

Iowa's Smokefree Air Act

Frequently Asked Questions

Updated: August 25, 2008

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 (2008 Iowa Acts, House File 2212).

Q1. Why was the law passed?

The Iowa legislature passed the Smokefree Air Act to protect the public's health and the health of employees from the dangers of exposure to secondhand smoke.

Q2. When does the Smokefree Air Act take effect?

The law went into effect on July 1, 2008.

Q3. Where can I find a copy of the law? Where can I find a copy of the administrative rules?

The Iowa Department of Public Health has provided a link to the law and to the administrative rules at the Smokefree Air Act Web site, www.iowaSmokefreeAir.gov. The administrative rules provide guidance on how the provisions of the law will be carried out and enforced.

Q4. Does the Smokefree Air Act ban smoking?

No. The law prohibits smoking in certain areas.

Q5. Where is smoking prohibited?

Smoking is prohibited in all enclosed public places and workplaces and in some outdoor areas.

Q6. In which outdoor areas is smoking prohibited?

Smoking is not allowed in outdoor sports arenas, stadiums, amphitheatres, and in the designated seating areas of outdoor festivals or other outdoor entertainment venues where the public gathers to witness entertainment events. Smoking is also prohibited in the outdoor seating or serving areas of restaurants; public transportation stations, platforms and shelters; school grounds; and the grounds of public buildings.

Q7. What are some examples of public places and places of employment affected by the law?

The law prohibits smoking in all enclosed areas in places of employment. Examples include: restaurants, bars, public and private educational facilities, factories, warehouses, office buildings and shopping malls. Enclosed areas include: work areas, private offices, conference and meeting rooms, classrooms, auditoriums, employee lounges and cafeterias, hallways, restrooms, elevators, stairways and stairwells, and vehicles owned, leased, or provided by the employer. A private residence used as a child care facility, a child care home, or as a health care provider location also must be smoke free.

Q8. Can employees smoke in a designated break room or in an outdoor area?

Smoking is not allowed in enclosed areas within places of employment, including break rooms. Smoking is allowed in outdoor areas not required to be smoke free by the Smokefree Air Act.

Q9. Do all bars and restaurants have to be smoke free?

Yes. Smoking is prohibited in all enclosed areas of bars, nightclubs, lounges, adult entertainment establishments, cabarets, restaurants, coffee shops, sandwich shops, fast-food restaurants, and cafeterias.

Q10. How do I know if my business is considered a “bar” or a “restaurant?”

A bar is defined in the law as an establishment where the serving of food is “incidental” to the consumption of alcoholic beverages. Food preparation in a bar is limited to the service of pre-packaged snack foods and popcorn and the reheating of commercially prepared foods that do not require assembly, such as frozen pizzas, pre-packaged sandwiches, or other prepackaged, ready-to-serve products.

An establishment which prepares food on site is considered a restaurant for the purposes of the Smokefree Air Act, even if that establishment has a liquor license.

Q11. I own a bar and do not allow smoking on my patio. Does the law allow me to keep my patio smoke free even though the law says that smoking may be allowed?

Yes. An owner, operator, manager, or other person having control of an area may declare the entire area as a non-smoking area.

Q12. Is smoking allowed in a cigar bar?

Smoking is prohibited in all enclosed areas of bars, which includes the enclosed areas of a cigar bar. Establishments which are defined as bars under the Smokefree Air Act may allow cigar smoking only on unenclosed outdoor patios.

Establishments which are defined as tobacco retailers under Smokefree Air Act may allow smoking in enclosed areas. In order for a cigar bar to be classified as a tobacco retailer, at least 80 percent of the cigar bar’s gross revenues must come from the sale of tobacco products and accessories, with no more than 20 percent of sales coming from the sale of alcohol or other products.

Q13. At what distance from an entrance is outside smoking allowed?

Provided that you are not on the grounds of a school/educational facility or near the entrance to a publically-owned building (i.e., owned by the state, county, or city), then the law does not specify a distance that smoking is or is not allowed from the entrances to buildings.

Q14. Is smoking allowed in a private residence?

Smoking is allowed in a private home except when that home is used as a child care facility, a child care home, or as a health care provider location.

Q15. Is smoking allowed in multi-unit apartment buildings?

Smoking is not allowed in enclosed common areas of apartment buildings. The areas include (but are not limited to): reception areas, lobbies, hallways, laundries, elevators, stairways or stairwells, or other areas to which the public is invited or in which the public is permitted. Smoking is not regulated in private apartments within a multi-unit apartment building.

Q16. Is smoking allowed when children or minors are present?

The law does not address smoking when children or minors are present except when a private residence is a child care facility or child care home.

Q17. What are some examples of areas where smoking is allowed?

There are specific public places where smoking will be allowed, including: up to 20 percent of rooms in a hotel or motel, retail tobacco stores, private clubs with no employees, most outdoor areas of employment, limousines under private hire and private vehicles, farm tractors, and the gaming floor of casinos.

The law also allows smoking at the Iowa State Fairgrounds, the Iowa Veteran's Home, and the facilities of the Iowa National Guard.

Q18. Do “no smoking” signs have to be posted?

Yes. Signs must be posted at every entrance to a public place and place of employment where smoking is not allowed, and at every entrance to outdoor areas where smoking is not allowed.

Signs also must be posted in publically-owned vehicles and in vehicles owned, leased or provided by an employer if more than one person rides in that vehicle either as a driver or a passenger. Vehicle signs must be placed where they can be visible from the exterior of the vehicle.

Q19. What are the signage requirements?

The signs need to clearly display three items: (1) the international “no smoking” symbol OR the words “No Smoking,” (2) the Smokefree Air Act Web site, www.IowaSmokefreeAir.gov, and the (3) Smokefree Air Act Helpline 1-888-944-2247. Signs are required to be at least 24 square inches in size (e.g., 4” x 6” or 3” x 8”) and the type must be in a legible font.

The above sign requirements are the same regardless of where the sign is placed.

Q20. Where can I get the required signs?

Signs which meet the requirements of the law can be downloaded from the Smokefree Air Act Web site, www.IowaSmokefreeAir.gov. Customized signs or signs suitable for outdoor use should be ordered from private vendors.

**Q21. What if my business was smoke-free before the law went into effect?
Can't I just use the no-smoking signs I had posted before July 1?**

No. See answer to questions #19 and #20.

Q22. How will the smoke free law be enforced?

The primary goal of the enforcement process is to achieve voluntary compliance by educating the public and business owners about the requirements of the law. The Iowa Department of Public Health (IDPH) will maintain a system for receiving and investigating complaints. However, IDPH may refer complaints regarding a violation of the law to designated law enforcement authorities.

Q23. Where can I file a complaint?

Complaints may be reported on the Smokefree Air Act Web site, www.iowaSmokefreeAir.gov, by calling the Smokefree Air Act Helpline 1-888-944-2247, or by mailing a written complaint to the Iowa Department of Public Health, Lucas State Office Building, Des Moines, IA 50319-0075.

Q24. What happens when the Iowa Department of Public Health receives a complaint?

IDPH will contact the individual who filed the complaint to further investigate the details of the complaint. Once it has been determined that a complaint is credible, IDPH will issue a first "notice of potential violation" letter to the owner of the facility or business owner about which the complaint was filed. The notice of violation is not a legal notice. The notice will provide information to the business owner about the reported violation, provide information about what needs to be done to come into compliance with the Smokefree Air Act, and provide contacts for further information and assistance.

If IDPH receives a second verified complaint regarding the same facility or business within 12 months, IDPH will issue a second notice of potential violation to the business owner and will coordinate a compliance check of that business by a law enforcement official. The law enforcement official may issue a citation based upon the results of their compliance check. For subsequent complaints within one year, IDPH will issue a notice of potential violation letter and may coordinate additional compliance checks by law enforcement.

Q25. What are the penalties for an individual who violates the law?

A person who smokes in a non-smoking area may receive a citation and civil fine of \$50 from a law enforcement official.

Q26. What are the penalties for a business that violates the law?

A business that violates the law may receive a civil fine of \$100 for a first offense, up to \$200 for a second offense (within a year), and up to \$500 for the third and subsequent offense (within a year).

In addition, violations of the Smokefree Air Act may result in the suspension or revocation of any permit or license issued to the person for the premises on which the violation occurred.

Q27. What are my responsibilities as an employer or business owner?

An employer, business owner or manager must not permit smoking in areas where smoking is prohibited by the Smokefree Air Act. To meet this responsibility, an employer must:

- Post signs that meet the requirements of the law at every entrance to a non-smoking area
- Place signs that meet the requirements of the law in every employer-owned vehicle, if more than one person rides in that vehicle either as a driver or a passenger
- Inform all employees about the provisions of the Smokefree Air Act
- Remove all ashtrays from areas where smoking is prohibited

Q28. As a business owner, what do I do if I observe someone smoking in my establishment?

The owner or person in control of the business should inform the individual who is smoking that they are in violation of the Smokefree Air Act and ask the individual to stop smoking immediately. If the individual refuses to stop smoking, then they should be asked to leave the area where smoking is prohibited. If the individual refuses to leave, local law enforcement officials may be contacted.

Q29. The law says that smoking is prohibited on the grounds of any public building. What does that mean?

“Grounds of any public building” means an outdoor area that is used in connection with the building. This could mean a sidewalk immediately adjacent to a building; a sitting or standing area immediately adjacent to the building; a patio or a deck; a courtyard; a swimming pool; a beach, or any other outdoor area designated as non-smoking. **This applies only to public buildings owned, leased, or operated by or under the control of the state government or its political subdivisions.**

Q30. Can you still smoke at a public campground or on a public lake in your boat?

Smoking is allowed on hiking trails, at campsites or campfires, and on lakes, rivers or other bodies of water. However, nothing prohibits any owner, operator, manager, or other person having custody or control of a public campground from declaring the entire area or property a non-smoking place.

Q31. How are golf courses affected by the law?

The course of play of a golf course is not required to be smoke free. However, nothing prohibits any owner, operator, manager, or other person having custody or control of a golf course from declaring the entire area or property a non-smoking place

Q32. The law says that smoke can't “infiltrate” into some areas designated as smoke-free. What does “infiltrate” mean?

“Infiltrate” means that tobacco smoke permeates an enclosed area by passing through a wall, ceiling, floor, window, door, or ventilation system to the extent that an individual in that area can smell the tobacco smoke.

There are four areas where secondhand smoke is prohibited from infiltrating into an area where smoking is prohibited by the law: 1) Smoke from hotel/motel rooms where smoking is allowed; 2) Retail tobacco stores; 3) Smoking-allowed rooms at long-term care facilities; and 4) Private clubs that have no employees (except when being used for a function to which the general public is invited).

Q33. How does the Smokefree Air Act apply to federal buildings and vehicles?

The law does not apply to federally-owned buildings, grounds, or vehicles.

Q34. What assistance is available if I want to quit smoking or for my employees who want to quit smoking?

Quitline Iowa provides free smoking cessation services to all Iowans. The Quitline will work with you to set up a quit plan and help you with coaching after you quit. You may also qualify for a free, 2-week course of nicotine patches or gum.

Call 1-800-QUIT-NOW (1-800-784-8669) or visit www.quitlineiowa.org for more information.

Q35. How are daycares/child care facilities impacted by the law?

Smoking is prohibited in any enclosed areas of a daycare or child care facility, including those in private residences and vehicles used to transport children. The law does not provide any exemptions for when children may not be present.

In addition, the Iowa Department of Human Services (DHS) child care center rules state:

Item 1. Chapter 109.10(11)

Smoking. 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 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. All signs shall include the telephone number for reporting complaints, and the Internet address of the Department of Public Health (www.iowasmokefreeair.gov).

Item 2. Chapter 110

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 the hours of operation.

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).

Q36. Does the law allow smoking anywhere at the Iowa State Fairgrounds?

“Fairgrounds” as defined in Iowa Code section 174.1 are exempt from the law. However, smoking is still prohibited within all enclosed areas on the fairgrounds, the outdoor seating or serving areas of restaurants, and the designated seating areas of any outdoor entertainment venues. Please see our fact sheet for “Outdoor Entertainment Events” posted at <http://www.iowasmokefreeair.gov/resource.aspx>.