percent of gross sales. If the facility has more than 5% of their sales from packaged foods and beverages, then the facility might require a food establishment license from the Michigan Department of Agriculture and may no longer be eligible to allow smoking. Additionally, if food preparation, food service, or other related activities that would require a food service license are found at the establishment, then the facility would lose its exemption and would no longer be eligible to allow smoking.

Can customers bring food into a tobacco specialty retail store? The owner of a tobacco specialty retail store may allow customers to bring in food for his or her personal consumption. A customer may also have food delivered to the tobacco specialty retail store for his or her personal consumption.

Can foods be catered to a tobacco specialty retail store? No. Catering operations are an extension of a food service license and there is no smoking allowed at a food service establishment

What if I don't have a Tobacco Tax License, can my tobacco specialty retail store or cigar bar apply for an exemption? Yes. You must provide the Michigan Department of Community Health with valid proof that demonstrates you have paid all of the necessary state excise taxes on tobacco products.

How can I file a complaint if someone is smoking in a restaurant or bar or workplace?

Contact your County Health Department or call 1-866-59-SMOKE

What are the specific penalties for violating the smoke free law?

A civil fine of not more than \$100.00 for the first violation and not more than \$500.00 for the second or subsequent violations

Additional Information is available at the State of Michigan's website
www.michigan.gov/smokelaw

or at the Branch-Hillsdale-St. Joseph Community Health Agency's website
www.bhsj.org