

Smokefree Air Act

FACT SHEET

Overview

The Smokefree Air Act prohibits smoking in all enclosed areas within places of employment, including bars. Bars may allow smoking on unenclosed, outdoor patios.

Bar Definitions

- ▶ The Smokefree Air Act defines “bar” as an establishment where a customer may purchase alcoholic beverages and in which the serving of food is incidental to the consumption of those beverages.
- ▶ Incidental food service is defined as food preparation that is limited to the service of ice, pre-packaged snack foods, popcorn, peanuts, and the reheating of commercially prepared foods that do not require assembly, such as frozen pizza, pre-packaged sandwiches, or other prepackaged, ready-to-serve products.
- ▶ Typically, an establishment meeting the criteria of bar will not contain food preparation equipment, including but not limited to the following: roaster oven, deep fat fryer, flat top grill, or crock pot. A bar may contain a microwave or toaster oven to heat commercially prepared foods.
- ▶ An establishment that prepares food beyond the limited food service described in the definitions above is considered a restaurant for the purposes of the Smokefree Air Act.

Bar Restrictions

- ▶ Smoking is prohibited in all enclosed areas of a bar. These areas include serving areas, entrances, restrooms, hallways, and storage rooms.
- ▶ Smoking is not regulated in unenclosed outdoor patios or other outdoor areas of a bar.
- ▶ Nothing in the law prevents any owner or operator of a bar from declaring the entire property a nonsmoking place.

Duties of Proprietors

- ▶ Owners, operators, managers and persons having custody or control of a bar are required to take certain actions in order to comply with the Smokefree Air Act. These include:
 - Informing employees about the law
 - Not permitting smoking in any indoor area declared nonsmoking by the Smokefree Air Act
 - Posting no-smoking at every entrance to areas where smoking is prohibited
 - Removing all ashtrays from areas where smoking is prohibited (See the Fact Sheet titled, “Duties of Proprietors,” for more information.)

The information provided in this document is not intended to be legal advice. Please consult state statutes or contact an attorney for additional information about the Smokefree Air Act (Iowa Code 142D)

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OVERVIEW

The Smokefree Air Act prohibits smoking in child care facilities and child care homes. The law does not make a distinction between licensed and non-licensed facilities/homes.

CHILD CARE FACILITIES

- ▶ Smoking is prohibited anywhere within a childcare facility.
- ▶ Smoking is prohibited at all times whether children are present or not.
- ▶ Smoking is prohibited in any vehicle owned, leased, or provided by the owner or manager of a childcare facility.

CHILD CARE HOMES

- ▶ Smoking is prohibited in a private residence when it is used as a child care facility or child care home.
- ▶ Smoking is prohibited at all times whether children are present or not.

SIGNAGE REQUIREMENTS

The Smokefree Air Act requires the posting of “no smoking” signs to inform persons they are entering a nonsmoking place. Signage requirements can be found on the “Sign Requirements” fact sheet.

IOWA DEPARTMENT OF HEALTH AND HUMAN SERVICES RULES

The Iowa Department of Human Services implemented the following rules which apply to child care facilities and child care homes [Iowa Administrative Code, Chapters 109.10(11) and 110.5(1)]:

- ▶ Smoking and the use of tobacco products shall be prohibited at all times in the center and every vehicle used to transport the children. Smoking and the use of tobacco products shall be prohibited at all times in the home, and in any vehicle in which children receiving care in the home are transported. Smoking and the use of tobacco products shall be prohibited in the outdoor play area during hours of operation.
- ▶ Post nonsmoking signs at all entrances of the child care center and in every vehicle used to transport the children. Post nonsmoking signs at every entrance of the child care home and in every vehicle used to transport the children. All signs shall include the telephone number for reporting complaints, and the Internet address of the Department of Public Health. (www.iowaSmokefreeAir.gov).

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Owners, operators, managers and persons having custody or control of a business are required to take certain actions in order to comply with the Smokefree Air Act.

Notifying Employees

- ▶ Owners, operators, managers and persons having custody or control of a business are required to take certain actions in order to comply with the Smokefree Air Act.

*“Employee” means a person who is employed by an employer in consideration for direct or indirect monetary wages or profit, or a person who provides services to an employer on a voluntary basis.

Posting of Signs

- ▶ Proprietors are required to post “no smoking” signs at every entrance* to an indoor or outdoor nonsmoking area.
- ▶ Additionally, the Smokefree Air Act requires proprietors to post “no smoking” signs in vehicles (owned, leased, or provided by the employer) which are visible from the vehicle’s exterior.

*The term “entrance” is defined as “any doorway to an enclosed area used by the public or employees for ingress or egress and includes the commonly understood points of entry and exit to and from an outdoor area such as a driveway, sidewalk, pathway, access road, gate, or dedicated point of entry.”

Removal of Ashtrays

- ▶ The Smokefree Air Act requires proprietors to remove all ashtrays* from public places where smoking is prohibited.

*An “ashtray” is defined as “any receptacle...that is used for extinguishing or disposing of any lighted...tobacco product...However, “ashtray” shall not include any receptacle located outdoors and on the perimeter of any public place, the perimeter of the grounds of any public building, the perimeter of school grounds, or the perimeter of any other outdoor space subject to the prohibitions” of the Smokefree Air Act.

Notifying Customers in Violation

A proprietor must inform any individual smoking in a place where smoking is prohibited that the individual is violating the Smokefree Air Act and must request that the individual stop smoking immediately.

- ▶ If the individual refuses to stop smoking, the proprietor may discontinue service to that individual.
- ▶ If the individual refuses to stop smoking, the proprietor may request that the individual leave the area where smoking is prohibited.
- ▶ If the individual refuses to leave the area proprietor may notify the state or local law enforcement agency with jurisdiction over the area where smoking is prohibited.

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Smoking is not regulated on the Iowa State Fairgrounds or fairgrounds as defined in Iowa Code Section 174.1, except for all enclosed building, designated viewing areas of entertainment venues, and outdoor seating or serving areas of restaurants.

Definitions

- ▶ **Enclosed area** means all space between a floor and ceiling that is contained on all sides by solid walls or windows, exclusive of doorways, which extend from the floor to the ceiling.
- ▶ **Seating areas of outdoor sports arenas, stadiums, amphitheaters, or other entertainment venues** means areas designated by the owner, operator, manager, or other person having custody or control of the area to be used primarily to witness entertainment events and shall include, but is not be limited to: all chairs, seats, and bleachers whether permanent or temporary; standing room only; general admission or festival-style seating areas; and any other areas where individuals congregate to witness entertainment events.”
- ▶ **Restaurant** is defined as eating establishments...which offer food to the public, guests, or employees, including the kitchen and catering facilities in which food is prepared on the premises for serving elsewhere, and including a bar area within a restaurant.
- ▶ **Grounds of any public building** is defined as an outdoor area of a public building that is used in connection with the building, including but not limited to a sidewalk or driveway immediately adjacent to the building, but not including a sidewalk in the public right-of-way; a sitting or standing area immediately adjacent to the building; a patio; a deck; a curtilage or courtyard; a swimming or wading pool; a beach; or any other outdoor.

Fairground Restrictions

Smoking is prohibited in the following places:

- ▶ Enclosed areas
- ▶ Designated seating areas of outdoor entertainment venues
- ▶ Outdoor seating or serving areas of restaurants

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FAIRGROUNDS (CONT.)

Exemption

The Smokefree Air Act prohibits smoking on the grounds of public buildings that are owned, leased, operated, or under the control of the state, county, or city government. However, the grounds of such buildings that are located on the Iowa state fairgrounds or fairgrounds as defined in Iowa Code 174.1 are exempt from this regulation.

Posting of Signs

The Smokefree Air Act requires the posting of “no smoking” signs to inform persons they are entering a nonsmoking place. Signs must be posted at every entrance to a public place, place of employment, area declared a nonsmoking place, and outdoor areas where smoking is prohibited.

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Smokefree Air Act

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Overview

The Smokefree Air Act provides smoking restrictions within gambling boats, structures and racetrack enclosures.

Restrictions

- ▶ The Smokefree Air Act prohibits smoking in all enclosed areas of gambling boats, gambling structures, and racetrack enclosures, except on the defined gaming floors.
- ▶ Smoking is prohibited in enclosed bars or restaurants located on gaming floors.
- ▶ Smoking is prohibited in racetrack grandstands, or any other outdoor areas where people gather to witness any outdoor entertainment or sports events.
- ▶ Nothing in the law prevents any owner or operator of a gambling facility from declaring the entire area or property a nonsmoking place.

NOTE: This exemption does not apply to stand-alone establishments (such as restaurants and bars) that carry a social and charitable gambling license.

Definitions

- ▶ Smoking is prohibited in all enclosed areas of a bar. These areas include serving areas, entrances, restrooms, hallways and storage rooms.
- ▶ Smoking is not regulated in unenclosed outdoor patios or other outdoor areas of a bar.
- ▶ Nothing in the law prevents any owner or operator of a bar from declaring the entire property a nonsmoking place.

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Overview

The Smokefree Air Act regulates smoking at golf courses, both public and private.

Public Golf Courses

- ▶ All enclosed buildings or shelters on public golf courses must be nonsmoking.
- ▶ Smoking is prohibited on “the grounds of any public buildings owned, leased, or operated by or under the control of” state, county and city governments. This includes the grounds surrounding clubhouses, out buildings, maintenance shops, garages, or any other building on public golf course properties.
- ▶ “Grounds” are defined as “an outdoor area of a public building that is used in connection with the building...or any other outdoor area as designated by the person having custody or control of the public building.” (See Fact Sheet titled “Grounds of Public Buildings.”)
- ▶ The person having custody or control of the public golf course may exclude the course of play (tee boxes, fairways, hazards, roughs, greens, etc.) from the grounds of buildings on which smoking is prohibited.

Private Golf Courses

- ▶ All enclosed buildings or shelters on private golf courses must be nonsmoking.
- ▶ Smoking is not regulated outdoors on private golf courses.
- ▶ Private golf course managers may declare specific outdoor areas as nonsmoking and may designate the entire course as nonsmoking.

Tournament Seating Areas

- ▶ Smoking is not allowed in designated seating or standing areas during tournaments or other entertainment events. This applies to both public and private courses.

Food Service

- ▶ Smoking is not allowed in outdoor seating or serving areas of restaurants on public or private golf course property. Bars located on golf course property may allow smoking on an unenclosed, outdoor patio. (See the Fact Sheet titled “Bars.”)

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Overview

The Smokefree Air Act prohibits smoking on the grounds of state and local government buildings.

Definitions

- ▶ “Grounds of any public building” is defined as an outdoor area of a public building that is used in connection with the building, including but not limited to a sidewalk or driveway immediately adjacent to the building, but not including a sidewalk in the public right-of-way; a sitting or standing area immediately adjacent to the building; a patio; a deck; a curtilage or courtyard; a swimming or wading pool; a beach; or any other outdoor area as designated by the person having custody or control of the public building.
- ▶ “Public building” is an enclosed area owned, leased, or operated by or under the control of the state government or its political subdivisions.
- ▶ Outdoor “entrance” includes the commonly understood points of entry to an outdoor area, subject to the prohibitions of this chapter, such as a driveway, sidewalk, pathway, access road, gate, or dedicated point of entry, but not including a street, road, highway, or sidewalk in the public right-of-way.

Prohibitions & Other Provisions

- ▶ The Smokefree Air Act prohibits smoking on the grounds of public buildings.
- ▶ The person having custody or control of the grounds of the public building should define the outdoor areas used in connection with that building and properly post the outdoor entrances with “no smoking” signs as required by the Smokefree Air Act (see the fact sheet titled, “Sign Requirements”).
- ▶ A person having custody or control of a public building may exclude from the grounds of any public building a parking lot, the course of play at a golf course, a hiking trail, locations of an individual campsite or campfire, or a lake, river, or other body of water.
- ▶ Outdoor areas of a public building that are not used in connection with that building are not regulated by the Smokefree Air Act.
- ▶ A person having custody or control of the grounds of public buildings can declare areas not regulated by the Smokefree Air Act as nonsmoking places.

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Smokefree Air Act

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Overview

The Smokefree Air Act restricts smoking in health care provider locations and facilities.

Definitions

The Smokefree Air Act defines health care provider locations as “an office or institution providing care or treatment of disease whether physical, mental, or emotional...including but not limited to a hospital, a long-term care facility, and adult day service program, clinics, laboratories, and locations of professionals regulated pursuant to Title IV, subtitle III.”

All enclosed areas of a health care provider location include waiting rooms, hallways, other common areas, private rooms, semi-private rooms, and wards must be nonsmoking.

Public Providers

- ▶ Smoking is prohibited in all enclosed places of public health care provider locations.
- ▶ Smoking is prohibited on the grounds* of public health care provider locations.

*The Administrative Rules defines “grounds” as “an outdoor area of a public building that is used in connection with the building...or any other outdoor area as designated by the person having custody or control of the public building.” (See the Fact Sheet titled, “Grounds of a Public Building.”)

Private Providers

- ▶ Smoking is prohibited in all enclosed places of private health care provider locations.
- ▶ The Smokefree Air Act does not regulate smoking in outdoor areas of private health care provider locations.
- ▶ Smoking is prohibited in private residences that are used as health care provider locations.
- ▶ Any lease entered into by the state, county or city government and a private health care provider on or after July 1, 2008 must also include language that prohibits smoking on the grounds of the leased building.

Exemptions

- ▶ Smoking is allowed in private and semi-private rooms in long-term care facilities as long as the room is occupied by one or more smokers that have requested in writing to be placed in a room where smoking is permitted.
- ▶ Smoke from smoking rooms cannot drift into common areas, such as hallways, stairwells or lobbies.
- ▶ If there are state or federal regulations that already prohibit smoking within a facility, then the Smokefree Air Act does not limit those regulations.

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Overview

The Smokefree Air Act places smoking restrictions on smoking in common areas and guest rooms of hotels, motels and inns.

Definition

- ▶ “Hotel and motel” means any building or structure equipped, used, or advertised to the public to be an inn, hotel, motel, motor inn, or place where sleeping accommodations are furnished to transient guests for hire.

80/20 Statute

- ▶ “Smoking is not allowed in any enclosed areas of hotels and motels except in guest rooms which are designated for smoking.
- ▶ Designated smoking rooms cannot exceed 20% of the total number of rooms.
- ▶ The status of smoking and nonsmoking rooms cannot be changed, except to provide additional nonsmoking rooms.

Smoking Room Stipulations

- ▶ Smoking rooms on the same floor must be bordering or neighboring one another
- ▶ Smoke from smoking rooms cannot drift into areas where smoking is not allowed, such as: nonsmoking rooms, hallways, stairwells, elevators, lobbies, and other common areas.

Outdoor Areas

- ▶ Smoking is not regulated in outdoor areas of hotels, motels, or inns.
- ▶ Hotel, motel or inn operators can declare outdoor areas as nonsmoking and may designate 100% of their guest rooms as nonsmoking.

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Overview

The Smokefree Air Act specifies certain prohibitions against smoking and provides for penalties for violating the law. The Iowa Department of Health and Human Services and its designees are responsible for enforcing the Smokefree Air Act.

Authority to Designate

- ▶ The Smokefree Air Act provides the Iowa Department of Health and Human Services (Iowa HHS) with the authority to designate an entity, or entities, to assist in enforcement of the law.
- ▶ Iowa HHS has designated all state and local law enforcement agencies to assist with enforcement of the Smokefree Air Act.

Enforcement Against a Business

- ▶ The Smokefree Air Act does not allow a law enforcement officer to directly issue a citation to a business for violating the Smokefree Air Act.
- ▶ The law enforcement officer's duty is to inspect and report any violations. If a Smokefree Air Act violation is observed during an incident outside an Iowa HHS initiated site visit, Iowa HHS encourages the involved officer to report that violation to 1-888-944-2247 or www.IowaSmokefreeAir.gov
- ▶ Iowa HHS will provide copies of second and subsequent notice of potential violation letters to the law enforcement agency with jurisdiction over the area where the violation occurred.

Enforcement Against an Individual

- ▶ A law enforcement officer may issue a citation to individuals smoking in areas where smoking is prohibited pursuant to Iowa Code chapter 142D.9(1).
- ▶ See Compendium of Scheduled Violations & Scheduled Fines under the offense "Smoking in Prohibited Area"
- ▶ A law enforcement officer has broad discretion as to whether to issue a citation to an individual smoking in an area where smoking is prohibited.

Civil Penalties

- ▶ An individual who smokes in an area where smoking is prohibited is subject to a civil penalty of \$50 for each violation [Iowa Code chapter 142D.9(1)].
- ▶ Businesses in violation of the law are subject to the following civil penalties: First violation: up to \$100; Second violation (within 12 months): up to \$200; Third and subsequent violations (within 12 months): up to \$500.
- ▶ Proceeds from civil penalties will be deposited in the general fund of the respective city or county involved in the enforcement action.

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Overview

The Smokefree Air Act and its supporting administrative rules directly involve county and city governments, townships, or school districts (political subdivisions) in specific areas.

Grounds of Public Buildings

- ▶ The Smokefree Air Act prohibits smoking on the grounds¹ of any public buildings² owned, leased, or operated by or under the control of political subdivisions.”

¹ “Grounds” are outdoor areas of a public building that are used in connection with the building, including but not limited to a sidewalk or driveway immediately adjacent to the building, but not including a sidewalk in the public right-of-way; a sitting or standing area immediately adjacent to the building; a patio; a deck; a curtilage or courtyard; a swimming or wading pool; a beach; or any other outdoor area as designated by the person having custody or control of the public building. A person having custody or control of a public building may exclude from the designated grounds of any public building the following: a parking lot, the course of play at a golf course, a hiking trail, locations of an individual campsite or campfire, or a lake, river, or other body of water. (See the Fact Sheet titled “Grounds of Public Buildings.”)

² “Public building” is an enclosed area owned, leased, or operated by or under the control of the state government or its political subdivisions.

- ▶ The Smokefree Air Act prohibits smoking on “school grounds.” (See the Fact Sheet titled “Educational Facilities.”)

Posting of Signs

- ▶ Political subdivisions are required to post “no smoking” signs at every entrance³ to an indoor or outdoor nonsmoking area on public-owned properties.
- ▶ Additionally, the Smokefree Air Act requires political subdivisions to post “no smoking” signs in government vehicles. The signs must be visible from the vehicle’s exterior.

Ashtrays

- ▶ The Smokefree Air Act requires political subdivisions to remove all ashtrays⁴ from public places where smoking is prohibited.

⁴ An “ashtray” is defined as “any receptacle...that is used for extinguishing or disposing of any lighted...tobacco product... However, “ashtray” shall not include any receptacle located outdoors and on the perimeter of any public place, the perimeter of the grounds of any public building, the perimeter of school grounds, or the perimeter of any other outdoor space subject to the prohibitions” of the Smokefree Air Act.

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Employee Notification

The Smokefree Air Act requires political subdivisions to inform all existing and prospective employees of the requirements of the Smokefree Air Act.

Business Licensee Notification

“Notice of the provisions of the Smokefree Air Act shall be provided to all applicants for a business license in this state.” There is no stipulation as to how this notification is to be carried out.

Iowa HHS has provided the website, www.IowaSmokefreeAir.gov to assist political subdivisions in fulfilling this requirement.

Inspection Processes

- ▶ The Smokefree Air Act requires political subdivisions which perform inspections to “assess compliance with the requirements” of the Smokefree Air Act, and to “report any violations to the department of public health.”
- ▶ Iowa HHS Division of Tobacco Use Prevention & Control will work with and provide local authorities with educational materials to assist with this assessment.
- ▶ The Smokefree Air Act does not apply to federal inspections conducted by political subdivisions.

Enforcement

- ▶ The department may refer complaints regarding a violation(s) of the Smokefree Air Act to the law enforcement authorities of the state or of the political subdivision of the state in which the alleged violation occurred.
- ▶ Magistrates shall hear and determine violations of this chapter.
- ▶ Civil penalties paid shall be deposited in the general fund of the respective city or county. (See the Fact Sheet titled “Law Enforcement Requirements.”)

Leases

- ▶ The Smokefree Air Act requires lease agreements entered into by political subdivisions after July 1, 2008, to comply with the provisions of the Smokefree Air Act.

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Smoking is prohibited in enclosed common areas of multi-unit residential buildings. Smoking is not regulated by the law inside private residences (unless used as a child care facility, child care home, or a health care provider location).

Definitions

- ▶ “Enclosed area” means all space between a floor and ceiling that is contained on all sides by solid walls or windows, exclusive of doorways, which extend from the floor to the ceiling.
- ▶ “Common area” means a reception area, waiting room, lobby, hallway, restroom, elevator, stairway or stairwell, the common use area of a multi-unit residential property, or other area to which the public is invited or in which the public is permitted.

Restrictions

Areas where smoking is prohibited (including but not limited to):

- ▶ Hallways
- ▶ Laundry facilities
- ▶ Lobby/public waiting areas
- ▶ Public restrooms
- ▶ Stairwells/elevators
- ▶ Management offices

Areas where smoking is not regulated by the law:

- ▶ Private residences (even if smoke from those areas infiltrate outside the residence into other areas)
- ▶ Areas outside building entrances, external doorways or other outdoor/unenclosed areas (unless building/enclosed area is owned, leased, operated, or under the control of the state, county or city government. If so, see “Grounds of Publicly Owned Buildings” factsheet)

Posting of Signs

The Smokefree Air Act requires the posting of “no smoking” signs to inform persons they are entering a nonsmoking place. Signs must be posted at every entrance to a public space, place of employment, area declared a nonsmoking place, and outdoor areas where smoking is prohibited. See “Sign Requirements” factsheet for sign specifications.

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The Smokefree Air Act regulates smoking in specified outdoor areas. Unless the law specifies that smoking is completely regulated in an area, the law does not specify a distance where smoking is regulated from the entrances to buildings.

Entertainment Venues

Smoking is not allowed in the designated seating areas (permanent or temporary) of outdoor entertainment venues where members of the general public assemble to witness entertainment events, including but not limited to:

- ▶ Sports arenas
- ▶ Standing-room only
- ▶ Amphitheaters
- ▶ Stadiums
- ▶ Chairs, seats and bleachers
- ▶ Festival-style seating

Seating/Serving Areas of Restaurants

- ▶ Smoking is prohibited in all outdoor seating or serving areas of restaurant. These areas include all outdoor places where customers are seated and/or are served food or beverages
- ▶ Smoking is not prohibited in a defined outdoor area of a restaurant, such as a patio or a portion of a patio, provided that there is no seating in such area and no restaurant employee serves food or beverages to a patron in such area

Public Grounds

The Smokefree Air Act requires the posting of “no smoking” signs to inform persons they are entering a nonsmoking place. Signs must be posted at every entrance to a public space, place of employment, area declared a nonsmoking place, and outdoor areas where smoking is prohibited. See “Sign Requirements” factsheet for sign specifications.

- ▶ The Smokefree Air Act prohibits smoking on the grounds of state and local government buildings.
- ▶ The person having custody or control of the grounds of the public building should define the outdoor areas used in connection with that building and properly post the outdoor entrances with “no smoking” signs as required by the Smokefree Air Act.
- ▶ Outdoor areas of a public building that are not used in connection with that building are not regulated by the Smokefree Air Act.

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OUTDOOR AREAS (CONT.)

School Grounds

- ▶ Smoking is prohibited on school grounds, including parking lots, athletic fields, playgrounds, tennis courts, and any other outdoor area under the control of a school.
- ▶ Smoking is prohibited inside any vehicle located on school grounds.
- ▶ The Smokefree Air Act requires schools to remove all ashtrays from public places where smoking is prohibited.

Public Transit Stations

- ▶ Smoking is prohibited on school grounds, including parking lots, athletic fields, playgrounds, tennis courts, and any other outdoor area under the control of a school.

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**PLACES WHERE SMOKING IS NOT
REGULATED**

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The Smokefree Air Act specifies places where smoking is not regulated.

► Private Residences

Unless used as a child care home or facility, or a health care provider location.

► Up to 20% of hotel/motel Rooms

Smoking rooms on the same floor need to be contiguous. Smoke from these rooms cannot infiltrate into areas where smoking is prohibited. Additional smoking rooms cannot be added after July 1st.

► Retail tobacco stores

Smoke from these stores cannot infiltrate into areas where smoking is prohibited; Gross revenue derived from the sale of tobacco products needs to be at least 80% of total gross revenue.

► Private & semi-private rooms in long term care facilities

Individuals must request in writing to be placed in smoking rooms. Smoke from these rooms cannot infiltrate into areas where smoking is prohibited. Existing State or Federal regulations that may apply to smoking in long-term care facilities are not affected by the Act.

► Private clubs

See “Private Clubs” fact sheet.

► Outdoor areas that are places of employment

Exemption does not apply to: seating areas of entertainment venues; seating or serving areas of restaurants; public transit shelters; all school/educational facility property; grounds of city, county & state government buildings.

► Limousines under private hire

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PLACES WHERE SMOKING IS NOT REGULATED (CONT.)

▶ **Sole use vehicles that are provided by an employer**

Vehicles owned, leased or provided by the employer must be for the sole use of that driver and not used by more than one person in the course of employment either as a driver or passenger.

▶ **Privately-owned vehicles not otherwise defined as a place of employment or public place**

▶ **Cabs of motor trucks or truck tractors if no nonsmoking employees are present**

▶ **During a smoking cessation program***

▶ **Farm tractors, farm trucks & implements of husbandry**

▶ **Gaming floor of gambling boats, gambling structures & racetrack enclosures**

▶ **The Iowa Veterans Home**

▶ **Iowa State & County Fairgrounds**

▶ **Institutions administered by the Department of Corrections**

▶ **Iowa National Guard facilities**

*A smoking cessation program is defined as a course of treatment that is capable of clinical review for evidence-based outcomes that individuals in the program stop smoking and that has been approved for coverage by a private or managed health care plan, Medicaid, Medicare, the Veterans Health Administration, or the United States Military. Smoking needs to be an integral part of the program.

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Smokefree Air Act

FACT SHEET

Overview

The Smokefree Air Act defines and places smoking restrictions on enclosed areas of private clubs. Smoking is not regulated in outdoor areas of private clubs.

Private Clubs

- ▶ The Smokefree Air Act allows smoking in qualified private clubs. Smoking is prohibited in private clubs that do not qualify for the exemption.
- ▶ A “private club” is defined as an organization that is the occupant of a location used fully for club purposes at all times and meets all of the following criteria:
 - Is operated solely for recreational, fraternal, social, patriotic, political, benevolent, or athletic purposes but not for financial gain.
 - Sells alcoholic beverages only as incidental to its operation.
 - Is managed by a board of directors, executive committee, or similar body chosen by the members.
 - Has established bylaws or another document to govern its activities.
 - Has been granted an exemption from payment of federal income tax as a club pursuant to 26 U.S.C.} 501.
 - Has no employees* - except when the private club being used for a function where the general public is invited. (Smoke from these locations cannot drift into areas where smoking is prohibited.)

*“Employee” means a person who is employed by an employer in consideration for direct or indirect monetary wages or profit, or a person who provides services to an employer on a voluntary basis.

Other Restrictions

- ▶ Smoking is not allowed in a private club when the general public is invited into the establishment.
- ▶ The private club exemption shall not apply to any entity that is established for the purposes of avoiding compliance with the Smokefree Air Act.

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Smokefree Air Act

FACT SHEET



Overview

The Smokefree Air Act restricts smoking in certain areas of state, county and city parks and recreational facilities. The Smokefree Air Act does not apply to Federal parks.

Indoor Areas

- ▶ Smoking is prohibited in all enclosed buildings or shelters on park property.
- ▶ Smoking is not regulated in private residences located on park property, unless any portion of the private residence is open to the public.

Outdoor Areas

Smoking is prohibited on the grounds of public buildings located within parks.

- ▶ “Grounds of a public building” means outdoor areas used in connection with the public building, including: sidewalks neighboring the building, sitting or standing areas neighboring the building, patios and decks, courtyards, swimming pools, and beaches. These areas must be nonsmoking. (See the Fact Sheet titled “Grounds of Public Buildings.”)
- ▶ Outdoor areas where smoking may be allowed include: a parking lot, the course of play at a golf course, a hiking trail, locations of an individual campsite or campfire, or a lake, river, or other body of water.
- ▶ Nothing in the law prohibits any person having custody or control of the park from declaring the entire area or property a nonsmoking place.

Posting of Signs

- ▶ “No smoking” signs which meet the requirements of the Smokefree Air Act must be clearly posted at every entrance to an enclosed building or shelter and at “commonly understood points of entry and exit to and from an outdoor area.” (See the Fact Sheet titled, “Signage.”)

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Smokefree Air Act

FACT SHEET

Overview

The Smokefree Air Act prohibits smoking in all enclosed areas within places of employment, including restaurants. Smoking is also prohibited in the outdoor seating or serving areas of restaurants.

Restaurant Definitions

- ▶ The Smokefree Air Act defines “restaurant” as eating establishments...which offer food to the public, guests, or employees, including the kitchen and catering facilities in which food is prepared on the premises for serving elsewhere, and including a bar area within a restaurant.
- ▶ The Smokefree Air Act defines “bar” as an establishment in which the serving of food is incidental to the consumption of alcoholic beverages. Incidental food service is limited to the service of pre-packaged snack foods, popcorn, the reheating of commercially prepared foods that do not require assembly. (See the Fact Sheet titled, “Bars.”)
- ▶ A food service establishment, with or without a liquor license, that prepares food beyond the limited food preparation described in the definition of a bar is considered a restaurant for the purposes of the Smokefree Air Act.

Restaurant Definitions

- ▶ Smoking is prohibited in all enclosed areas of a restaurant. These areas include dining areas, entrance areas, restrooms, hallways, stairways, storage rooms, and kitchens.
- ▶ Smoking is prohibited in all outdoor seating or serving areas of restaurant. These areas include all outdoor places where customers are seated or served food or beverages.
- ▶ Smoking is not prohibited in a defined outdoor area of a restaurant, such as a patio or a portion of a patio, provided that there is no seating in such area and no restaurant employee serves food or beverages to a patron in such area.

Duties of Proprietors

Owners, operators, managers and persons having custody or control of a restaurant are required to take certain actions in order to comply with the Smokefree Air Act. These include:

- ▶ Not permitting smoking in any indoor area declared nonsmoking by the Smokefree Air Act
- ▶ Posting no-smoking at every entrance to areas where smoking is prohibited
- ▶ Removing all ashtrays from areas where smoking is prohibited (See the Fact Sheet titled, “Duties of Proprietors,” for more information.)

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Smokefree Air Act

FACT SHEET

Overview

The Smokefree Air Act prohibits smoking in all public and private schools and on any grounds under the control of the schools, including inside any vehicle located on those grounds.

Definitions

- ▶ **School** and “**public or private educational facility**” is defined as a public school and nonpublic school, a community college, an accredited private institution, or an institution governed by the Board of Regents.
- ▶ **Entrance** is defined as “any doorway to an enclosed area used by the public or employees for ingress or egress and includes the commonly understood points of entry and exit to and from an outdoor area such as a driveway, sidewalk, pathway, access road, gate, or dedicated point of entry.
- ▶ **Ashtrays** is defined as “any receptacle...or other vessel that is used for extinguishing or disposing of any lighted cigar, cigarette, pipe, or other tobacco product in any manner or form. However, ‘ashtray’ shall not include any receptacle located outdoors and on the perimeter of...school grounds.”

School Buildings

The Smokefree Air Act prohibits smoking in all school buildings and enclosed areas under the control of the educational facility.

School Grounds

- ▶ Smoking is prohibited on school grounds, including parking lots, athletic fields, playgrounds, tennis courts, and any other outdoor area under the control of a school.
- ▶ The Smokefree Air Act requires schools to remove all ashtrays from public places where smoking is prohibited.
- ▶ Smoking is prohibited inside any vehicle located on school grounds.

Posting of Signs

- ▶ The Smokefree Air Act requires schools to post “no smoking” signs at every entrance to an indoor or outdoor nonsmoking area.
- ▶ Additionally, the Smokefree Air Act requires schools to post “no smoking” signs in all school vehicles. The signs must be visible from the vehicle’s exterior. (See the Fact Sheet titled, “Sign Requirements.”)

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Smokefree Air Act

FACT SHEET

Overview

The Smokefree Air Act requires businesses, and state, county and city governments to post “no smoking” signs at every entrance to places where smoking is prohibited.

Prohibitions & Other Provisions

To meet the sign requirements in the Smokefree Air Act, all “no smoking” signs should conform to the following:

► Signs must contain:

1. The words “no smoking” or the international “no smoking” symbol
2. The Smokefree Helpline: “1-888-944-2247”
3. The official Web site: “hhs.iowa.gov/smokefreeair”

- “No smoking” signs must be at least 24 square inches in size (e.g., 3” x 8” or 4” x 6”, etc.)
- Vehicle “no smoking” signs must be at least 9 square inches in size (e.g., 3” x 3”, etc.)
- Font type and size must be legible.

Posting of Signs

The Smokefree Air Act requires the posting of “no smoking” signs to inform persons they are entering a nonsmoking place. Signs must be posted in the following locations:

- At every entrance* to a public place, place of employment, area declared a nonsmoking place, and outdoor areas where smoking is prohibited.

*Entrance means any doorway to an enclosed area used by the public or employees for ingress and includes the commonly understood points of entry to an outdoor area such as a driveway, sidewalk, pathway, access road, gate, or dedicated point of entry, but not including a street, road, highway, or sidewalk in the public right-of-way.

- Every vehicle that constitutes a public place, place of employment, or vehicle designated nonsmoking. Signs have to be visible from the exterior of the vehicle.

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Smokefree Air Act

FACT SHEET

Overview

The Smokefree Air Act prohibits smoking in nearly all vehicles owned, leased, or provided by an employer.

Prohibitions & Other Provisions

Smoking is prohibited in:

- ▶ Vehicles that are provided by a private employer that are used by more than one person in the course of employment.
- ▶ Smoking is prohibited in vehicles that are provided by a private employer that carry passengers during the course of employment.
- ▶ Smoking is prohibited in privately owned vehicles that constitute a place of employment or public place.
- ▶ Smoking is prohibited in all state and local government vehicles.

Vehicles Not Regulated

Smoking is not prohibited in:

- ▶ Limousines under private hire
- ▶ Vehicles provided by a private employer that are for the sole use of that driver and are not used by more than one person in the course of employment either as a driver or passenger
- ▶ Privately owned vehicles not otherwise defined as a place of employment or public place
- ▶ Cabs of motor trucks or truck tractors if no nonsmoking employees are present
- ▶ Farm tractors, farm trucks, and implements of husbandry when being used for their intended purposes
- ▶ Unmarked or undercover vehicles used by law enforcement

Posting of Signs

- ▶ The Smokefree Air Act requires the posting of “no smoking” signs in all applicable vehicles to inform persons that they are entering a nonsmoking place.
- ▶ Signs must be posted in every vehicle described above where smoking is prohibited or that has been designated nonsmoking.
- ▶ Signs must be visible from the exterior of the vehicle.
(See the fact sheet titled: “Sign Requirements”)

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