

Maine

Chapter 262: SMOKING

§1541. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

- 1. Designated smoking area.** "Designated smoking area" means an enclosed area designated as a place for smoking. A designated area must be designed to minimize smoke escaping from the designated area into a public place.
- 2. Enclosed area.** "Enclosed area" means a space between a floor and a ceiling that is demarcated on all sides by floor-to-ceiling walls, windows, doors or passageways. Partitions, partial walls or office dividers that do not extend from the floor to the ceiling are not demarcations of enclosed areas.
- 3. Private office.** "Private office" means an enclosed area that constitutes the work area for no more than one person.
- 4. Public place.** "Public place" means any place not open to the sky into which the public is invited or allowed. Except as provided in section 1542, subsection 2, paragraph J, a private residence is not a public place.
- 5. Restaurant.** Repealed
- 6. Smoking.** "Smoking" includes carrying or having in one's possession a lighted cigarette, cigar, pipe or other object giving off tobacco smoke.

§1542. Smoking prohibited in public places

- 1. Prohibition.** Smoking is prohibited in all enclosed areas of public places and all rest rooms made available to the public.
- 2. Limitations.** The prohibition in subsection 1 is subject to the following limitations.
 - A. Smoking is not prohibited in an enclosed area of a public place during a period of time that the facility containing the enclosed area of the public place is not open to the public.
 - B. Smoking is not prohibited in theaters or other enclosed structures used for plays, lectures, recitals or other similar purposes if the smoking is solely by a performer and the smoking is part of the performance.
 - C. Smoking is not prohibited in any area where undertaken as part of a religious ceremony or as part of a cultural activity by a defined group.
 - D. Repealed.
 - E. Smoking in places of employment is governed by the provisions of section 1580-A. If public employees' rights provided in collective

bargaining agreements are affected by this section, the employees have the right to reopen negotiations for the purpose of bargaining for smoking areas in nonpublic areas of publicly owned buildings.

F. Smoking in hospitals is governed by the provisions of section 1580-B.

G. Repealed.

H. Smoking is not prohibited in motel or hotel rooms that are rented to members of the public.

I. Smoking is not prohibited in those portions of public places consisting of private offices when no member of the public is present, subject to the provisions of section 1580-A and provided that smoking may be allowed in a private office.

J. Smoking is not prohibited in a private residence unless the private residence is used as a day care or baby-sitting service, in which case those portions of the private residence used to care for children and adjacent areas from which smoke could enter the areas used to care for children are public places for the period of time that children who are being cared for are present in that portion of the residence.

K. Smoking is not prohibited in public places when beano or bingo games are being conducted in accordance with the provisions of Title 17, section 314-A.

L. Smoking is not prohibited in a retail store under 2,000 square feet that primarily sells tobacco or tobacco-related products.

M. Smoking is not prohibited on privately chartered buses.

N. Smoking is not prohibited in designated smoking areas in an off-track betting facility or simulcast racing facility at a commercial track, if that facility is licensed pursuant to Title 8, chapter 11 and in operation on June 30, 2003, as long as:

(1) No sales or services are provided in the designated smoking area, except that television equipment and stand-alone betting terminals or other means of placing wagers may be provided;

(2) No employees work in or are required to pass through the designated smoking area;

(3) Members of the public, except for those who choose to be present in the designated smoking area, are not required to utilize or pass through the designated smoking area for any purpose; and

(4) No one under 18 years of age is permitted in the designated smoking area.

3. Location of designated smoking area. Repealed

§1543. Posting signs

Signs must be posted conspicuously in buildings where smoking is regulated by this chapter. Designated areas must have signs that read "Smoking Permitted" with letters at least one inch in height. Places where smoking is prohibited must have signs that read "No Smoking" with letters at least one inch in height or the international symbol for no smoking.

§1544. Retaliation prohibited

A person may not discharge, refuse to hire, discipline or otherwise retaliate against an employee or applicant who pursues any remedy available to enforce the requirements of this chapter.

§1545. Penalty

A person who violates any provision of this chapter commits a civil violation for which a forfeiture not to exceed \$100 may be adjudged.