



Frequently Asked Questions Michigan Smokefree Air Law

January 11, 2010

The Dr. Ron Davis Smokefree Act was signed into law on Dec. 18, 2009, and will go into effect on May 1, 2010.

What does the smokefree law cover?

The law will cover any workplace and any food service establishment. A workplace is a site employing at least one person. A food service establishment is any place with license to serve food or beverages. This includes any public place—restaurants, bars, shopping malls, bowling alleys, concert halls, arenas, museums, mechanic shops, health facilities, nursing homes, education facilities and child care centers.

Does this include restaurant patios?

Yes, these outdoor areas where food and beverage may be served will be smokefree. This includes patios at bars and restaurants.

What about VFW halls or other private clubs?

They will be smokefree. Any establishment that serves food and drink- which requires a license- can not allow smoking, even if it only serves once a week or once a year. If they don't serve food and drink, but employ at least one person, they must be smokefree.

What about casinos?

The only place you can smoke in a casino is on the gaming floors of Detroit's three casinos. Every bar, restaurant, hotel room, conference room and lobby outside the gaming space will be smokefree. State law does not govern Native American land, so smoking may be allowed at tribal casinos.

What about cigar bars and tobacco shops?

Smoking may be allowed at existing cigar bars that have a humidor and derive at least 10 percent of their revenue from cigar sales.

Also, smoking may be allowed at tobacco specialty shops with 75 percent of sales coming from tobacco products. Tobacco shops cannot serve food or drink.

What are the requirements for the Tobacco Specialty Shop Exemption?

The shop's primary purpose must be the retail sale of tobacco products and smoking paraphernalia. The shop must generate 75% or more of its total gross annual income for the on-site sale of tobacco products and smoking paraphernalia. The tobacco specialty retail store must be physically separated from any areas of the same or adjacent establishments in which smoking is prohibited under the smoke free law. "Physically separated" means an area that is enclosed on all sides by any combination of solid walls, windows, or doors that extend from floor to ceiling. The tobacco specialty retail store must prohibit entry to a person under the age of 18 during the time the tobacco specialty retail store is open for business.

What qualifies as a cigar bar?

- A cigar bar is an establishment or a specially designated area within an establishment that is open to the public and is designated for the smoking of **cigars only**.

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- If a business owner chooses to designate an area as a cigar bar within his/her business, that area must be physically separated from any areas of the same or adjacent establishment where smoking is prohibited. Physically separated means an area that is enclosed on all sides by any combination of solid walls, windows, or doors that extend from the floor to ceiling. The smoke from the cigar bar must not infiltrate the nonsmoking areas.

In order to qualify for this exemption, the cigar bar must file an affidavit with the Department on or before May 31, 2010 stating that the cigar bar was in existence on May 1, 2010 and must meet the following requirements:

- In the 30-day period immediately preceding (April 1) the effective date of May 1, 2010, the cigar bar must generate 10% or more of its total gross annual income from the on-site sale of cigars AND the rental of on-site humidors.
- The cigar bar must be physically separated from any areas of the same or adjacent establishment in which smoking is prohibited. Smoke may not infiltrate into those nonsmoking areas.
- The cigar bar must have an installed on-site humidor.
- The cigar bar must prohibit entry to a person under the age of 18 during the time the cigar bar is open for business.
- Cigars smoked on the premises must retail for over \$1.00 per cigar.
- The cigar bar must prohibit the smoking of all other tobacco products.

How do I apply for a cigar bar exemption or how do I make my bar a cigar bar?

The state is currently developing a process to declare the cigar bar designation. Once this process is developed, it will be announced to the public.

What about hookah bars?

Hookah bars can operate as tobacco specialty shops, but they can't serve food or drink.

What happens if smoking is occurring?

If someone is smoking, the owner or manager is required to ask them to stop. If they don't, the owner or manager is required to deny service and asked the smoking patron to leave. If they still don't stop, police could be called.

What happens if an establishment is allowing smoking?

If a bar or restaurant is allowing smoking, the local health department can be asked to investigate. Then, it is handled in a similar fashion to any other health issue, like spoiled food.

If the establishment doesn't stop the smoking, the health department can shut them down.

Is there a penalty?

The fine for smoking in a smokefree establishment will be \$100 for the first offense and up to \$500 for subsequent violations. The restaurant, bar, worksite and/or smoking patron/employee can be fined.

Where can questions about the law be answered?

Questions about the Smokefree law can be answered by calling 866-59SMOKE (1-866-597-6653) or visiting Michigan.gov/Smokefree.