

Issue Brief

Tobacco-Free Environments

Overview

The 2006 report from the US Surgeon General entitled "[The Health Consequences of Involuntary Exposure to Tobacco Smoke.](#)" announced that "no safe level of exposure to secondhand smoke exists." The effects of secondhand smoke exposure on children are staggering. Pregnant women exposed to high-levels of secondhand smoke are more likely to give birth to low birth weight babies than pregnant women who are not exposed to secondhand smoke. Infants exposed to secondhand smoke have a higher risk of Sudden Infant Death Syndrome (SIDS). Children exposed to secondhand smoke have a greater risk of developing chronic respiratory illness, otitis media, and asthma, and miss on average 6 more days of school a year than children not exposed to secondhand smoke.

AAP Recommendations

Smoke-free environments are the best environments for children. In order to limit the exposure of children to secondhand smoke, the AAP Policy Statement, "[Tobacco Use: A Pediatric Disease,](#)" recommends the following:

- The use of tobacco products in all indoor and outdoor public places should be prohibited.
- Federal, state, and local governments should enact and enforce laws mandating the provision of smoke-free environments in all public places and require employers to provide smoke-free work environments for their employees.
- Health care and educational facilities should be completely tobacco free, inside and outside, at all

times. This includes all buildings, grounds, parking lots, satellite facilities, vehicles, and temporary venues.

- Tobacco dispensing machines and sale of tobacco products should be banned from schools, hospitals, affiliated clinics, and pharmacies. The only exception to this ban would be legitimate research centers that study tobacco use or cessation.
- Foster families should provide smoke-free environments to children whenever possible but specifically in the home and in vehicles used to transport children. These spaces should remain smoke free even when children are not present to reduce the exposure via off-gassing or "thirdhand smoke" which is residue that left in an environment after smoking has ceased.
- Pediatricians should counsel parents about the importance of maintaining tobacco-free environments for children including: homes, cars, schools, child care programs, playgrounds, and other venues.

State Activity

California became the first state to enact a comprehensive smokefree workplace act in 1994, requiring that all places of employment, including restaurants and bars, maintain a smokefree environment. Though numerous local governments instituted public smoking bans throughout the late 1990s and early part of the 2000s, statewide smoking bans did not catch on until the middle part of the decade. As of January 2012, 29 states, **Washington, DC,** and **Puerto Rico** have banned smoking in bars and restaurants.

Clean Indoor Air Legislation

In 2011, 15 states (**Alabama, California, Connecticut, Indiana, Iowa, Kentucky, Mississippi, Missouri, Nebraska, New Jersey, New York, South Dakota, Tennessee, Texas, and West Virginia**) introduced smokefree workplace legislation or introduced stronger amendments to existing smokefree laws. None of these bills were enacted in 2011.

- States have also extended smokefree legislation beyond the workplace to include rental dwellings, outdoor areas, government vehicles, correctional facilities, health care facilities, casinos, restaurants, bars, and other public places. In 2011, 22 states (**Alabama, California, Hawaii, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Mississippi, Missouri, Nevada, New Jersey, New York, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Vermont, Virginia, and West Virginia**) have introduced such expansive legislation.
- States have also proposed legislation further restricting tobacco use in and around colleges, schools, and child care settings in 2011. **Alabama, Arkansas, California, Florida, Hawaii, Indiana, Iowa, Kentucky, Mississippi, Missouri, Nebraska, Nevada, New Mexico, New York, South Carolina, Virginia, and West Virginia** proposed legislation to combat tobacco use on or near colleges, schools, and daycare centers. Of these bills, **Florida's** bill allowing school districts to further restrict smoking by persons on school district property was the only one to pass.

Smoking in Public Places

Public health advocates define comprehensive smoking bans as laws that require that all workplaces, including restaurants and bars, to be free from tobacco smoke. However, many states considered to have comprehensive smoking bans provide exceptions for private workplaces, outdoor restaurant/bar seating areas, hotels and other facilities. **Indiana, Kentucky, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Texas, Virginia, West Virginia, and Wyoming** place no restrictions on smoking in private workplaces. **Florida, Idaho, Louisiana, and Nevada** prohibit smoking in restaurants, but allow smoking in stand-alone bars. Smoking is allowed in retail tobacco stores in **Alabama, Illinois, Ohio**, and other states. Additionally, to some extent, smoking is allowed in hotel rooms in **Alabama, Massachusetts, and North Carolina**, among other states.

Children are at particular risk of exposure to secondhand smoke in public places, including in some states, child care

facilities. Although most states ban smoking in commercial and home-based child care facilities, a few states do not restrict smoking in child care settings, allowing smoking in designated areas or separately ventilated areas. Even if an area is separately ventilated, this does not ensure that children will be protected from secondhand smoke. According to the Centers for Disease Control and Prevention (CDC), the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE), which sets standards in the US for ventilation, emphasizes that eliminating health risks indoors requires a ban on smoking.

Although most states prohibit smoking within public school buildings, a few states do not address smoking on public school campuses, allowing school staff and faculty to smoke within designated smoking areas. **Alabama, Kentucky, and Texas** all provide for designated smoking areas, while **Wyoming** does not address smoking in schools at all. Other states, such as **North Carolina** and **West Virginia**, prohibit smoking on public school campuses only when students are present and allow tobacco use when schools are used for other community functions.

Smoking in Cars With Children

Children are also at risk of exposure to secondhand smoke when riding in cars with smokers. A 2006 [study](#) by researchers at the [Harvard School of Public Health](#) found that smoking in vehicles triggered harmful levels of secondhand smoke exposure within only 5 minutes. Additionally, the study noted that levels of carbon monoxide significantly increased as a result of smoking in vehicles. In 2011, 21 states (**Arizona, Connecticut, Florida, Hawaii, Kentucky, Maryland, Massachusetts, Minnesota, Mississippi, New Hampshire, New Mexico, New York, North Dakota, Ohio, Oregon, Rhode Island, South Carolina, Tennessee, Utah, Virginia, and Washington**) introduced legislation to penalize drivers who subject minors to secondhand smoke in vehicles. Of the 22 states that introduced bills in 2011 banning smoking in cars with children, **Arkansas** was the only state to enact such a law, raising the age of children for whom smoking is prohibited in a motor vehicle from 6 to 14. While AAP policy supports reduction of children's exposure to secondhand smoke in all environments – including vehicles – states should be cautious to guard against unintended consequences such as the risk of unfair application of the law through racial profiling.



Smoking in Multiunit Housing

States are beginning to recognize the presence of secondhand smoke in multiunit housing and its effect on children. A [study](#) in *Pediatrics* measuring the effects of secondhand smoke on children in multiunit housing found that most children without known secondhand smoke exposure within their apartments still showed evidence of tobacco smoke exposure. This result may have been due to tobacco smoke seeping through walls or ventilation systems. The study concluded that a ban on smoking in multiunit housing may reduce children's exposure to secondhand smoke. As of January 2011, public housing authorities in 27 states have implemented smokefree policies in their apartment buildings. These states include **Alaska, Arkansas, California, Colorado, Connecticut, Florida, Idaho, Illinois, Indiana, Kansas, Kentucky, Maine, Massachusetts, Michigan, Minnesota, Montana, Nebraska, New Hampshire, New Jersey, New York, Oregon, Pennsylvania, Texas, Utah, Vermont, Washington, and Wisconsin.**

Smoking on College Campuses

College campuses provide another opportunity for smokefree environment advocacy. A handful of states prohibit smoking on public college campuses, while other states prohibit smoking within public college dormitories. Though most colleges do not allow smoking within campus buildings, students can be exposed to high concentrations of secondhand smoke while walking between campus buildings. For instance, **Arkansas** and **Missouri** merely restrict smoking to designated areas, which means that students are still exposed to secondhand smoke if they are unable to avoid places where smoking is permitted. Similarly, **Kentucky** allows college students to smoke in open areas where there is ventilation and where air exchange is adequate.

Federal Activity

Although smokefree legislation has primarily been a state-level issue, a federal regulation promulgated in 2008 prohibits smoking within 25 feet of all federal buildings.

The Pro-Children Act, included as part of the Elementary and Secondary Education Act in 1994 and 2001, requires as a condition of federal education funding smoking bans in certain indoor spaces where school children attend classes.

In 2009, HUD for the first time officially encouraged the local housing authorities it funds to implement smokefree policies in public housing buildings. In 2010, HUD issued a similar statement to the owners and managers of participants in

rental assistance programs such as Section 8. At this time, smokefree policies in public housing are voluntary.

More information on federal tobacco activities is available from the [AAP Department of Federal Affairs](#).

Advocacy Considerations

- **Tobacco addiction is a children's health issue.** Almost 90% of adult smokers smoke their first cigarette prior to age 18. Children, especially preschool children, are exposed to secondhand smoke more often than adults because of their close proximity to adults who smoke. According to the CDC, one of the factors associated with tobacco use by children is smoking by parents or guardians. In 2009, the CDC estimated that approximately 17.2% of high schools students were current smokers, while 5.2% of middle school students were current smokers.
- **Smokefree environments are good for children and good for business.** The 2006 Surgeon General's Report examined numerous economic impact studies from state and local communities across the country and concluded that smokefree workplace laws had no adverse impact on the local hospitality industry. Employers report that employees call in sick fewer days a year after smokefree workplace laws are enacted. Considering that the CDC estimates costs of smoking to be greater than \$193 billion per year and costs of SHS to be greater than \$10 billion per year, there is ample evidence that individuals will derive benefits from smokefree environments.
- **Demonstrate the ways in which smokefree laws can be enforced.** So far, 35 states have implemented smokefree laws and have enforcement mechanisms in place to ensure that environments remain tobacco free. (See "State Tobacco Enforcement" chart at the end of the Issue Brief).
- **Encourage states to implement laws that prohibit smoking in all school buildings and on school campuses.** Such laws should also apply to both public and private colleges and universities. According to one study, tobacco use was significantly lower among students of smokefree college housing compared with students living in housing that is not smokefree; bans should extend to all areas of campuses, including offices, stadiums, residence halls and dormitories.



- **Encourage owners of multiunit apartment buildings and condominium developers to include nonsmoking clauses in leases and sales agreements.** Apartment owners and condominium developers are free to implement nonsmoking policies. Leases and sales agreements should include terms that address smoking in both common areas and in units. Because apartment owners and condominium developers often falsely believe that the law prohibits them from implementing smoking bans in units and in buildings, state laws can be amended to clarify the legality of nonsmoking clauses.
- **Consider policy change at every level of government.** According to the CDC's Tobacco Control State Highlights 2010, statewide smokefree laws should be implemented at the state level. However, implementation of comprehensive local laws can serve as an example for state legislatures and increase awareness of and demand for smokefree environments. Thus, the CDC recommends that states either avoid preempting local smokefree laws or lift any existing preemption that may prevent local governments from implementing smokefree ordinances and policies.
- **Seek pediatrician appointment to state tobacco advisory committees.** AAP chapters have an excellent opportunity to represent the voice of children and the profession of pediatrics on statewide tobacco advisory committees or task forces. Not only are children more likely to suffer health consequences from exposure to secondhand smoke, but adolescents are the age group most susceptible to becoming addicted to tobacco products.
- **Cite research that shows public opinion strongly favors tobacco-free environment policies.** According to the 2008 Social Climate of Tobacco Control Survey (http://www.socialclimate.org/wp-content/themes/thesis_182/custom/images/us_scs_08_Report.pdf), public opinion supports smokefree policies. More than 72% of those surveyed believe that all indoor work environments should be tobacco-free, including 42% of smokers. More than 90 % of the respondents felt that smoking should be banned from day care centers, hospitals, sporting events, convenient stores, and fast food restaurants. More than 77 % of respondents felt that schools should be completely smokefree and 55% of respondents believed that all bars and taverns should be smokefree.
- **Emphasize that smokefree laws are the norm and that smokefree laws benefit businesses.** According to a 2008 Zagat Survey, 77% of 132,000 of Americans surveyed noted that they would dine out less if smoking were allowed in restaurants. Only 2% said they would dine out more if smoking were allowed in restaurants. In 2010, an [economic analysis](#) of smokefree laws from the American Journal of Preventative Medicine concluded that such legislation does not hurt restaurant or bar businesses and that it may even improve restaurant or bar businesses. Thus, a smokefree environment would likely have a positive impact on restaurant businesses in states that have not yet implemented a smokefree law.
- **Pediatricians should work with their local housing authorities to implement voluntary smokefree policies in all multiunit housing.** Smokefree housing reduces the risk of children's exposure to secondhand smoke. Additionally, surveys have shown that residents in multiunit housing prefer smokefree buildings. According to a 2005 **Michigan** Adult Tobacco Survey, 80% of households surveyed enforced a smokefree policy within their home.

Resources

AAP Julius B Richmond Center of Excellence

<http://www2.aap.org/richmondcenter/>

AAP Policy Statement: Tobacco: A Pediatric Disease

<http://aappolicy.aappublications.org/cgi/content/full/pediatrics;124/5/1474>

AAP Technical Report: Secondhand and Prenatal Smoke Exposure

<http://aappolicy.aappublications.org/cgi/content/full/pediatrics;124/5/e1017>

AAP Technical Report: Tobacco as a Substance of Abuse

<http://aappolicy.aappublications.org/cgi/content/full/pediatrics;124/5/e1045>

AAP Technical Report: Tobacco-Smoke Exposure in Children Who Live in Multiunit Housing

<http://pediatrics.aappublications.org/cgi/reprint/peds.2010-2046v1>



AAP Tobacco Policy Tool

<http://www2.aap.org/richmondcenter/TobaccoPreventionPolicyTool/index.html>

American Lung Association - Tobacco Policy Project/State Legislated Issues on Tobacco Issues (SLATI)

www.lungusa2.org/slati

Campaign for Tobacco Free Kids: Secondhand Smoke, Kids and Cars

www.tobaccofreekids.org/research/factsheets/pdf/0334.pdf

Campaign for Tobacco Free Kids: Smoke-Free Laws Do Not Harm Business at Restaurants and Bars

www.tobaccofreekids.org/research/factsheets/pdf/0144.pdf

Campaign for Tobacco Free Kids: US State and Local Issues – Smoke-Free Laws

www.tobaccofreekids.org/what_we_do/state_local/smoke_free_laws/

Centers for Disease Control and Prevention – Healthy Homes Manual: Smoke-Free Policies in Multiunit Housing

www.cdc.gov/healthyhomes/Healthy_Homes_Manual_WEB.pdf

Centers for Disease Control and Prevention - Smoking and Tobacco Use: Fast Facts

www.cdc.gov/tobacco/data_statistics/fact_sheets/fast_facts/index.htm

Centers for Disease Control and Prevention – Smoking and Tobacco Use: Youth and Tobacco Use

www.cdc.gov/tobacco/data_statistics/fact_sheets/youth_data/tobacco_use/index.htm

Centers for Disease Control and Prevention - Tobacco Control State Highlights 2010: Introduction

www.cdc.gov/tobacco/data_statistics/state_data/state_highlights/2010/pdfs/introduction.pdf

Centers for Disease Control and Prevention: Ventilation Does Not Effectively Protect Nonsmokers from Secondhand Smoke

www.cdc.gov/tobacco/data_statistics/fact_sheets/secondhand_smoke/protection/ventilation/index.htm

Institute of Medicine – Ending the Tobacco Problem: A Blueprint for the Nation

www.iom.edu/Reports/2007/Ending-the-Tobacco-Problem-A-Blueprint-for-the-Nation.aspx

Division of State Government Affairs
800-433-9016 x 7799
stgov@aap.org

National Association of Attorneys General (NAAG): Tobacco
www.naag.org/tobacco.php

Smoke-Free Environments Law Project: Housing Authorities/Commissions Which Have Adopted Smoke-Free Policies

www.tcsg.org/sfelp/SFHousingAuthorities.pdf

Smoke-Free Environments Law Project: Smoke-Free Multi-Unit Housing in Michigan & the Nation: A Decade of Enormous Growth

www.tcsg.org/sfelp/2009NewYearsEvePR.pdf

Smoke Free Housing Project: A Landlord's Guide to No-Smoking Policies

www.smokefreehousingnw.com/landlords/Landlord's%20Guide%20to%20No-Smoking%20Policies%20third%20version%204-10.pdf

US Department of Health and Human Services: The Health Consequences of Involuntary Exposure to Tobacco Smoke: a Report of the Surgeon General (2006)

<http://www.surgeongeneral.gov/library/secondhandsmoke>

NOTE: Issue Briefs provide AAP chapters with an introduction to state government issues and additional background information that can be used when communicating with legislators or other public officials. While they are not intended as a presentation for, or to be distributed to, legislators, the media, or the general public, excerpts of nonstrategic information may be utilized in your advocacy work.

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American Academy
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DEDICATED TO THE HEALTH OF ALL CHILDREN™

State Tobacco Enforcement

| State | Enforcement Agency | Details of Enforcement |
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| AZ | Department of Health Services; county health departments | <p>Public may report businesses not in compliance to the AZ Department of Health Services. Complaints may be made anonymously.</p> <p>County health departments investigate complaints about violations and will notify the business owner about the complaint and/or conduct an inspection within 15 days after receiving the complaint.</p> <p>If a violation is found, the business owner will receive a warning notice and is subject to:</p> <ul style="list-style-type: none"> • \$100 - 500 fine per violation per day; or • Up to \$5,000 per violation per day if a Superior Court determines there is a pattern of noncompliance. <p>An individual who smokes in a prohibited area is guilty of a petty offense and may be fined between \$50 and \$300.</p> <p>See - Smoke Free Arizona: Reporting</p> |
| CA | Local Lead Agencies (LLAs), which consist of 58 county and 3 city health departments. | <p>A case study conducted by the CA Department of Health Services suggested the following methods for enforcement:</p> <ul style="list-style-type: none"> • Research and collect proven enforcement protocols that can be easily adapted by local enforcement personnel; • Set up practical programs to train local enforcement agencies; • Alert the public about ways to voice complaints; and • Encourage and recognize voluntary compliance among bar owners/operators as well as responsive enforcement by authorities. <p>See - Eliminating Smoking in Bars, Taverns and Gaming Clubs: The California Smoke-Free Workplace Act</p> |
| CO | Local law enforcement authorities | <p>Public may call local law enforcement agency to report violations.</p> <p>Penalties include:</p> <ul style="list-style-type: none"> • 1st violation within a calendar year - \$200 • 2nd violation within a calendar year - \$300 • Each violation per day thereafter within a calendar year - \$500 <p>(Each day of a continuing violation is deemed a separate violation)</p> <p>See - SmokeFreeColorado: Frequently Asked Questions</p> |
| CT | Local and state police; liquor control division of CT State Department of Consumer Protection; CT Department of Labor | <p>Public can file a complaint with local or state police department. Employees can file a complaint by calling CT State Department of Labor.</p> <p>See - State of Connecticut – Department of Public Health: Clean Indoor Air</p> |
| DC | Department of Health - Bureau of Community Hygiene | <p>Department of Health - Bureau of Community Hygiene staff is responsible for enforcing the law. Staff conducts routine and complaint-driven inspections to determine compliance with the Smoke-Free</p> |

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| | | <p>Workplaces Law.</p> <p>Penalties</p> <ul style="list-style-type: none"> • Person(s) or employer who willfully violates the law is subject to fines for each violation. • Failure to notify the person observed to be smoking to stop the activity - \$500. (Each day the violation continues is a separate offense). <p>Smoking in a prohibited area:</p> <ul style="list-style-type: none"> • 1st violation - penalties of \$100 - \$1,000 • Subsequent violations - penalties of \$200 - \$1000 <p>Complaints may be registered at Department of Health or by submitting a complaint form.</p> <p>See – District of Columbia – Department of Health: Smoke-Free Workplaces Law</p> |
| DE | Department of Health and Social Services; Department of Labor | <p>Public may call toll-free hotline to report violations. Violators are subject to an administrative penalty of \$100 and \$250 or more for each subsequent violation.</p> <p>Failure to comply with orders of Department of Health and Social Services or failure to perform duties under the regulations will result in a fine of \$100 - \$1000.</p> <p>See – State of Delaware: Clean Indoor Air Act Regulations and State of Delaware: Delaware’s Clean Indoor Air Act (CIAA)</p> |
| FL | The Department of Health (DOH) and the Department of Business and Professional Regulation (DBPR). DOH shall enforce in all facilities not regulated by DBPR. | <p>*Please note that Florida’s Clean Indoor Air Act allows smoking in stand-alone bars*</p> <p>To report violations of FL’s Clean Indoor Air Act, the public is to contact the DBPR and/or DOH.</p> <p>Penalties: Noncriminal violation punishable by a fine of:</p> <ul style="list-style-type: none"> • Not more than \$100 for the 1st violation; and • Not more than \$500 for each subsequent violation. <p>See – Florida Department of Health: Chapter 386, F.S. The Florida Clean Indoor Air Act</p> |
| HI | Department of Health | <p>Owners, managers, operators, and employees of any establishment designated as nonsmoking are responsible for informing violators of the smokefree law.</p> <p>Individual violators may be fined up to \$50 plus court costs.</p> <p>Businesses who fail to comply may be fined up to:</p> <ul style="list-style-type: none"> • \$100 for the 1st violation; • \$200 for the 2nd violation within 1 year of the 1st violation; and • \$500 for each additional violation within 1 year of the preceding violation. |

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| | | <p>Businesses risk suspension or revocation of any licenses or permits issued to either the person or place where the violation occurred. Owners, operators and managers of public places and workplaces (including outdoor areas) not covered by the law have the right to designate the areas under their control as smoke-free.</p> <p>See – State of Hawaii – Department of Health: Overview of the Smoke Free Workplaces Law</p> |
| IL | Department of Public Health; certified local public health departments; and local law enforcement | <p>If a business owner fails to comply, an employee or patron may file a complaint with the Department of Public Health at www.smoke-free.illinois.gov/ or via the Department’s toll-free complaint line. Complaints also can be made to state-certified local health departments or local law enforcement.</p> <p>Businesses found in violation are subject to fines:</p> <ul style="list-style-type: none"> • 1st violation - \$250 • 2nd violation - \$500 • Subsequent violations - \$2,500 minimum fine for all subsequent violations within 1 year of 1st violation. <p>Individuals in violation will be fined \$100-\$250.</p> <p>See – Smoke-free Illinois – Smoke-free Illinois Act Frequently Asked Questions</p> |
| IA | Department of Public Health receives and investigates complains, and may designate to public agency to assist with enforcement, and/or refer complaints to law enforcement authorities | <p>Business Penalties: Civil fine of \$100, \$200, or \$500 depending on the number of violations. The business could also lose its business license or liquor license. Complaints may be filed at www.iowasmokefreeair.gov/ or called in. Employers cannot retaliate against employees that report violations.</p> <p>Individual Penalty: Citation and civil fine of \$50 from a law enforcement official.</p> <p>Employer, owner, operator, manager, or person having custody/control of a place where smoking is prohibited must inform any individual smoking that he/she is violating the law and must request that he/she stop smoking immediately.</p> <p>If the individual refuses, the employer, owner, operator, manager, or person having custody/control of the place may do any of the following:</p> <ul style="list-style-type: none"> • Discontinue service to the individual • Request that the individual leave the area where smoking is prohibited <p>If the individual refuses to leave, the employer, owner, operator, manager, or person having custody/control may notify the state or local law enforcement agency with jurisdiction over the area where smoking is prohibited.</p> <p>See – Iowa Smokefree Air Act: Frequently Asked Questions</p> |
| KS | Local law enforcement (police or sheriff) | Fines for owners/operators and smokers: |

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| | | <ul style="list-style-type: none"> • 1st violation = not more than \$100 • 2nd violation within 1 year = not more than \$200 • 3rd and additional violations within 1 year = not more than \$500 per violation <p>Note - Each individual smoking in an establishment where smoking is prohibited is considered a separate violation for the business. Complaints/reports of violations should be directed to local law enforcement office (police or sheriff).</p> <p>See - Kansas Indoor Clean Air Act Fact Sheet</p> |
| LA | Local law enforcement | <p>*Please note that Louisiana is mainly smokefree, but allows smoking in stand-alone bars*</p> <p>Violation may be cited by any law enforcement officer by issuing a citation and summons to appear in court. Court will notify alleged violator of the time and place of the hearing or of an opportunity to plead guilty by payment of fine. Failure to appear, unless the fine is paid, may be punished within the discretion of the court as contempt of court.</p> <p>Individual fines</p> <ul style="list-style-type: none"> • 1st offense - \$25 • 2nd offense - \$50 • 3rd offense or subsequent offense - \$100 <p>Employer penalties:</p> <ul style="list-style-type: none"> • 1st offense - \$100 • 2nd offense - \$250 • 3rd offense or subsequent offense - \$500 <p>See - The Louisiana Smokefree Air Act: How Does it Affect Workplaces?</p> |
| ME | ME Center for Disease Control and Prevention; Office of the Attorney General; Partnership for a Tobacco-Free Maine (PTM) | <p>PTM works with local law enforcement to enforce smoking laws in public or in workplaces. Public can report violations on PTM's website. Attorney General investigates complaints and prioritizes follow-up based on available resources. Other law enforcement agencies are asked to cooperate in investigations, and reports of violations are forwarded to other licensing and certifying agencies for possible administrative action.</p> <p>Smoker and/or business owner may be fined between \$100 - \$1500 for each offense. Each day a person is found smoking in a public place or each day an owner does not post/supervise the implementation of a smokefree policy, is considered a separate offense. Enforcement actions may be brought against any person smoking in a public place, against the owner of a public place, or against a licensee operating a business open to the public.</p> <p>Attorney General may bring an action to enforce smokefree workplace rules, including injunctive relief,</p> |



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| | | <p>finest, penalties, etc. See – Partnership for A Tobacco-Free Maine: Maine Laws</p> |
| MD | Local health departments | <p>Complaints can be made in person or over the phone to local health departments. MD facilitates the complaint process by providing a phone line that individuals may access if they have questions regarding how and where to make a complaint. Individuals may also file a complaint on MD’s Clean Indoor Air Act website: www.mdcleanair.org.</p> <p>See – Maryland Cigarette Restitution Fund: Enforcement Accomplishments</p> |
| MA | Local health department/board of health; local inspection department; a municipal government or its agent; and the Department of Public Health (DPH) and the Alcoholic Beverage Control Commission | <p>Complaints can be filed by contacting local board of health/health department, or DPH. Complaint forms are available online and can be faxed or mailed to MA Tobacco Control Program. If a complaint appears to be a violation, a copy of the complaint will be sent to local board of health/health department. If board of health/health department has a funded tobacco control program, the program also receives a copy of the complaint. Workplace will receive a letter from DPH specifying that a complaint has been filed and that local board of health/health department has been notified. All complaints are entered into a database. The MA Department of Public Health has a complaint and information line for phone calls.</p> <p>Business penalties: 1st offense - \$100 2nd offense (occurring within 2 years of 1st offense) - \$200 3rd or subsequent offense (occurring within 2 years of 2nd offense) - \$300</p> <p>Individual penalties: Individual may be fined \$100 for each offense.</p> <p>Municipalities may have local laws with stricter penalties. Violation notice will indicate where to send payment. Tickets issued by cities and towns will be paid to the clerk’s office and go into the general fund.</p> <p>Local health department/board of health can respond to complaints and may conduct periodic inspections. Enforcement officer does not have to witness the actual smoking, but credible evidence that smoking occurred inside the workplace must be provided.</p> <p>State law allows municipal government and its agents to use non-criminal disposition procedures to ticket any violations. Permission to use ticketing procedure is not required from either a city council or a town meeting.</p> <p>See – Complaints, Penalties, and Enforcement of the Massachusetts Smoke-Free Workplace Law</p> |
| MI | Local health departments; MI Department of Community Health (MDCH) (In some cases, for worksites that are non-foodservice establishments, enforcement agency is MDCH) | <p>Individual should notify owner/manager of establishment and give them an opportunity to take appropriate steps before filing a formal complaint. If violation is not resolved, the individual can complete a complaint form online, and submit it to the appropriate enforcement agency for the county in which the violation occurred. The website contains an enforcement contact list, which lists the contact agency by county for filing complaints.</p> <p>Information entered into complaint form will be provided to local health departments/MDCH for purposes of following up on complaints. If an individual does not wish to provide his/her name and</p> |

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| | | <p>contact information, he/she can leave the complaint anonymously, but the local health department/MDCH will not be able to contact that person if further information is required.</p> <p>See – Michigan Smoke Free Law: Frequently Asked Questions</p> |
| MN | Local public health agencies | <p>Any proprietor, person, or entity that owns, leases, manages, operates, or controls the use of the area in which smoking is prohibited, and knowingly fails to comply, is guilty of a petty misdemeanor under criminal law. MN Department of Health (MDH) also has the authority to take enforcement actions that may include monetary penalties up to \$10,000. Local public health agencies also have various enforcement tools under their own civil enforcement authority, including fines, potential license suspensions, or revocations.</p> <p>Public may report violations through a Compliance Assistance Letter, which can be sent anonymously to protect the identity of the sender. The letter notifies management that a violation was observed, reminds management of its duty to comply, and that enforcement action may be taken if they do not comply.</p> <p>If violators are not willing to comply once given a fair opportunity to correct observed violations, MDH should be notified to pursue formal enforcement action.</p> <p>See – Minnesota Department of Health Fact Sheet: Freedom to Breathe Frequently Asked Questions</p> |
| MT | <p>Department of Public Health and Human Services; Department designees; local boards of health; and boards' designees.</p> <p>State and local agencies and individuals who may make an on-site inspection or investigate a violation:</p> <ul style="list-style-type: none"> • Department of Public Health and Human Services • Department of Justice • Department of Revenue • Local health departments | <p>Citizens can file complaints on tobaccofree.mt.gov or by calling the local health department or the MT Tobacco Use Prevention Program. Signed complaints, including those filed electronically by an identified individual, are evidence of a violation. Paper forms for reporting violations are also available to download.</p> <p>Penalties: A person who owns, manages, operates, or controls a public place or place of employment and fails to comply with the Clean Indoor Air Act is guilty of a misdemeanor after a 3rd violation within a 3-year period.</p> <p>Business owners, managers, and operators who violate the Clean Indoor Air Act will receive the following penalties/fines:</p> <ul style="list-style-type: none"> • 1st violation – warning • 2nd violation – written reprimand • 3rd violation - \$100 • 4th violation - \$200 • 5th or subsequent violation - \$500 <p>Any individual who smokes in an area where it is prohibited is guilty of a misdemeanor and subject to fines.</p> <p>The Department of Public Health and Human Services, the local health board, and county attorney hold responsibility for successful implementation and enforcement. The Department and local tobacco use</p> |



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| | | <p>prevention specialists have worked with county health departments, county attorneys, and others to ensure that enforcement occurs when necessary.</p> <p>See - Smokefree Montana: Frequently Asked Questions</p> |
| NE | Local or state health department | <p>An individual may file a complaint through an online reporting form, calling a complaint line, or by contacting the local health department.</p> <p>A person who smokes in a place of employment or a public place in violation of the Nebraska Clean Indoor Air Act is guilty of the following penalties/fines:</p> <ul style="list-style-type: none"> • 1st offense - Class V misdemeanor (maximum \$100 fine) ; and • 2nd and subsequent offenses - Class IV misdemeanor (\$100 - \$500 fine) <p>Charges can be dismissed upon successful completion of a smoking cessation program.</p> <p>Proprietor that fails/neglects/refuses to perform a duty under the Act is guilty of:</p> <ul style="list-style-type: none"> • 1st offense - Class V misdemeanor • 2nd and subsequent offenses - Class IV misdemeanor <p>See - SmokeFree Nebraska: Frequently Asked Questions</p> |



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| NH | Tobacco Prevention and Control Program (TPCP) | <p>Steps to File a Complaint</p> <ul style="list-style-type: none"> • Individual must first make complaint to person in charge of facility. • If the person in charge of facility fails to address complaint, individual may then submit an Indoor Smoking Act Complaint Form to TPCP. • TPCP will then contact person in charge of facility to discuss complaint, keeping complainant's name confidential. • Follow up letter is sent to person in charge of facility requesting specific information about the facility and its smoking policy. Person in charge must respond within timeframe designated in the rules. • TPCP decides whether on-site inspection is necessary. Once investigation is over, letter of compliance is issued to the facility and complainant receives a copy. <p>Penalties:</p> <ul style="list-style-type: none"> • Upon investigation and finding of non-compliance, Department of Health and Human Services will issue person in charge a violation of not less than \$100. Person in charge may request hearing of Administrative Appeals Unit to appeal violation. <p>See – New Hampshire Department of Health and Human Services: Indoor Smoking</p> |
| NJ | NJ Department of Health and Senior Services; local board of health | <p>A person having control of an indoor workplace or public place shall order any person smoking in violation of the act to comply.</p> <p>A person who smokes in violation of the act is subject to a minimum fine of:</p> <ul style="list-style-type: none"> • \$250 for the 1st offense • \$500 for the 2nd offense • \$1000 for each subsequent offense. <p>An indoor public place or workplace that violates the act and fails to comply following written notice is subject to minimum fine of:</p> <ul style="list-style-type: none"> • \$250 for the 1st offense • \$500 for the 2nd offense • \$1,000 for each subsequent offense. <p>Court may order immediate compliance with the provisions of the act.</p> <p>See – State of New Jersey – Department of Health and Senior Services: Smoke-Free Air Act</p> |

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| NM | <p>Local fire, police, and sheriff's departments. Local communities that have their own local laws may have additional enforcement agencies designated to enforce those local laws.</p> | <p>Penalties: Any person 18 years of age or older in violation is subject to a fine of up to:</p> <ul style="list-style-type: none"> • \$100 for a 1st violation, • \$200 for a 2nd violation within any consecutive 12-month period • \$500 for a 3rd or subsequent violation within any consecutive 12-month period. <p>Local laws may provide for penalties that meet or exceed these fines.</p> <p>Business owners or managers are not subject to a penalty as long as they have posted required signs, implemented the appropriate policy, and informed the person smoking that he/she is violating the law. Local laws may further specify requirements for both business owners and the general public.</p> <p>Designated enforcement agencies may inspect for compliance, but enforcement is likely to be complaint-driven. A person may register a complaint to initiate enforcement by the local police, fire, or sheriff's department. Local laws may include additional enforcement provisions.</p> <p>Counties and cities may have a local dispatch number for reporting alleged violations, or citizens may call the public information number of the local police, fire, or sheriff's department authorized to enforce the law.</p> <p>See - Smoke Free New Mexico: Frequently Asked Questions</p> |
| NY | <p>Owner, manager or operator of area open to the public, food service establishment, or bar, covered by Act must make reasonable effort to prevent smoking.</p> <p>Board of health or a county or part county health district or officer of a county designated for such purposes</p> | <p>Employees and the public may report, confidentially, violations to their local health departments, county board of health, or their district health office for action.</p> <p>Enforcement officer for a city or county health department can assess a penalty of up to \$1,000 per violation. In areas where the State Health Department is the enforcement officer, a fine of up to \$2,000 may be assessed. If no enforcement officer is designated, the county will be deemed to have designated the department as its enforcement officer. Enforcement officer has sole jurisdiction to enforce on a county-wide basis pursuant to rules and regulations. In a city with a population of more than 1 million the enforcement officer shall be the department of health and mental hygiene within that city.</p> <p>See - Department of Health - State of New York: Regulation of Smoking in Public and Work Places and Department of Health - A Guide to the New York State Clean Indoor Air Act</p> |
| NC | <p>Local health directors</p> | <p>An individual who observes a violation should notify the owner/manager of the establishment, as they are responsible for compliance and required to direct a person smoking to extinguish the tobacco product. Individuals may file a complaint online or by telephone. Information will be shared with local health directors who are responsible for enforcement in their county.</p> <p>Penalty for individual: \$50 fine for an infraction</p> <p>Penalties for business owner (each day on which a violation occurs may be considered a separate and</p> |

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| | | <p>distinct violation):</p> <ul style="list-style-type: none"> • 1st violation – warning • 2nd violation – warning • 3rd and subsequent violations – no more than \$200 <p>See – North Carolina Division of Public Health, Chronic Disease and Injury Section – Tobacco Prevention and Control Branch: Frequently Asked Questions and North Carolina Division of Public Health, Chronic Disease and Injury Section – Tobacco Prevention and Control Branch: Local Government Smoke Free Implementation Toolkit</p> |
| OH | Boards of health of a city or general health district designated by the Director of Health; Director of Health designees | <p>Complaints may be submitted to the OH Department of Health by the public through mail, email, and telephone. A person is not required to disclose his/her identity in order to report a violation, but an anonymous complaint alone is not sufficient evidence to support a finding of a violation.</p> <p>Penalties:</p> <ul style="list-style-type: none"> • Proprietors - \$100 - \$2500 per violation. • Individuals - up to \$100 per violation. <p>Each day of a violation constitutes a separate violation. Schedule of fines that apply to a proprietor will be progressive based on the number of prior violations. Fines are doubled for intentional violations.</p> <p>See – Frequently Asked Questions Concerning the Smoke-Free Workplace Law and Ohio Smoking Ban Frequently Asked Questions</p> |
| OR | Department of Human Services (DHS) or, upon written agreement with DHS, the Local Public Health Authority can assume enforcement responsibilities | <p>Employees and the public may report violations by completing an online complaint form or by calling a complaint line. Complaints will be investigated and violations pursued.</p> <p>Businesses not in compliance can be fined:</p> <ul style="list-style-type: none"> • \$500 per day • Maximum of \$2000 in a 30-day period <p>Multiple violations will result in further administrative action.</p> <p>See – Oregon Health Authority, Public Health Division: Implementation of Requirements for Smokefree Environments in Workplaces and Public Places and For Nutritional Information at Chain Restaurants and Oregon Health Authority: Oregon’s Smokefree Workplace Law</p> |
| RI | Department of Health (DOH); local fire department; or their designees inspect for compliance with the act. | <p>An owner, manager, operator, or employee of an establishment regulated by the Act shall inform persons violating the act of the appropriate provisions.</p> |



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| | | <p>To register a complaint, an individual must submit a written and signed letter of complaint to DOH. DOH will then take one of the following enforcement actions:</p> <ul style="list-style-type: none"> • Serve a written notice to comply to an employer or person responsible for administration of a facility subject to the act, with a copy to the complaining individual, requiring the employer or person responsible for administration of a facility to correct any violation immediately. • Upon receiving a 2nd complaint for the same/continued violation by the same employer or person responsible for administration of a facility, the city/town solicitor will be notified to initiate an action for injunction to enforce the act and for recovery of a civil penalty. • In addition to the above remedies, DOH may apply for injunctive relief if aggrieved by the failure of the owner, operator, manager, or other person in control of a public place or place of employment to comply. <p>Employer Penalties</p> <ul style="list-style-type: none"> • \$250 - 1st violation • \$500 - 2nd violation • \$1000 - 3rd and subsequent violations <p>Fines are assessed and recovered in a civil action brought by the city/town solicitor. Each day a violation is committed or permitted to continue is considered to be a separate offense and will be punishable as a separate offense. One-half of any penalty assessed and recovered shall be transferred to the municipality in which the civil action originated and the other one-half shall be transferred to the General Fund.</p> <p>In any civil action alleging a violation, the court may:</p> <ul style="list-style-type: none"> • Award up to 3 times the actual damages to a prevailing or prospective employee; • Award court costs to a prevailing or prospective employee; • Afford injunctive relief against any employer who commits or proposes to commit a violation. <p>See – Rules and Regulations Pertaining to Smoke-Free Public Places and Workplaces: State of Rhode Island and Providence Plantations and State of Rhode Island – Department of Health: Tobacco Control Program</p> |
| SD | Local law enforcement | <p>Employees and the public may report violations of the smoke-free law to local law enforcement agencies through their non-emergency phone number.</p> <p>See – Be Tobacco Free South Dakota: Smoke-Free Law FAQ</p> |
| UT | Local health departments; Utah Department of Health | <p>Building owners, agents, or operators of places where smoking is prohibited are required to enforce the law by asking persons to extinguish any lighted tobacco products. If the person refuses, he/she must be asked to leave the premises. Employers have a duty to ensure employees comply with workplace smoking policies.</p> <p>Individual penalties: A person in possession of a lighted tobacco product in a prohibited area is subject to a civil penalty of:</p> <ul style="list-style-type: none"> • not more than \$100 for the 1st violation; and • \$100 - \$500 for subsequent violations. |

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| | | <p>Penalties for owners, agents, and operators:</p> <ul style="list-style-type: none"> • Civil penalty of up to \$5000 per occurrence may be imposed by local or state health departments and Class B or A misdemeanor charges may be filed. <p>See – Utah’s Indoor Clean Air Act: A Guide for Complying With the Law-2009</p> |
| VT | Department of Health (DOH); proprietor/agent or employee of proprietor; local select board; local board of health | <p>Employees may file a complaint with DOH. DOH will give employer written notification of alleged violation and remind employer of indoor smoking prohibition. If the employer refuses to comply, a penalty of \$100 may be imposed.</p> <p>Employer cannot retaliate against an employee because that employee assisted in supervising or enforcing workplace smoking requirements. If an employee believes employer has taken action due to such effort, they may file, within 30 days after the violation, a complaint with the Commissioner of the DOH, which will investigate. If the Commissioner determines there has been retaliation, he/she may bring court action against employer. Court may determine appropriate relief including reinstatement and back pay.</p> <p>The proprietor (owner), or agent/employee of the proprietor, who observes a person in possession of a lighted tobacco product in apparent violation of the law must ask the person to extinguish it.</p> <ul style="list-style-type: none"> • If the person persists, the proprietor, agent or employee must ask the person to leave the premises. If the person refuses to comply, the person in charge may call a local law enforcement official or security officer for help. If a proprietor, agent or employee fails to take the required action, a member of the public may call a local law enforcement official for help. • A health order may be issued, a civil court action may be brought, and a criminal penalty may be imposed for any violation of the law. If voluntary compliance cannot be obtained, the local select board, the local board of health, and the Vermont Department of Health all have authority to bring enforcement actions. A civil penalty of up to \$10,000 or a criminal fine of not more than \$5,000 may be imposed for each violation. Also, penalties may be imposed for violation of a health order or a court order, and any person who has been injured or damaged by a violation may bring an action for equitable relief or damages arising from such violations. <p>See – Vermont Department of Health: Vermont’s Smoke-Free Laws, Vermont Department of Health: Vermont’s “Smoking in the Workplace” Law, and No. 32. An Act to Prohibit the Use of Lighted Tobacco Products in the Workplace</p> |
| WA | Local health jurisdictions enforce the law for bars, restaurants, and other places of employment; local law enforcement agencies maintain responsibility for enforcement against individuals violating the law | <p>Local health departments enforce the law regarding duties of owners or persons in control of public places and places of employment by either of the following actions:</p> <ul style="list-style-type: none"> • Serving notice requiring the correction of any violation; or • Calling upon the city or town attorney or county prosecutor or local health department attorney to maintain an action for an injunction to enforce the law, to correct a violation, and to assess and recover a civil penalty for the violation. <p>Penalties:</p> <ul style="list-style-type: none"> • A warning shall first be given to the owner or other person in charge. |

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| | | <ul style="list-style-type: none"> • Any subsequent violation is subject to a civil fine of up to \$100. • Each day upon which a violation occurs or is permitted to continue is a separate violation. <p>Complaints may be made at the county level. List of county contact information is included on the website.</p> <p>See - SmokeFreeWashington.com: Register a Complaint and Washington State Legislature – Chapter 70.160 RCW: Smoking in Public Places</p> |
| WI | Department of Justice; person in charge; local authorities | <p>Department of Justice is authorized to enforce the smokefree law. An individual in violation of the law will be fined \$100 to \$250.</p> <p>A person in charge:</p> <ul style="list-style-type: none"> • Cannot provide matches or ashtrays; • Must post adequate signage; • Must ask any person violating the law to stop smoking; • Must ask any person violating the law to leave; and • Refuse service to any person violating the law in the case of restaurants, bars, and private clubs, and notify law enforcement if the person refuses to comply. <p>Any person in charge who violates the law will be fined \$100. The 1st violation requires a warning and the maximum daily fine is \$100 regardless of the number of violations</p> <p>Local authorities (city, county, village, towns) may further restrict outside smoking on public properties such as parks, fairgrounds, etc.</p> <p>See - Wisconsin’s Statewide Smoke-Free Air Law</p> |

NOTE: To obtain any of the statutes or other resources cited in this table, contact the AAP Division of State Government Affairs at 800.433.9016, ext 7799 or at stgov@aap.org

