

Smoke Free Workplace Act Summary

Effective Date: December 7, 2006

Intent of Law:

The Smoke Free Workplace Act declares that because medical studies have conclusively shown that exposure to secondhand smoke from tobacco causes illness and disease, including lung cancer, heart disease, and respiratory illness, smoking in the workplace is a statewide concern and, therefore, it is in the best interests of public health that smoking of tobacco products be prohibited in public places and places of employment and that there be a uniform statewide minimum standard to protect workers and the public from the health hazards associated with exposure to secondhand smoke from tobacco. The provisions of this law shall be liberally construed so as to further its purposes of protecting public health and the health of employees and shall prevail over any less restrictive state or local laws or regulations. Nothing in this law shall be construed to permit smoking where it is otherwise restricted by other laws or regulations.

Smoke-Free Places:

Indoor workplaces and public places.

Exemptions:

1. Private residence, except during hours of operation as a child care or adult care facility or as a business when employees, who do not reside in the residence, are present.
2. No more than 20% of sleeping rooms in hotels, motels or other lodging facilities.
3. Family owned and operated business where all the employees are family members, the business is not open to the public, and the business is in a free standing building.
4. A separately enclosed and separately ventilated smoking room for residents in a nursing home. No employee of the nursing facility is required to accompany a resident into the smoking room.
5. Retail tobacco store (a retail establishment that derives more than 80% of its gross revenue from the sale of cigars, cigarettes, pipes, or other smoking). Any retail tobacco store that begins operation after the effective date of this law or any existing retail tobacco store that relocates to another location after the effective date of this law may only qualify for this exemption if located in a freestanding structure occupied solely by the business and smoke from the business does not migrate into an enclosed area where smoking is prohibited under the provisions of this chapter.
6. Outdoor patio (an area that is either: enclosed by a roof or other overhead covering and walls or side coverings on not more than two sides; or has no roof or other overhead covering regardless of the number of walls or other side coverings) that is physically separated from an enclosed area and does not allow the migration of smoke into the enclosed area.
7. Private club as defined in section 4301.01(B)(13) of the ORC (a corporation or association of individuals organized in good faith for social, recreational, benevolent, charitable, fraternal, political, patriotic, or athletic purposes, which is the owner, lessor, or occupant of a permanent building or part of a permanent building operated solely for

those purposes, membership in which entails the prepayment of regular dues, and includes the place so operated) provided ALL of the following apply:

- The club has no employees
- The club is organized as a not for profit entity
- Only members of the club are present in the club's building
- No persons under the age of 18 are present in the club's building
- The club is located in a freestanding structure occupied solely by the club
- Smoke from the club does not migrate to an enclosed area where smoking is prohibited
- If the club serves alcohol it holds a D-4 liquor permit (Permit D-4 may be issued to a club that has been in existence for three years or more prior to the issuance of the permit to sell beer and any intoxicating liquor to its members only, in glass or container, for consumption on the premises where sold).

Proprietor Responsibilities:

A proprietor of a public place or place of employment shall not permit smoking in the public place or place of employment or in the areas directly or indirectly under the control of the proprietor immediately adjacent to locations of ingress or egress to the public place or place of employment and shall ensure that tobacco smoke does not enter any area in which smoking is prohibited under this chapter through entrances, windows, ventilation systems, or other means.

A proprietor shall post a no smoking sign and remove ashtrays from premises.

No person or employer shall discharge, refuse to hire, or in any manner retaliate against an individual for exercising any right, including reporting a violation, or performing any obligation under this law.

Individual Responsibilities:

No person shall refuse to immediately discontinue smoking in a public place, place of employment, or establishment, facility or outdoor area declared nonsmoking by the owner when requested to do so by the proprietor or any employee of the business.

Proprietor and Individual Penalties for Violations

Upon the receipt of a first report that a proprietor of a public place or place of employment or an individual has violated any provision of this law, a warning letter shall be issued. Upon a second or subsequent violation by a proprietor or individual, a fine will be imposed. The fine for a proprietor shall not be less than \$100 and may escalate to a maximum of \$2,500 for repeated violations in a two year period. The fine for an individual shall be a maximum of \$100.

Enforcement:

This law shall be enforced by the department of health and its designees. The director of health shall within six months of the effective date of this law promulgate rules in accordance with Chapter 119 of the Revised Code to implement and enforce all provisions of this law.

This summary is for informational purposes only and should not be considered a legal opinion.