

Freedom to Breathe in Tobacco Products Shops

How the Freedom to Breathe Provisions apply to Tobacco Product Shops

Background

The Freedom to Breathe (FTB) provisions were signed into law by Governor Tim Pawlenty on May 16, 2007, to protect employees and the public from the health hazards of secondhand smoke. The FTB provisions are an expansion of the current Minnesota Clean Indoor Air Act (MCIAA); the new provisions become effective on October 1, 2007.

The FTB provisions describe where smoking is prohibited, outline the responsibilities of employers, managers and other persons in charge and list exemptions within the amended MCIAA that affect their facilities. This fact sheet explains how the new provisions of the law affect tobacco products shops.

Permitted sampling of tobacco

FTB provisions allow 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

As part of the Minnesota Department of Health’s (MDH) compliance strategy, emphasis will be placed on educating the public and business owners on the new provisions. 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 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.

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.

Local government ordinances

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

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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