Workplace Smoking

Revised June 2013

Many states have enacted legislation that prohibits or bans smoking in certain public areas, including places of employment. However, it is important to note that while many state laws prohibit smoking or the use of tobacco products in public areas, many states also prohibit discrimination based on legal, off-duty activities such as the use of tobacco products. Some states may even go as far as to specifically prohibit employers from making complete abstinence from smoking a condition of employment. Therefore, while employers have the legal right to prohibit smoking entirely or restricting smoking to designated areas, they should carefully check their states anti-discrimination laws carefully and/or work closely with legal counsel prior to making any employment related decisions based strictly on an individual’s use of tobacco products.

To check whether there is pending legislative issues or recently enacted legislative changes for your state(s) please click here.

To access additional SHRM State Law & Regulation Resources click here.

If a state does not appear on the following chart it is due to our not finding any evidence a statute exists for that state. In some cases provisions only exist for public employees.
Click the letter corresponding to the state name below.

Please note: This material is for personal use only and is protected by U.S. Copyright Law (Title 17 USC). It is provided as general information only and does not constitute and is not a substitute for legal or other professional advice. Reliance upon this material is solely at your own risk.

<table>
<thead>
<tr>
<th>State</th>
<th>Statute</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alabama</td>
<td>22-15A-3: DEFINITIONS. As used in this chapter, the following words and phrases shall have the following meanings: (1) BAR AND LOUNGE. Any establishment which is primarily devoted to the serving of alcoholic beverages for consumption by patrons on the premises and in which the serving of food is only incidental to the consumption of beverages. Although a restaurant may contain a bar, the term &quot;bar&quot; shall not include the restaurant dining area. (2) CHILD CARE FACILITY. Any facility caring for children. (3) DEPARTMENT. The Alabama Department of Public Health. (4) EMPLOYER. Any person, partnership, association, corporation, or nonprofit entity that employs five or more persons, including the legislative, executive, and judicial branches of state government; and any county, city, town, or village or any other political subdivision of the state; any public authority, commission, agency, or public benefit corporation; or any other separate corporate instrumentality or unit of state or local government. (5) GOVERNMENT BUILDING. Any building owned or operated by the state, including the legislative, executive, and judicial branches of state government; any county, city, town, or village or any other political subdivision of the state; any public authority, commission, agency, or public benefit corporation; or any other separate corporate instrumentality or unit of state or local government. (6) PUBLIC CONVEYANCE. A bus, taxi, train, trolley, boat, and any other means of public transit. (7) PUBLIC MEETING. Any meeting open to the public unless held in a private residence. (8) PUBLIC PLACE. Any enclosed area to which the public is permitted, including, but not limited to, auditoriums, elevators, hospitals, nursing homes, libraries, courtrooms, jury waiting rooms and deliberation rooms, theatres, museums, common areas of retirement homes, restaurants, laundromats, health facilities, educational facilities, shopping malls, government</td>
</tr>
</tbody>
</table>
22-15A-4: PROHIBITION AGAINST SMOKING IN PUBLIC PLACES; EXCEPTIONS. (a) No person shall smoke in a public place or at a public meeting except as otherwise provided in this subsection and in Section 22-15A-7. This prohibition does not apply in any of the following places: (1) Bars and lounges. (2) Retail tobacco stores and tobacco businesses. (3) Limousines used under private hire by an individual or corporation. (4) Hotel and motel rooms rented to guests, except for those rooms designated by the hotels and motels as "no smoking" rooms. (b) Smoking by patients in a chemical dependency treatment program or mental health program may be allowed in a separated well-ventilated area pursuant to a policy established by the administrator of the program that identifies circumstances in which prohibiting smoking would interfere with the treatment of persons recovering from chemical dependency or mental illness.

22-15A-5: WRITTEN SMOKING POLICIES BY EMPLOYERS; DESIGNATION OF NONSMOKING AREAS. (a) By December 1, 2003, each employer having an enclosed place of employment may adopt, implement, make known, and maintain a written smoking policy which shall contain at a minimum all of the following requirements: (1) Any employee in a place of employment shall have the right to designate his or her work area as a nonsmoking area and to post the same with an appropriate sign or signs, to be provided by the employer. (2) Smoking shall be prohibited in all common work areas in a place of employment, unless a majority of the workers who work in that area agree that a smoking area will be designated. (b) The smoking policy shall be communicated to all employees within three weeks of its adoption. All employers shall supply a written copy of the smoking policy upon request to any existing or prospective employee. (c) Notwithstanding any other provisions of this section, every employer shall have the right to designate any place of employment, or any portion thereof, as a nonsmoking area.

22-15A-6: DESIGNATION OF SMOKING AREAS; REQUIREMENTS; NONSMOKING POLICIES. (a) Pursuant to this section, the person in charge of a public place may designate an area for the use of smokers. Notwithstanding the foregoing, a smoking area may not be designated and no person may smoke in any of the following unless the area is enclosed and well ventilated: (1) Child care facilities. (2) Hospitals, health care clinics, doctors' offices, physical therapy facilities, and dentists' offices. (3) Elevators. (4) Buses, taxicabs, and other means of public conveyance. (5) Government buildings, except private offices. (6) Restrooms. (7) Service lines. (8) Public areas of aquariums, galleries, libraries, and museums. (9) Lobbies, hallways, and other common areas in apartment buildings, senior citizen residences, nursing homes, and other multiple-unit residential facilities. (10) Polling places. (11) Schools or other school facilities or enclosed school sponsored events for grades K-12. (12) Retail establishments, excluding restaurants, except areas in retail establishments not open to the public. (13) Lobbies, hallways, and other common areas in multiple-unit commercial facilities. (b) If a smoking area is designated, existing physical barriers and ventilation systems shall be used to minimize the toxic effect of smoke, and no more than one-fourth of the total square footage in any public place within a single enclosed area shall be reserved and designated for smokers unless clientele dictates otherwise. No area designated as a smoking area shall contain common facilities which are expected to be used by the public. (c) Nothing in this section shall be construed to prevent any owner, operator, manager, or other person who controls any establishment or facility from declaring and enforcing a nonsmoking policy in the entire establishment or facility. (d) Notwithstanding any other provision of this section or this chapter, if any restaurant is deemed by its owner as being too small to have a designated smoking area, it shall be left up to the discretion of the owner if the facility will be a "smoking" or a "nonsmoking" facility.

22-15A-7: POSTING OF NO SMOKING AND SMOKING AREA SIGNS; VIOLATIONS OF CHAPTER. (a) A "No Smoking" sign or signs, or the international "No Smoking" symbol, which consists of a pictorial representation of a burning cigarette enclosed in a circle with a bar across, shall be prominently posted and properly maintained where smoking is prohibited by this chapter, by the owner, operator, manager, or other person in charge of the facility. "Smoking Area" signs shall also be posted as appropriate in public places. (b) The person(s) in charge of a public place who observes a person in possession of a lighted tobacco product in apparent violation of this chapter shall inform that person that smoking is not permitted in that area by law.
22.15A-9: PENALTIES. Any person who violates Section 22.15A-4 commits a violation, punishable by a fine of twenty-five dollars ($25) for each violation. Jurisdiction shall be with the appropriate district or municipal court. A charge of a violation shall be treated in the same manner as a traffic citation. Any law enforcement officer may issue a citation pursuant to this section.

22.15A-10: LOCAL LAWS, ORDINANCES, OR REGULATIONS. Nothing in this chapter shall be construed to restrict the power of any county, city, town, or village to adopt and enforce local laws, ordinances, or regulations that comply with at least the minimum applicable standards set forth in this chapter.

Alaska

18.35.300. : Alaska Statutes - Section 18.35.300.: Places where smoking is regulated. Smoking in any form is a nuisance and a public health hazard and is prohibited in the following vehicles and indoor places, except as allowed under AS 18.35.310: (1) a vehicle of public transportation and a waiting, baggage, or boarding area for a vehicle of public transportation, including a bus, ferry vessel, train, limousine for hire, taxicab, or scheduled interstate or intrastate aircraft flight when consistent with federal law; (2) a place of employment, a building or other structure, or a portion of them, owned, leased, or operated by the state or a political subdivision of the state, including an office, library, museum, theater, concert hall, convention hall, gymnasium, swimming pool, or other place of entertainment or recreation; (3) a public or private postsecondary educational institution or adult day care facility; (4) a courtroom or jury deliberation room; (5) a room, chamber, or other place under the control of the state senate or state house of representatives while a public meeting or public assembly is not in progress; (6) a nursing home, rest home, or other residential health care institution or facility, or a public or private office or facility that is engaged primarily in providing mental health services; (7) a food service establishment that has a seating capacity of at least 50 persons; (8) a grocery store or other store maintained primarily for the retail sale of food products; (9) a place of employment in which the owner, manager, proprietor, or other person who has control of the premises posts a sign stating that smoking is prohibited by law; (10) a correctional facility; and (11) the Alaska Pioneers' Home or the Alaska Veterans' Home.

18.35.305. : Alaska Statutes - Section 18.35.305.: Places where smoking is prohibited. Smoking in any form is prohibited in the following indoor places: (1) a public or private elementary or secondary school, preschool, or children's day care facility; if the school, preschool, or day care facility is in a building that is also a private residence, this paragraph applies only during the hours when the residence is being used as an elementary or secondary school, preschool, or children's day care facility and to the rooms used as an elementary or secondary school, preschool, or children's day care facility; if the school, preschool, or day care facility is in a building that includes more than one private residence or units that are not private residences, this paragraph applies only to the private residence in which the elementary or secondary school, preschool, or children's day care facility is located; the prohibition in this paragraph does not apply to a designated smoking area that is properly ventilated or equipped with an exhaust fan in a public or private elementary or secondary school if the area is located in a room where minors are not permitted and a smoking area must be designated in the school to comply with a collective bargaining agreement covering employees who work in the school; (2) a room, chamber, or other place under the control of the state or a political subdivision of the state while a public meeting or public assembly is in progress; (3) an office where dental care, health care, or the healing arts are practiced, a public or private laboratory associated with dental care, health care, or the healing arts if the laboratory is located within the same premises as an office where dental care, health care, or the healing arts are practiced, and a public or private hospital, or other nonresidential health care institution or facility; this paragraph does not apply to a public or private office or facility that is engaged primarily in providing mental health services; (4) an elevator.

18.35.310. : Alaska Statutes - Section 18.35.310.: Exemptions. (a) The prohibition set out in AS 18.35.300 does not apply to (1) a portion of a place or vehicle that is designated as a smoking section under AS 18.35.320; (2) a limousine for hire or taxicab, if the driver consents and the driver ascertains that all passengers consent to smoking in the vehicle. (3) [Repealed, Sec. 3 ch 64 SLA 1990]. (b) The prohibitions set out in AS 18.35.300 - 18.35.305 do not apply to smoking by performers on the stage as part of a theatrical entertainment production.

18.35.320.: Alaska Statutes - Section 18.35.320.: Designation of smoking sections. (a) A person in charge of an indoor place or vehicle of public transportation described in AS 18.35.300 may designate portions of the place or vehicle as smoking sections. For purposes of this section, "vehicle of public transportation" does not include a taxicab or limousine for hire, and "indoor place" does not include an elevator. (b) The person who chairs the Rules Committee in a house of the legislature is responsible
18.35.300. Display of smoking and no smoking signs. (a) A person in charge of a place or vehicle described in AS 18.35.300 or 18.35.305, except a limousine for hire or taxicab, shall conspicuously display in the place or vehicle a sign that reads "Smoking Prohibited by Law - Maximum Fine $50" and that includes the international symbol for no smoking. (b) In a place or vehicle in which a smoking section has been designated under AS 18.35.320, the person in charge of the place or vehicle shall conspicuously display signs that specify the portions of the place or vehicle in which smoking is allowed by law and in which smoking is prohibited by law. (c) A sign required by this section must be at least 18 inches wide and six inches high, with lettering at least 1.25 inches high. (d) The department shall furnish signs required under this section to a person who requests them with the intention of displaying them.

18.35.340. Alaska Statutes - Section 18.35.340. Civil complaints; penalties. (a) The commissioner shall develop and maintain a procedure for processing reports of violations of AS 18.35.300, 18.35.305, and 18.35.330. (b) If, after investigating a report made under this section, the commissioner determines that a violation has occurred, (1) the commissioner may file a civil complaint in the district court to enforce the provisions of AS 18.35.300 - 18.35.365; or (2) an employee of the department designated by the commissioner to enforce the provisions of AS 18.35.300 - 18.35.365 may issue a citation under AS 18.35.341(b). If an employee of the department issues a citation, the violation shall be processed and disposed of under AS 18.35.341. (c) A person who violates AS 18.35.300 or 18.35.305 and against whom the commissioner has filed a civil complaint under this section is punishable by a civil fine of not less than $10 nor more than $50. A person who violates AS 18.35.330 and against whom the commissioner has filed a civil complaint under this section is punishable by a civil fine of not less than $20 nor more than $300. Each day a violation of AS 18.35.330 continues after a civil complaint for the violation has been filed and served on the defendant constitutes a separate violation. (d) The department may provide for the payment of civil fines under this section by mail.

18.35.341. Citations; penalty. (a) A peace officer may issue a citation for a violation of AS 18.35.300 or 18.35.305 committed in the officer's presence or for a violation of AS 18.35.330. The provisions of AS 12.25.180(b) and 12.25.190 - 12.25.230 apply to the issuance of a citation under this subsection. (b) An employee of the department designated by the commissioner to enforce the provisions of AS 18.35.300 - 18.35.365 may issue a citation for a violation of AS 18.35.300, 18.35.305, or 18.35.330 regardless of whether the violation was committed in the employee's presence. A citation issued under this subsection shall be in the same form and shall be processed in the same manner as a citation issued by a peace officer under (a) of this section. An employee of the department may not arrest a person for a violation of AS 18.35.300, 18.35.305, or 18.35.330. (c) A person who violates AS 18.35.300, 18.35.305, or 18.35.330 is guilty of a violation as defined in AS 11.81.900(b) and upon conviction is punishable by a fine of not less than $10 nor more than $50 for a violation of AS 18.35.300 or 18.35.305 and by a fine of not less than $20 nor more than $300 for a violation of AS 18.35.330. Each day a violation of AS 18.35.330 continues after a citation for the violation has been issued constitutes a separate violation. (d) The supreme court shall establish a schedule of bail amounts for violations of AS 18.35.300, 18.35.305, and 18.35.330, but in no event may the bail amount exceed the maximum fine that may be imposed for the violation under (c) of this section. The bail amount for a violation must appear on the citation. (e) A person cited for a violation under this section may, within 15 days after the date of the citation, mail or personally deliver to the clerk of the court in which the citation is filed (1) the amount of bail indicated on the citation for that violation; and (2) a copy of the citation indicating that the right to an appearance is waived, a plea of no contest is entered, and the bail is forfeited. (f) When bail has been forfeited under (e) of this section, a judgment of conviction shall be entered. Forfeiture of bail is a complete satisfaction for the violation. The clerk of the court accepting the bail shall provide the violator with a receipt stating that fact if requested. (g) If the person cited fails to pay the bail amount established under (d) of this section or to appear in court as required, the citation is considered a summons for a misdemeanor.
18.35.342.: Multiple fines prohibited. A person may not be fined more than once for each violation of AS 18.35.300, 18.35.305, or 18.35.330.

18.35.343.: Injunctions. The commissioner or any affected party may institute an action in the superior court to enjoin repeated violations of AS 18.35.300, 18.35.305, or 18.35.330.

Arizona

36-601.01 SMOKE-FREE ARIZONA ACT. A. DEFINITIONS. THE FOLLOWING WORDS AND PHRASES, WHENEVER USED IN THIS SECTION, SHALL BE CONSTRUED AS DEFINED IN THIS SECTION: 1. "EMPLOYEE" MEANS ANY PERSON WHO PERFORMS ANY SERVICE ON A FULL-TIME, PART-TIME OR CONTRACTED BASIS WHETHER OR NOT THE PERSON IS DENOMINATED AN EMPLOYEE, INDEPENDENT CONTRACTOR OR OTHERWISE AND WHETHER OR NOT THE PERSON IS COMPENSATED OR IS A VOLUNTEER. 2. "EMPLOYER" MEANS A PERSON, BUSINESS, PARTNERSHIP, ASSOCIATION, THE STATE OF ARIZONA AND ITS POLITICAL SUBDIVISIONS, CORPORATIONS, INCLUDING A MUNICIPAL CORPORATIONS, TRUST. OR NON-PROFIT ENTITY THAT EMPLOY THE SERVICES OF ONE OR MORE INDIVIDUAL PERSONS. 3. "ENCLOSED AREA" MEANS ALL SPACE BETWEEN A FLOOR AND CEILING THAT IS ENCLOSED ON ALL SIDES BY PERMANENT OR TEMPORARY WALLS OR WINDOWS (EXCLUSIVE OF DOORWAYS), WHICH EXTEND FROM THE FLOOR TO THE CEILING. ENCLOSED AREA INCLUDES A REASONABLE DISTANCE FROM ANY ENTRANCES, WINDOWS AND VENTILATION SYSTEMS SO THAT PERSONS ENTERING OR LEAVING THE BUILDING OR FACILITY SHALL NOT BE SUBJECTED TO BREATHING TOBACCO SMOKE AND SO THAT TOBACCO SMOKE DOES NOT ENTER THE BUILDING OR FACILITY THROUGH ENTRANCES, WINDOWS, VENTILATION SYSTEMS OR ANY OTHER MEANS. 4. "HEALTH CARE FACILITY" MEANS ANY ENCLOSED AREA UTILIZED BY ANY HEALTH CARE INSTITUTION LICENSED ACCORDING TO TITLE 36 CHAPTER 4, CHAPTER 6 ARTICLE 7, OR CHAPTER 17, OR ANY HEALTH CARE PROFESSIONAL LICENSED ACCORDING TO TITLE 32 CHAPTERS 7, 8, 11, 13, 14, 15, 15.1, 16, 17, 18, 19, 19.1, 21, 25, 28, 29, 33, 34, 35, 39, 41, OR 42. 5. "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION, LIMITED LIABILITY COMPANY, ENTITY, ASSOCIATION, GOVERNMENTAL SUBDIVISION OR UNIT OF A GOVERNMENTAL SUBDIVISION, OR A PUBLIC OR PRIVATE ORGANIZATION OF ANY CHARACTER. 6. "PHYSICALLY SEPARATED" MEANS ALL SPACE BETWEEN A FLOOR AND CEILING WHICH IS ENCLOSED ON ALL SIDES BY SOLID WALLS OR WINDOWS (EXCLUSIVE OF DOOR OR PASSAGeway) AND INDEPENDENTLY VENTILATED FROM SMOKE-FREE AREAS, SO THAT AIR WITHIN PERMITTED SMOKING AREAS DOES NOT DRIFT OR GET VENTED INTO SMOKE-FREE AREAS. 7. "PLACES OF EMPLOYMENT" MEANS AN ENCLOSED AREA UNDER THE CONTROL OF A PUBLIC OR PRIVATE EMPLOYER THAT EMPLOYEES NORMALLY FREQUENT DURING THE COURSE OF EMPLOYMENT, INCLUDING OFFICE BUILDINGS, WORK AREAS, AUDITORIUMS, EMPLOYEE LOUNGES, RESTROOMS, CONFERENCE ROOMS, MEETING ROOMS, CLASSROOMS, CAFETERIAS, HALLWAYS, STAIRS, ELEVATORS, HEALTH CARE FACILITIES, PRIVATE OFFICES AND VEHICLES OWNED AND OPERATED BY THE EMPLOYER DURING WORKING HOURS WHEN THE VEHICLE IS OCCUPIED BY MORE THAN ONE PERSON. A PRIVATE RESIDENCE IS NOT A "PLACE OF EMPLOYMENT" UNLESS IT IS USED AS A CHILD CARE, ADULT DAY CARE, OR HEALTH CARE FACILITY. 8. "VETERAN AND FRATERNAL CLUBS" MEANS A CLUB AS DEFINED IN A.R.S. 4-101(7)(A)(B) OR (C). 9. "PUBLIC PLACE" MEANS ANY ENCLOSED AREA TO WHICH THE PUBLIC IS INVITED OR IN WHICH THE PUBLIC IS PERMITTED, INCLUDING AIRPORTS, BANKS, BARS, COMMON AREAS OF APARTMENT BUILDINGS, CONDOMINIUMS OR OTHER MULTIFAMILY HOUSING FACILITIES, EDUCATIONAL FACILITIES, ENTERTAINMENT FACILITIES OR VENUES, HEALTH CARE FACILITIES, HOTEL AND MOTEI COMMON AREAS, LAUNDROMATS, PUBLIC TRANSPORTATION FACILITIES, RECEPTION AREAS, RESTAURANTS, RETAIL FOOD PRODUCTION AND MARKETING ESTABLISHMENTS, RETAIL SERVICE ESTABLISHMENTS, RETAIL STORES, SHOPPING MALLS, SPORTS FACILITIES, THEATERS, AND WAITING ROOMS. A PRIVATE RESIDENCE IS NOT A "PUBLIC PLACE" UNLESS IT IS USED AS A CHILD CARE, ADULT DAY CARE, OR HEALTH CARE FACILITY. 10. "RETAIL TOBACCO STORE" MEANS A RETAIL STORE THAT DERIVES THE MAJORITY OF ITS SALES FROM TOBACCO PRODUCTS AND ACCESSORIES. 11. "SMOKING" MEANS INHALING, EXHALING, BURNING, OR CARRYING OR POSSESSING ANY LIGHTED TOBACCO PRODUCT, INCLUDING CIGARS, CIGARETTES, PIPE TOBACCO AND ANY OTHER LIGHTED TOBACCO PRODUCT. 12. "SPORTS FACILITIES" MEANS ENCLOSED AREAS OF SPORTS
PAVILIONS, STADIUMS, GYMNASIUMS, HEALTH SPAS, BOXING ARENAS, SWIMMING POOLS, ROLLER AND ICE RINKS, BILLIARD HALLS, BOWLING ALLEYS, AND OTHER SIMILAR PLACES WHERE MEMBERS OF THE GENERAL PUBLIC ASSEMBLE TO ENGAGE IN PHYSICAL EXERCISE, PARTICIPATE IN ATHLETIC COMPETITION, OR WITNESS SPORTING EVENTS. B. SMOKING IS PROHIBITED IN ALL PUBLIC PLACES AND PLACES OF EMPLOYMENT WITHIN THE STATE OF ARIZONA, EXCEPT THE FOLLOWING: 1. PRIVATE RESIDENCES, EXCEPT WHEN USED AS A LICENSED CHILD CARE, ADULT DAY CARE, OR HEALTH CARE FACILITY. 2. HOTEL AND MOTEL ROOMS THAT ARE RENTED TO GUESTS AND ARE DESIGNATED AS SMOKING ROOMS; PROVIDED, HOWEVER, THAT NOT MORE THAN FIFTY PERCENT OF ROOMS RENTED TO GUESTS IN A HOTEL OR MOTEL ARE SO DESIGNATED. 3. RETAIL TOBACCO STORES THAT ARE PHYSICALLY SEPARATED SO THAT SMOKE FROM RETAIL TOBACCO STORES DOES NOT INFILTRATE INTO AREAS WHERE SMOKING IS PROHIBITED UNDER THE PROVISIONS OF THIS SECTION. 4. VETERANS AND FRATERNAL CLUBS WHEN THEY ARE NOT OPEN TO THE GENERAL PUBLIC. 5. SMOKING WHEN ASSOCIATED WITH A RELIGIOUS CEREMONY PRACTICED PURSUANT TO THE AMERICAN INDIAN RELIGIOUS FREEDOM ACT OF 1978. 6. OUTDOOR PATIOS SO LONG AS TOBACCO SMOKE DOES NOT ENTER AREAS WHERE SMOKING IS PROHIBITED THROUGH ENTRANCES, WINDOWS, VENTILATION SYSTEMS, OR OTHER MEANS. 7. A THEATRICAL PERFORMANCE UPON A STAGE OR IN THE COURSE OF A FILM OR TELEVISION PRODUCTION IF THE SMOKING IS PART OF THE PERFORMANCE OR PRODUCTION. C. THE PROHIBITION ON SMOKING IN PLACES OF EMPLOYMENT SHALL BE COMMUNICATED TO ALL EXISTING EMPLOYEES BY THE EFFECTIVE DATE OF THIS SECTION AND TO ALL PROSPECTIVE EMPLOYEES UPON THEIR APPLICATION FOR EMPLOYMENT. D. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, AN OWNER, OPERATOR, MANAGER, OR OTHER PERSON OR ENTITY IN CONTROL OF AN ESTABLISHMENT, FACILITY, OR OUTDOOR AREA MAY DECLARE THAT ENTIRE ESTABLISHMENT, FACILITY, OR OUTDOOR AREA AS A NONSMOoking PLACE. E. POSTING OF SIGNS AND ASHTRAY REMOVAL. 1. "NO SMOKING" SIGNS OR THE INTERNATIONAL "NO SMOKING" SYMBOL (CONSISTING OF A PICTORIAL REPRESENTATION OF A BURNING CIGARETTE ENCLOSED IN A RED CIRCLE WITH A RED BAR ACROSS IT) SHALL BE CLEARLY AND CONSPICUOUSLY POSTED BY THE OWNER, OPERATOR, MANAGER, OR OTHER PERSON IN CONTROL OF THAT PLACE IDENTIFYING WHERE SMOKING IS PROHIBITED BY THIS SECTION AND WHERE COMPLAINTS REGARDING VIOLATIONS MAY BE REGISTERED. 2. EVERY PUBLIC PLACE AND PLACE OF EMPLOYMENT WHERE SMOKING IS PROHIBITED BY THIS SECTION SHALL HAVE POSTED AT EVERY ENTRANCE A CONSPICUOUS SIGN CLEARLY STATING THAT SMOKING IS PROHIBITED. 3. ALL ASHTRAYS SHALL BE REMOVED FROM ANY AREA WHERE SMOKING IS PROHIBITED BY THIS SECTION BY THE OWNER, OPERATOR, MANAGER, OR OTHER PERSON HAVING CONTROL OF THE AREA. F. NO EMPLOYER MAY DISCHARGE OR RETALIATE AGAINST AN EMPLOYEE BECAUSE THAT EMPLOYEE EXERCISES ANY RIGHTS AFFORDED BY THIS SECTION OR REPORTS OR ATTEMPTS TO PROSECUTE A VIOLATION OF THIS SECTION. G. THE LAW SHALL BE IMPLEMENTED AND ENFORCED BY THE DEPARTMENT OF HEALTH SERVICES AS FOLLOWS: 1. THE DEPARTMENT SHALL DESIGN AND IMPLEMENT A PROGRAM, INCLUDING THE ESTABLISHMENT OF AN INTERNET WEBSITE, TO EDUCATE THE PUBLIC REGARDING THE PROVISIONS OF THIS LAW. 2. THE DEPARTMENT SHALL INFORM PERSONS WHO OWN, MANAGE, OPERATE OR OTHERWISE CONTROL A PUBLIC PLACE OR PLACE OF EMPLOYMENT OF THE REQUIREMENTS OF THIS LAW AND HOW TO COMPLY WITH ITS PROVISIONS INCLUDING MAKING INFORMATION AVAILABLE AND PROVIDING A TOLL-FREE TELEPHONE NUMBER AND E-MAIL ADDRESS TO BE USED EXCLUSIVELY FOR THIS PURPOSE. 3. ANY MEMBER OF THE PUBLIC MAY REPORT A VIOLATION OF THIS LAW TO THE DEPARTMENT. THE DEPARTMENT SHALL ACCEPT ORAL AND WRITTEN REPORTS OF VIOLATION AND ESTABLISH AN E-MAIL ADDRESS(ES) AND TOLL-FREE TELEPHONE NUMBER(S) TO BE USED EXCLUSIVELY FOR THE PURPOSE OF REPORTING VIOLATIONS. A PERSON SHALL NOT BE REQUIRED TO DISCLOSE THE PERSON'S IDENTITY WHEN REPORTING A VIOLATION. 4. IF THE DEPARTMENT HAS REASON TO BELIEVE A VIOLATION OF THIS LAW EXISTS, THE DEPARTMENT MAY ENTER UPON AND INTO ANY PUBLIC PLACE OR PLACE OF EMPLOYMENT FOR PURPOSES OF DETERMINING COMPLIANCE WITH THIS LAW. HOWEVER, THE DEPARTMENT MAY INSPECT PUBLIC PLACES WHERE FOOD OR ALCOHOL IS SERVED AT ANY TIME TO
42-3251.02. Levy and collection of tobacco tax for smoke-free Arizona fund. A. In addition to the taxes imposed by 42-3251.01, there is levied and shall be collected an additional tax of one tenth of one cent on each cigarette. B. Monies collected pursuant to this section shall be deposited, pursuant to §§ 35-146 and 35-147, in the SMOKE-FREE ARIZONA FUND established by §36-601.01. Section 6. 1. If any provision, clause, sentence, or paragraph of this Act or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable. 2. §36-601.01(M) and §42-3251.02 becomes effective on the date of enactment. The remaining provisions of this Act become effective on May 1, 2007.

Arkansas

6-60-804. Prohibitions on smoking. (a) Beginning on August 1, 2010, smoking is prohibited on each campus of state-supported institutions of higher education. (b) An individual or campus subject to the smoking prohibitions of this section shall not discriminate or retaliate in any manner against a person for making a complaint of a violation of this section or furnishing information concerning a violation to a person, campus, or governing authority. (c) The prohibitions on smoking in this section shall be communicated to all students and employees of state-supported institutions of higher education a minimum of thirty (30) days before July 31, 2009, and to each guest of a state-supported institution of higher education upon request.

6-60-807. Penalties. Any person who violates any provision of this subchapter is guilty of a violation and upon conviction shall be punished by a fine of not less than one hundred dollars ($100) no more than five hundred dollars ($500).

20-27-1804. Prohibitions on smoking. (a) Effective July 21, 2006, smoking is prohibited in all vehicles and enclosed areas owned, leased, or operated by the state, its agencies and authorities, and any political subdivision of the state, municipal corporation, or local board or authority created by general, local, or special act of the General Assembly or by ordinance or resolution of the governing body of a county or municipal corporation individually or jointly with other political subdivisions or municipalities of the state. (b)(1) Smoking is prohibited in all public places and enclosed areas within places of employment, including, but not limited to: (A) Common work areas; (B) Auditoriums; (C) Classrooms; (D) Conference and meeting rooms; (E) Private offices; (F) Elevators; (G) Hallways; (H) Health care facilities; (I) Cafeterias; (J) Employee lounges; (K) Stairs; (L) Restrooms; and (M) All other enclosed areas. (2) An individual, a person, an entity, or a business subject to the smoking prohibitions of this section shall not discriminate or retaliate in any manner against a person for making a complaint of a violation of this section or furnishing information concerning a violation to a person, an entity, or a business or to an enforcement authority. (3) The prohibitions on smoking in subsections (a) and (b) of this section and the provisions of subdivision (b)(2) of this section shall be communicated to all current employees by their employer within thirty (30) days of July 21, 2006, and to each prospective employee upon application for employment.


20-27-704. Findings. The General Assembly finds that: (1) Direct smoking of tobacco and indirect smoking of tobacco through inhaling the smoke of those who are smoking nearby are major causes of preventable diseases and death; and (2) Prohibiting tobacco use in medical facilities will decrease the use of tobacco and exposure to harm from tobacco.

20-27-705. Definitions. For purposes of §§ 20-27-704 — 20-27-708: (1) “Grounds” means the buildings in and on which medical 24 facilities operate, together with all property owned by a medical facility 25 that is contiguous to the buildings in which medical services are provided (2)(A) “Medical
20-27-706. Prohibition of smoking at medical facilities. (a) Smoking of tobacco is prohibited in and on the grounds of all medical facilities. (b) (1) Each medical facility shall request any person who violates subsection (a) of this section to desist. (2) If the violation continues.

20-27-707. Exception. (a) If a treating physician determines that an inpatient's treatment will be substantially impaired by the denial to that patient of the use of tobacco, the physician may enter a written order permitting the use of tobacco by that patient. (b) The order shall be consistent with: (1) The medical facility's medical staff bylaws; (2) Hospital regulations; and (3) Local ordinances.


| California | 6404.5 Lab. (a) The Legislature finds and declares that regulation of smoking in the workplace is a matter of statewide interest and concern. It is the intent of the Legislature in enacting this section to prohibit the smoking of tobacco products in all (100 percent) of enclosed places of employment in this state, as covered by this section, thereby eliminating the need of local governments to enact workplace smoking restrictions within their respective jurisdictions. It is further the intent of the Legislature to create a uniform statewide standard to restrict and prohibit the smoking of tobacco products in enclosed places of employment, as specified in this section, in order to reduce employee exposure to environmental tobacco smoke to a level that will prevent anything other than insignificantly harmful effects to exposed employees, and also to eliminate the confusion and hardship that can result from enactment or enforcement of disparate local workplace smoking restrictions. Notwithstanding any other provision of this section, it is the intent of the Legislature that any area not defined as a "place of employment" pursuant to subdivision (d) or in which the smoking of tobacco products is not regulated pursuant to subdivision (e) shall be subject to local regulation of smoking of tobacco products. (b) No employer shall knowingly or intentionally permit, and no person shall engage in, the smoking of tobacco products in an enclosed space at a place of employment. "Enclosed space" includes lobbies, lounges, waiting areas, elevators, stairwells, and restrooms that are a structural part of the building and not specifically defined in subdivision (d). (c) For purposes of this section, an employer who permits any nonemployee access to his or her place of employment on a regular basis has not acted knowingly or intentionally in violation of this section if he or she has taken the following reasonable steps to prevent smoking by a nonemployee: (1) Posted clear and prominent signs, as follows: (A) Where smoking is prohibited throughout the building or structure, a sign stating "No smoking" shall be posted at each entrance to the building or structure. (B) Where smoking is permitted in designated areas of the building or structure, a sign stating "Smoking is prohibited except in designated areas" shall be posted at each entrance to the building or structure. (2) Has requested, when appropriate, that a nonemployee who is smoking refrain from smoking in the enclosed workplace. For purposes of this subdivision, "reasonable steps" does not include (A) the physical ejection of a nonemployee from the place of employment or (B) any requirement for making a request to a nonemployee to refrain from smoking, under circumstances involving a risk of physical harm to the employer or any employee. (d) For purposes of this section, "place of employment" does not include any of the following: (1) Sixty-five percent of the guestroom accommodations in a hotel, motel, or similar transient lodging establishment. (2) Areas of the lobby in a hotel, motel, or other similar transient lodging establishment designated for smoking by the establishment. An establishment may permit smoking in a designated lobby area that does not exceed 25 percent of the total floor area of the lobby or, if the total area of the lobby is 2,000 square feet or less, that does not exceed 50 percent of the total floor area of the lobby. For purposes of this paragraph, "lobby" means the common public area of an establishment in which registration and other similar or related transactions, or both, are conducted and in which the establishment's guests and members of the public typically congregate. (3) Meeting and banquet rooms in a hotel, motel, other transient lodging establishment similar to a hotel or motel, restaurant, or public convention center, except while food or beverage functions are taking place, including setup, service, and cleanup activities, or when the room is being used for exhibit purposes. At times when smoking is not permitted in a meeting or banquet room pursuant to this paragraph, the establishment may permit smoking in corridors and prefunction areas adjacent to and serving the meeting or banquet room if no employee is stationed in that corridor or area on other than a passing basis. (4) Retail or wholesale tobacco shops and private smokers' lounges. For purposes of this paragraph: (A) "Private smokers' lounge" means any enclosed area in or attached to a retail or wholesale tobacco shop that is... |
determined by the division to have used coercion to obtain consent or who has required an employee to work in the smoking area shall be subject to the penalty provisions of Section 6427. (C) Air from the smoking area shall be exhausted directly to the outside by an exhaust fan. Air from the smoking area shall not be recirculated to other parts of the building. (D) The employer shall comply with any ventilation standard or other standard utilizing appropriate technology, including, but not limited to, mechanical, electronic, and biotechnical systems, adopted by the Occupational Safety and Health Standards Board or the federal Environmental Protection Agency. If both adopt inconsistent standards, the ventilation standards of the Occupational Safety and Health Standards Board shall be no less stringent than the standards adopted by the federal Environmental Protection Agency. (C) The smoking area shall be located in a nonwork area where no one, as part of his or her work responsibilities, is required to enter. For purposes of this subparagraph, "work responsibilities" does not include any custodial or maintenance work carried out in the breakroom when it is unoccupied. (D) There are sufficient nonsmoking breakrooms to accommodate nonsmokers. (14) Employers with a total of five or fewer employees, either full time or part time, may permit smoking where all of the following conditions are met: (A) The smoking area is not accessible to minors. (B) All employees who enter the smoking area consent to permit smoking. No one, as part of his or her work responsibilities, shall be required to work in an area where smoking is permitted. An employer who is determined by the division to have used coercion to obtain consent or who has required an employee to work in the smoking area shall be subject to the penalty provisions of Section 6427. (C) Air from the smoking area shall be exhausted directly to the outside by an exhaust fan. Air from the smoking area shall not be recirculated to other parts of the building. (D) The employer shall comply with any ventilation standard or other standard utilizing appropriate technology, including, but not limited to, mechanical, electronic, and biotechnical systems, adopted by the Occupational Safety and Health Standards Board or the federal Environmental Protection Agency. If both adopt inconsistent standards, the ventilation standards of the Occupational Safety and Health Standards Board shall be no less stringent than the standards adopted by the federal Environmental Protection Agency. This paragraph shall not be construed to (i) supersede or render inapplicable any condition or limitation on smoking areas made applicable to specific types of business establishments by any other paragraph of this subdivision or (ii) apply in lieu of any other otherwise applicable paragraph of this subdivision that has become inoperative. (e) Paragraphs (13) and (14) of subdivision (d) shall not be construed to require employers to provide reasonable accommodation to smokers, or to provide breakrooms for smokers or nonsmokers. (f) (1) Except as otherwise provided in this subdivision, smoking may be permitted in gaming clubs, as defined in paragraph (7) of subdivision (d), and in bars and taverns, as defined in paragraph (8) of subdivision (d), until the earlier of the following: (A) January 1, 1998. (B) The date of adoption of a regulation (i) by the Occupational Safety and Health Standards Board reducing the permissible employee exposure level to environmental tobacco smoke to a level that will prevent anything other than insignificantly harmful effects to exposed employees or (ii) by the federal Environmental Protection Agency establishing a standard for reduction of permissible exposure to environmental tobacco smoke to an exposure level that will prevent anything other than insignificantly...
8:5148. Prohibition of Smoking in the Workplace. (a) No employer shall knowingly or intentionally permit, and no person shall engage in, the smoking of tobacco products in an enclosed space at a place of employment. (b) For purposes of this section, an employer who permits any nonemployee access to his or her place of employment on a regular basis has not acted knowingly or intentionally if he or she

This two-year period shall prohibit smoking in the gaming club, bar, or tavern until compliance or conformity is achieved. If the Occupational Safety and Health Standards Board and the federal Environmental Protection Agency both adopt regulations specified in subparagraph (B) of paragraph (1) that are inconsistent, the regulations of the

Local governments shall have the full right and authority to enact and enforce new, restrictions on the smoking of tobacco products in enclosed places of employment. Insofar as the smoking prohibition set forth in this section is applicable to all (100-percent) places of employment within this state and, therefore, provides the maximum degree of coverage, the practical effect of this section is to eliminate the need of local governments to enact enclosed workplace smoking restrictions within their respective jurisdictions. (h) Nothing in this section shall prohibit an employer from prohibiting smoking in an enclosed place of employment for any reason. (i) The enactment of local regulation of smoking of tobacco products in enclosed places of employment by local governments shall be suspended only for as long as, and to the extent that, the (100-percent) smoking prohibition provided for in this section remains in effect. In the event this section is repealed or modified by subsequent legislative or judicial action so that the (100-percent) smoking prohibition is no longer applicable to all enclosed places of employment in California, local governments shall have the full right and authority to enforce previously enacted, and to enact and enforce new, restrictions on the smoking of tobacco products in enclosed places of employment within their jurisdictions, including a complete prohibition of smoking. Notwithstanding any other provision of this section, any area not defined as a "place of employment" or in which smoking is not regulated pursuant to subdivision (d) or (e), shall be subject to local regulation of smoking of tobacco products. (j) Any violation of the prohibition set forth in subdivision (b) is an infraction, punishable by a fine not to exceed one hundred dollars ($100) for a first violation, two hundred dollars ($200) for a second violation within one year, and five hundred dollars ($500) for a third and for each subsequent violation within one year. This subdivision shall be enforced by local law enforcement agencies, including, but not limited to, local health departments, as determined by the local governing body. (k) Notwithstanding Section 6309, the division shall not be required to respond to any complaint regarding the smoking of tobacco products in an enclosed space at a place of employment, unless the employer has been found guilty pursuant to subdivision (j) of a third violation of subdivision (b) within the previous year. (l) If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

any area not defined as a "place of employment" or in which smoking is not regulated pursuant to subdivision (d) or (e), shall be subject to local regulation of smoking of tobacco products. (j) Any violation of the prohibition set forth in subdivision (b) is an infraction, punishable by a fine not to exceed one hundred dollars ($100) for a first violation, two hundred dollars ($200) for a second violation within one year, and five hundred dollars ($500) for a third and for each subsequent violation within one year. This subdivision shall be enforced by local law enforcement agencies, including, but not limited to, local health departments, as determined by the local governing body. (k) Notwithstanding Section 6309, the division shall not be required to respond to any complaint regarding the smoking of tobacco products in an enclosed space at a place of employment, unless the employer has been found guilty pursuant to subdivision (j) of a third violation of subdivision (b) within the previous year. (l) If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

any area not defined as a "place of employment" or in which smoking is not regulated pursuant to subdivision (d) or (e), shall be subject to local regulation of smoking of tobacco products. (j) Any violation of the prohibition set forth in subdivision (b) is an infraction, punishable by a fine not to exceed one hundred dollars ($100) for a first violation, two hundred dollars ($200) for a second violation within one year, and five hundred dollars ($500) for a third and for each subsequent violation within one year. This subdivision shall be enforced by local law enforcement agencies, including, but not limited to, local health departments, as determined by the local governing body. (k) Notwithstanding Section 6309, the division shall not be required to respond to any complaint regarding the smoking of tobacco products in an enclosed space at a place of employment, unless the employer has been found guilty pursuant to subdivision (j) of a third violation of subdivision (b) within the previous year. (l) If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

any area not defined as a "place of employment" or in which smoking is not regulated pursuant to subdivision (d) or (e), shall be subject to local regulation of smoking of tobacco products. (j) Any violation of the prohibition set forth in subdivision (b) is an infraction, punishable by a fine not to exceed one hundred dollars ($100) for a first violation, two hundred dollars ($200) for a second violation within one year, and five hundred dollars ($500) for a third and for each subsequent violation within one year. This subdivision shall be enforced by local law enforcement agencies, including, but not limited to, local health departments, as determined by the local governing body. (k) Notwithstanding Section 6309, the division shall not be required to respond to any complaint regarding the smoking of tobacco products in an enclosed space at a place of employment, unless the employer has been found guilty pursuant to subdivision (j) of a third violation of subdivision (b) within the previous year. (l) If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

any area not defined as a "place of employment" or in which smoking is not regulated pursuant to subdivision (d) or (e), shall be subject to local regulation of smoking of tobacco products. (j) Any violation of the prohibition set forth in subdivision (b) is an infraction, punishable by a fine not to exceed one hundred dollars ($100) for a first violation, two hundred dollars ($200) for a second violation within one year, and five hundred dollars ($500) for a third and for each subsequent violation within one year. This subdivision shall be enforced by local law enforcement agencies, including, but not limited to, local health departments, as determined by the local governing body. (k) Notwithstanding Section 6309, the division shall not be required to respond to any complaint regarding the smoking of tobacco products in an enclosed space at a place of employment, unless the employer has been found guilty pursuant to subdivision (j) of a third violation of subdivision (b) within the previous year. (l) If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.
Smoking is not exempted from this part 2 under section 25(7) thereof, which describes the prohibition is posted by the state, county, or city agency or other appropriate entity.

As used in this part 2, unless the context otherwise requires: (1) "Airport smoking concession" means a bar or restaurant, or both, in a public airport with regularly scheduled domestic and international commercial passenger flights, in which bar or restaurant smoking is allowed in a fully enclosed and independently ventilated area by the terms of the concession. (2) "Auditorium" means the part of a public building where an audience gathers to attend a performance, and includes any corridors, hallways, or lobbies adjacent thereto. (3) "Bar" means any indoor area that is operated and licensed under article 47 of title 12, C.R.S., primarily for the sale and service of alcohol beverages for on-premises consumption and where the service of food is secondary to the consumption of such beverages. (4) "Cigar-tobacco bar" means a bar that, in the calendar year ending December 31, 2005, generated at least five percent or more of its total annual gross income or fifty thousand dollars in annual sales from the on-site sale of tobacco products and the rental of on-site humidors, not including any sales from vending machines. In any calendar year after December 31, 2005, a bar that fails to generate at least five percent of its total annual gross income or fifty thousand dollars in annual sales from the on-site sale of tobacco products and the rental of on-site humidors shall not be defined as a "cigar-tobacco bar" and shall not thereafter be included in the definition of "Bar" as used in this part 2 under section 25-14-205. (5) (a) "Employee" means any person who: (I) Performs any type of work for benefit of another in consideration of direct or indirect wages or profit; or (II) Provides uncompensated work or services to a business or nonprofit entity. (b) "Employee" includes every person described in paragraph (a) of this subsection (5), regardless of whether such person is referred to as an employee, contractor, independent contractor, or volunteer or by any other designation or title. (6) "Employer" means any person, partnership, association, corporation, or nonprofit entity that employs one or more persons. "Employer" includes, without limitation, the legislative, executive, and judicial branches of state government; any county, city and county, city, or town, or instrumentality thereof, or any other political subdivision of the state, special district, authority, commission, or agency; or any other separate corporate instrumentality or unit of state or local government. (7) "Entryway" means the outside of the front or main doorway leading into a building or facility that is not exempted from this part 2 under section 25-14-205. "Entryway" also includes the area of public or private property within a specified radius outside of the doorway. The specified radius shall be determined by the local authority or, if the local authority has not acted, the specified radius shall be fifteen feet. (8) "Environmental tobacco smoke", "ETS", or "secondhand smoke" means the complex...
(a) A private vehicle is being used for child care or day care in the home, residence, or vehicle is being used for child care or day care or in a home, private residence, and private automobiles; except that this part 2 shall apply if any such child under eighteen years of age must be accompanied by a parent or guardian.

Conspicuous place and at least four inches by six inches in size stating: "Smoking allowed. Children not permitted in this area." Biennial renewal of display is required.

(1) Any building owned or operated by: (a) The state, including the legislative, executive, and judicial branches of state government; (b) Any county, city and county, city, or town, or instrumentality thereof; or (c) Any other separate corporate instrumentality or unit of state or local government.

(14) "Public meeting" means any meeting open to the public pursuant to part 4 of article 6 of title 24, C.R.S., or any other law of this state.

"Smoke-free work area" means an indoor area in a place of employment where smoking is prohibited under this part 2. (16) "Smoking" means the burning of a lighted cigarette, cigar, pipe, or any other matter or substance that contains tobacco.

Any place of employment that is not exempted.

"Tobacco business" means a sole proprietorship, corporation, partnership, or other enterprise engaged primarily in the sale, manufacture, or promotion of tobacco, tobacco products, or smoking devices or accessories, either at wholesale or retail, and in which the sale, manufacture, or promotion of other products is merely incidental.

(19) "Work area" means an area in a place of employment where one or more employees are routinely assigned and perform services for or on behalf of their employer.

25-14-204. General smoking restrictions. (1) Except as provided in section 25-14-205, and in order to reduce the levels of exposure to environmental tobacco smoke, smoking shall not be permitted and no person shall smoke in any indoor area, including, but not limited to: (a) Public meeting places; (b) Elevators; (c) Government-owned or -operated means of mass transportation, including, but not limited to, buses, vans, and trains; (d) Taxicabs and limousines; (e) Grocery stores; (f) Gymnasiums; (g) Jury waiting and deliberation rooms; (h) Courtrooms; (i) Child day care facilities; (j) Health care facilities including hospitals, health care clinics, doctor's offices, and other health care related facilities; (k) (l) Any place of employment that is not exempted. (II) In the case of employers who own facilities otherwise exempted from this part 2, each such employer shall provide a smoke-free work area for each employee requesting not to have to breathe the environmental tobacco smoke. Every employee shall have a right to work in an area free of environmental tobacco smoke. (l) Food service establishments; (m) Bars; (n) Limited gaming facilities and any other facilities in which any gaming or gambling activity is conducted; (o) Indoor sports arenas; (p) Restrooms, lobbies, hallways, and other common areas in public and private buildings, condominiums, and other multiple-unit residential facilities; (q) Restrooms, lobbies, hallways, and other common areas in hotels and motels, and in at least seventy-five percent of the sleeping quarters within a hotel or motel that are rented to guests; (r) Bowling alleys; (s) Billiard or pool halls; (t) Facilities in which games of chance are conducted; (u) The common areas of retirement facilities, publicly owned housing facilities, and nursing homes, not including any resident's private residential quarters; (v) Public buildings; (w) Auditoria; (x) Theaters; (y) Museums; (z) Libraries; (aa) To the extent not otherwise provided in section 25-14-103.5, public and nonpublic schools; (bb) Other educational and vocational institutions; and (cc) The entryways of all buildings and facilities listed in paragraphs (a) to (bb) of this subsection.

25-14-205. Exceptions to smoking restrictions. (1) This part 2 shall not apply to: (a) Private homes, private residences, and private automobiles; except that this part 2 shall apply if any such home, residence, or vehicle is being used for child care or day care or if a private vehicle is being used for the public transportation of children or as part of health care or day care
transportation; (b) Limousines under private hire; (c) A hotel or motel room rented to one or more guests if the total percentage of such hotel or motel rooms in such hotel or motel does not exceed twenty-five percent; (d) Any retail tobacco business; (e) A cigar-tobacco bar; (f) An airport smoking concession; (g) The outdoor area of any business; (h) A place of employment that is not open to the public and that is under the control of an employer that employs three or fewer employees; (i) A private, nonresidential building on a farm or ranch, as defined in section 39-1-102, C.R.S., that has annual gross income of less than five hundred thousand dollars; or (j) The retail floor plan, as defined in section 12-47.1-509, C.R.S., of a licensed casino.

25-14-206. Optional prohibitions. (1) The owner or manager of any place not specifically listed in section 25-14-204, including a place otherwise exempted under section 25-14-205, may post signs prohibiting smoking or providing smoking and nonsmoking areas. Such posting shall have the effect of including such place, or the designated nonsmoking portion thereof, in the places where smoking is prohibited or restricted pursuant to this part 2. (2) If the owner or manager of a place not specifically listed in section 25-14-204, including a place otherwise exempted under section 25-14-205, is an employer and receives a request from an employee to create a smoke-free work area as contemplated by section 25-14-204 (1) (k) (II), the owner or manager shall post a sign or signs in the smoke-free work area as provided in subsection (1) of this section.

25-14-207. Other applicable regulations of smoking - local counterpart regulations authorized. (1) This part 2 shall not be interpreted or construed to permit smoking where it is otherwise restricted by any other applicable law. (2) (a) A local authority may, pursuant to article 16 of title 31, C.R.S., a municipal home rule charter, or article 15 of title 30, C.R.S., enact, adopt, and enforce smoking regulations that cover the same subject matter as the various provisions of this part 2. No local authority may adopt any local regulation of smoking that is less stringent than the provisions of this part 2; except that a local authority may specify a radius of less than fifteen feet for the area included within an entryway. (b) The municipal courts or their equivalent in any city, city and county, or town have jurisdiction over violations of smoking regulations enacted by any city, city and county, or town under this section.

25-14-208. Unlawful acts - penalty - disposition of fines and surcharges. (1) It is unlawful for a person who owns, manages, operates, or otherwise controls the use of a premises subject to this part 2 to violate any provision of this part 2. (2) It is unlawful for a person to smoke in an area where smoking is prohibited pursuant to this part 2. (3) A person who violates this part 2 is guilty of a class 2 petty offense and, upon conviction thereof, shall be punished by a fine not to exceed two hundred dollars for a first violation within a calendar year, a fine not to exceed three hundred dollars for a second violation within a calendar year, and a fine not to exceed five hundred dollars for each additional violation within a calendar year. Each day of a continuing violation shall be deemed a separate violation. (4) All judges, clerks of a court of record, or other officers imposing or receiving fines collected pursuant to or as a result of a conviction of any persons for a violation of any provision of this part 2 shall transmit all such moneys so collected in the following manner: (a) Seventy-five percent of any such fine for a violation occurring within the corporate limits of a city, town, or city and county shall be transmitted to the treasurer or chief financial officer of said city, town, or city and county, and the remaining twenty-five percent shall be transmitted to the state treasurer, who shall credit the same to the general fund. (b) Seventy-five percent of any fine for a violation occurring outside the corporate limits of a city or town shall be transmitted to the treasurer of the county in which the city or town is located, and the remaining twenty-five percent shall be transmitted to the state treasurer, who shall credit the same to the general fund.

25-14-209. Severability. If any provision of this part 2 or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this part 2 that can be given effect without the invalid provision or application, and to this end the provisions of this part 2 are declared to be severable.


Connecticut 31-40s. Smoking or use of tobacco products outside of the workplace. (a) No employer or agent of any employer shall require, as a condition of employment, that any employee or prospective employee
31-40q. Smoking in the workplace. Designation of smoking rooms. (a) As used in this section: (1) "Person" means one or more individuals, partnerships, associations, corporations, limited liability companies, business trusts, legal representatives or any organized group of persons. (2) "Employer" means a person engaged in business who has employees, including the state and any political subdivision thereof. (3) "Employee" means any person engaged in service to an employer in the business of his employer. (4) "Business facility" means a structurally enclosed location or portion thereof at which employees perform services for their employer. The term "business facility" does not include: (A) Facilities listed in subparagraph (A), (C) or (G) of subdivision (2) of subsection (b) of section 19a-342; (B) any establishment with a permit for the sale of alcoholic liquor pursuant to section 30-23 issued on or before May 1, 2003; (C) for any business that is engaged in the testing or development of tobacco or tobacco products, the areas of such business designated for such testing or development; or (D) during the period from October 1, 2003, to April 1, 2004, establishments with a permit issued for the sale of alcoholic liquor pursuant to section 30-22a or 30-26 or the bar area of a bowling establishment holding a permit pursuant to subsection (a) of section 30-37c. (5) "Smoking" means the burning of a lighted cigar, cigarette, pipe or any other matter or substance which contains tobacco. (b) Each employer with fewer than five employees in a business facility shall establish one or more work areas, sufficient to accommodate nonsmokers who request to utilize such an area, within each business facility under his control, where smoking is prohibited. The employer shall clearly designate the existence and boundaries of each nonsmoking area by posting signs which can be readily seen by employees and visitors. In the areas within the business facility where smoking is permitted, existing physical barriers and ventilation systems shall be used to the extent practicable to minimize the effect of smoking in adjacent nonsmoking areas. (c)(1) Each employer with five or more employees shall prohibit smoking in any business facility under said employer's control, except that an employer may designate one or more smoking rooms. (2) Each employer that provides a smoking room pursuant to this subsection shall provide sufficient nonsmoking break rooms for nonsmoking employees. (3) Each smoking room designated by an employer pursuant to this subsection shall meet the following requirements: (A) Air from the smoking room shall be exhausted directly to the outside by an exhaust fan, and no air from such room shall be recirculated to other parts of the building; (B) the employer shall comply with any ventilation standard adopted by (i) the Commissioner of Labor pursuant to chapter 571, (ii) the United States Secretary of Labor under the authority of the Occupational Safety and Health Act of 1970, as from time to time amended, or (iii) the federal Environmental Protection Agency; (C) such room shall be located in a nonwork area, where no employee, as part of his or her work responsibilities, is required to enter, except such work responsibilities shall not include any custodial or maintenance work carried out in the smoking room when it is unoccupied; and (D) such room shall be for the use of employees only. (d) Nothing in this section may be construed to prohibit an employer from designating an entire business facility as a nonsmoking area.

19a-342. (Formerly Sec. 1-21b). Smoking prohibited. Exceptions. Signs required. Penalties. (a) As used in this section, "smoke" or "smoking" means the lighting or carrying of a lighted cigarette, cigar, pipe or similar device. (b)(1) Notwithstanding the provisions of section 31-40q, no person shall smoke: (A) In any building or portion of a building owned and operated or leased and operated by the state or any political subdivision thereof; (B) in any area of a health care institution; (C) in any area of a retail food store; (D) in any restaurant; (E) in any area of an establishment with a permit issued for the sale of alcoholic liquor pursuant to section 30-20a, 30-21, 30-21b, 30-22, 30-22c, 30-28, 30-28a, 30-33a, 30-33b, 30-35a, 30-37a, 30-37e or 30-37f, in any area of an establishment with a permit for the sale of alcoholic liquor pursuant to section 30-23 issued after May 1, 2003, and, on and after April 1, 2004, in any area of an establishment with a permit issued for the sale of alcoholic liquor pursuant to section 30-22a or 30-26 or the bar area of a bowling establishment holding a permit pursuant to subsection (a) of section 30-37c; (F) within a school building while school is in session or student activities are being conducted; (G) in any passenger elevator, provided no person shall be arrested for violating this subsection unless there is posted in such elevator a sign which indicates that smoking is prohibited by state law; (H) in any dormitory in any public or private institution of higher education;
or (I) on and after April 1, 2004, in any area of a dog race track or a facility equipped with screens for the simulcasting of off-track betting race programs or jai alai games. For purposes of this subsection, "restaurant" means space, in a suitable and permanent building, kept, used, maintained, advertised and held out to the public to be a place where meals are regularly served to the public. (2) This section shall not apply to (A) correctional facilities; (B) designated smoking areas in psychiatric facilities; (C) public housing projects, as defined in subsection (b) of section 21a-278a; (D) classrooms where demonstration smoking is taking place as part of a medical or scientific experiment or lesson; (E) smoking rooms provided by employers for employees, pursuant to section 31-40q; (F) notwithstanding the provisions of subparagraph (E) of subdivision (1) of this subsection, the outdoor portion of the premises of any permittee listed in subparagraph (E) of subdivision (1) of this subsection, provided, in the case of any seating area maintained for the service of food, at least seventy-five per cent of the outdoor seating capacity is an area in which smoking is prohibited and which is clearly designated with written signage as a nonsmoking area, except that any temporary seating area established for special events and not used on a regular basis shall not be subject to the smoking prohibition or signage requirements of this subparagraph; or (G) any tobacco bar, provided no tobacco bar shall expand in size or change its location from its size or location as of December 31, 2002. For purposes of this subdivision, "outdoor" means an area which has no roof or other ceiling enclosure, "tobacco bar" means an establishment with a permit for the sale of alcoholic liquor to consumers issued pursuant to chapter 545 that, in the calendar year ending December 31, 2002, generated ten per cent or more of its total annual gross income from the on-site sale of tobacco products and the rental of on-site humidors, and "tobacco product" means any substance that contains tobacco, including, but not limited to, cigarettes, cigars, pipe tobacco or chewing tobacco. (c) The operator of a hotel, motel or similar lodging may allow guests to smoke in not more than twenty-five per cent of the rooms offered as accommodations to guests. (d) In each room, elevator, area or building in which smoking is prohibited by this section, the person in control of the premises shall post or cause to be posted in a conspicuous place signs stating that smoking is prohibited by state law. Such signs, except in elevators, restaurants, establishments with permits to sell alcoholic liquor to consumers issued pursuant to chapter 545, hotels, motels or similar lodgings, and health care institutions, shall have letters at least four inches high with the principal strokes of letters not less than one-half inch wide. (e) Any person found guilty of smoking in violation of this section, failure to post signs as required by this section or the unauthorized removal of such signs shall have committed an infraction. (f) Nothing in this section shall be construed to require any smoking area in any building. (g) The provisions of this section shall supersede and preempt the provisions of any municipal law or ordinance relative to smoking effective prior to, on or after October 1, 1993.

51-164m. Judges to establish schedule of fines. (a) The judges of the Superior Court shall establish and maintain a schedule of fines to be paid for the violation of the sections of the general statutes deemed to be infractions. The judges of the Superior Court shall establish and maintain a separate sliding scale of fines for speeding infractions committed under section 14-219 with a minimum fine of fifty dollars and the fine increasing in proportion to the severity of the violation. The fines may be modified as the judges of the Superior Court deem advisable. (b) The judges of the Superior Court shall establish and maintain a schedule of fines to be paid for those violations of section 14-219 specified in subsection (e) of said section, with such fines increasing in proportion to the severity of the violation and for violations under subsection (b) of section 51-164n. The fines may be modified as the judges of the Superior Court deem advisable. (c) (1) Except as provided in subdivision (2) of this subsection, no fine established in accordance with the provisions of subsection (a) of this section may be less than thirty-five dollars or more than ninety dollars. (2) No fine established in accordance with the provisions of subsection (a) of this section for a violation of any provision of title 14 deemed an infraction may be less than fifty dollars or more than ninety dollars, except that fines established for parking tag violations may be less than fifty dollars. (d) No fine established in accordance with the provisions of subsection (b) of this section may be in an amount in excess of the maximum amount specified by statute for such violation. (e) Any infraction for which a fine has not been established pursuant to the provisions of subsection (a) of this section shall carry a fine of thirty-five dollars or, if the infraction is for a violation of any provision of title 14, fifty dollars, until such time as the judges of the Superior Court may establish a different fine for such infraction. (f) Any violation for which a fine has not been established pursuant to subsection (b) of this section shall carry a fine of one hundred dollars or the maximum fine specified by statute for such violation, whichever is less.

Delaware 2903. Smoking restrictions. Except as is provided in § 2904 of this title, and in order to reduce the levels of exposure to environmental tobacco smoke, smoking shall not be permitted and no person shall smoke in any indoor enclosed area to which the general public is invited or in which the general public is permitted, including, but not limited to: (1) Public meetings; (2) Elevators; (3) Government owned and/or operated means of mass transportation including buses, vans, trains, taxicabs and
adhere to the rules of membership. In order to be considered a private club or organization for fraternal benefit society. "Private Club" means any club or organization that does not permit the government and which provides benefits in accordance with this chapter, is hereby declared to be a profit, operated on a lodge system with ritualistic form of work, incorporated or not, conducted solely for the benefit of its members and their beneficiaries and not for stock, income.

"Fraternal Benefit Society" means any incorporated society, order or supreme lodge, without capital stock, income. "Smoking" or "involuntary smoking." "Enclosed Indoor Area" means an indoor area that is neither open nor partially enclosed except for normal means of access and egress through doors or passageways. The purpose of the Clean Indoor Air Act is to preserve and improve the health, comfort and environment of the people of this State by limiting exposure to tobacco smoke. These regulations shall be construed and applied to protect the nonsmoker from involuntary exposure to environmental tobacco smoke in most enclosed indoor areas to which the public is invited or in which the general public is permitted. The purpose of the Clean Indoor Air Act is to preserve and improve the health, comfort and environment of the people of this State by limiting exposure to tobacco smoke. The letters on such signs shall be at least 1 inch in height.

2905. Posting of signs. "Warning: Smoking Permitted" signs shall be prominently posted and properly maintained where smoking is permitted pursuant to § 2904(2) and (4) of this title. Such signs shall be posted and maintained by the owner, operator, manager or other person having control of such area.

2907. Administrative penalties. (a) Any person who violates any provision of this chapter or any rule or regulation promulgated pursuant thereto shall be subject to an administrative penalty of $100 for a first violation and not less than $250 for each subsequent violation. (b) Any employer who discharges or in any manner discriminates against an employee because that employee has made a complaint or has given information to the Department of Labor pursuant to this chapter, or because the employee has caused to be instituted or is about to cause to be instituted any proceedings under this chapter, or testified or is about to testify in any such proceedings, shall be deemed in violation of this chapter and shall be subject to a civil penalty of not less than $2,000 nor more than $10,000 for each violation.

4452 Clean Indoor Air Act 1.0 Preamble These Regulations are adopted in accordance with authority vested in the Secretary, Department of Health and Social Services, by 16 Del.C. § 2906(b). These Regulations establish standards for the enforcement of the Clean Indoor Air Act as it relates to most indoor enclosed areas to which the general public is invited or in which the general public is permitted. Regulations establishing standards for the enforcement of the Clean Indoor Air Act affecting employers, employees and the workplace are adopted by the Department of Labor. 2.0 Purpose These regulations shall be construed and applied to protect the nonsmoker from involuntary exposure to environmental tobacco smoke in most enclosed indoor areas to which the public is invited or in which the general public is permitted. The purpose of the Clean Indoor Air Act is to preserve and improve the health, comfort and environment of the people of this State by limiting exposure to tobacco smoke. 3.0 Severability In the event any particular clause or section of the regulations should be declared invalid or unconstitutional by any court of competent jurisdiction, the remaining portions shall remain in full force and effect. 4.0 Date of Effect These regulations shall be effective November 27, 2002 5.0 Inspections The Secretary, DHSS, or authorized designee shall have right of entry into any enclosed indoor area subject to 16 Del.C. Ch. 29. 6.0 Waiver The Department of Health and Social Services may upon written request waive the provisions of these Regulations if the Department determines there are compelling reasons to do so, and such waiver will not significantly affect the health and comfort of non-consumers of tobacco products. 7.0 Definitions 7.1 The following words, terms, and phrases, when used in these regulations, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning. 7.2 For the purposes of these Regulations: "Department" means the Delaware Health and Social Services (DHSS) as defined in Title 29 Del.C. § 7901. "Environmental Tobacco Smoke" (ETS), or "Secondhand Smoke" means the complex mixture formed from the escaping smoke of a burning tobacco product (termed as sidestream smoke) and smoke exhaled by the smoker. Exposure to ETS is also frequently referred to as "passive smoking" or "involuntary smoking." "Enclosed Indoor Area" means an indoor area that is neither open nor partially enclosed except for normal means of access and egress through doors or passageways.

"Fraternal Benefit Society" means any incorporated society, order or supreme lodge, without capital stock, including one exempted under the provisions of 18 Del.C. § 6237(a)(2) of this title, whether incorporated or not, conducted solely for the benefit of its members and their beneficiaries and not for profit, operated on a lodge system with ritualistic form of work, having a representative form of government and which provides benefits in accordance with this chapter, is hereby declared to be a fraternal benefit society. "Private Club" means any club or organization that does not permit the general public to access its facilities or activities. Access is denied to anyone who does not agree or adhere to the rules of membership. In order to be considered a private club or organization for
purposes of the Clean Indoor Air Act, the establishment must adhere to all of, but not limited to, the following criteria: a. Have a permanent mechanism to carefully screen applicants for membership on subjective rather than objective factors; b. Limits access and use of facilities, services and activities of the organization to members and guests of the members; c. Is controlled by its membership and operates solely for the benefit and pleasure of its members; d. Advertises exclusively and only to its members, excluding membership drives. e. Advises exclusively and only to its members, excluding membership drives. "Private Social Function" means a function to which the public is neither invited or generally permitted access and which is held in separate indoor enclosed indoor area. "Public Transportation of Children" means transportation which involves the transportation of children by a vehicle under the control of a daycare, school or other organizations. "Secretary" means the Administrator of the Delaware Department of Health and Social Services (DHSS) of the State of Delaware, who shall hereafter in this document be referred to as: Secretary; The Secretary; or, Secretary, DHSS. "Smoking" means the burning of a lighted cigarette, cigar, pipe or any other matter or substance that contains tobacco. "Volunteer Fire Company" means a fire, ambulance, or rescue company recognized as such by the Delaware State Fire Prevention Commission. 8.0 Smoking Prohibitions 8.1 Except as is provided in section 3.1 of these regulations, and in order to reduce the levels of exposure to environmental tobacco smoke, smoking shall not be permitted and no person shall smoke in any of the following areas: 8.1.1 Any enclosed indoor area, including, but not limited to, those listed in 16 Del.C. § 2903, to which the general public is invited or in which the general public is permitted. This shall apply to any organization, business or establishment which caters to or offers goods or services or facilities to, or solicits patronage from the general public. 8.1.2 Government owned and/or operated means of mass transportation including buses, vans, trains, taxicabs and limousines. 8.1.3 Functions or activities of private clubs or organizations, as defined by Section 7.0 of these regulations, when access by the general public is allowed or solicited. 8.1.4 Any private vehicle used for the public transportation of children or as part of health care or day care transportation. 8.1.5 In private homes or private residences when such homes or residences are being used for child care or day care. 8.2 No owner of any indoor enclosed area subject to 16 Del.C. Ch. 29 and/or person(s) responsible for the management of such area or employee thereof, shall permit or authorize smoking by any person(s) in areas not designated specifically for the smoking of tobacco products as permitted by section 3.1. 9.0 Smoking Prohibitions Inapplicable 9.1 Smoking prohibitions shall not apply in the following: 9.1.1 Private homes, private residences and private automobiles. 9.1.2 Any indoor area where private social functions are being held when seating arrangements are under the control of the sponsor of the function and not the owner, operator, manager or person in charge of such indoor area: 9.1.3 Limousines under private hire 9.1.4 A hotel or motel room rented to 1 or more guests provided that the total percentage of such hotel or motel rooms does not exceed twenty-five percent (25%). 9.1.5 Any fund raising activity or function sponsored by a volunteer fire company, auxiliary of a fire company, or a volunteer ambulance or volunteer rescue company; provided, however, that the fund raising activity or function takes place upon property owned or leased by the volunteer fire, rescue or ambulance company. 9.1.6 Any fund raising activity or function sponsored by a fraternal benefit society as defined by 18 Del.C. § 6201; provided, however, that the fund raising activity or function takes place upon property owned or leased by said organization. 9.1.7 Any enclosed indoor area operated or in use exclusively by a private club as defined in these regulations. 10.0 Posting of Signs 10.1 Failure to Properly Post and Maintain Signs 10.1.1 Owners, operators, managers or other person(s) having control of enclosed indoor areas subject to the regulations of 16 Del.C. Ch. 29 shall post signs which indicate "Warning: Smoking Permitted" prominently to indicate those locations where smoking is permitted pursuant to section 3.1. Failure to prominently post properly maintained signs with letters at least one (1) inch in height and in accord with the CLEAN INDOOR AIR ACT shall be a violation subject to administrative penalties as set forth in section 5.1 of the Clean Indoor Air Act Regulations. 10.0 Compliance and Enforcement Procedures 10.1 Administrative Penalties. Whoever violates any provision of these regulations shall be subject to an administrative penalty of $100.00 for the first violation and not less than $250.00 for each subsequent violation. 10.2 Right to Administrative Hearing. Upon due notice that the Department intends to assess an administrative penalty, as indicated in 5.1, the entity may submit to the Division, within thirty (30) days of the date of such notice of intent, a written request for an administrative hearing. 10.3 Orders of the Department. Whoever refuses, fails or neglects to perform the duties required under these regulations or violates, neglects or fails to comply with the duly adopted regulations or orders of the Dept. of Health and Social Services, shall be fined not less than $100.00 and not more than $1,000.00, together with cost, unless otherwise provided by law.
Florida

386.203 Definitions. As used in this part: (1) "Commercial" use of a private residence means any time during which the owner, lessee, or other person occupying or controlling the use of the private residence is furnishing in the private residence, or causing or allowing to be furnished in the private residence, child care, adult care, or health care, or any combination thereof, and receiving or expecting to receive compensation therefor. (2) "Common area" means a hallway, corridor, lobby, aisle, water fountain area, restroom, stairwell, entryway, or conference room in a customs area of an airport terminal under the authority and control of the Bureau of Customs and Border Protection of the United States Department of Homeland Security. (3) "Department" means the Department of Health. (4) "Designated smoking guest rooms at public lodging establishments" means the sleeping rooms and directly associated private areas, such as bathrooms, living rooms, and kitchen areas, if any, rented to guests for their exclusive transient occupancy in public lodging establishments, including hotels, motels, vacation rentals, transient apartments, transient lodging establishments, rooming houses, boarding houses, bed and breakfast inns, and the like; and designated by the person or persons having management authority over such public lodging establishment as rooms in which smoking may be permitted. (5) "Enclosed indoor workplace" means any place where one or more persons engages in work, and which place is predominantly or totally bounded on all sides and above by physical barriers, regardless of whether such barriers consist of or include, without limitation, uncovered openings; screened or otherwise partially covered openings; or open or closed windows, jalousies, doors, or the like. A place is "predominantly" bounded by physical barriers during any time when both of the following conditions exist: (a) It is more than 50 percent covered from above by a physical barrier that excludes rain, and (b) More than 50 percent of the combined surface area of its sides is covered by closed physical barriers. In calculating the percentage of side surface area covered by closed physical barriers, all solid surfaces that block air flow, except railings, must be considered as closed physical barriers. This section applies to all such enclosed indoor workplaces and enclosed parts thereof without regard to whether work is occurring at any given time. (c) The term does not include any facility owned or leased by and used exclusively for noncommercial activities performed by the members and guests of a membership association, including social gatherings, meetings, dining, and dances, if no person or persons are engaged in work as defined in subsection (12). (6) "Essential services" means those services that are essential to the maintenance of any enclosed indoor room, including, but not limited to, janitorial services, repairs, or renovations. (7) "Physical barrier" includes an uncovered opening; a screened or otherwise partially covered opening; or an open or closed window, jalousie, or door. (8) "Retail tobacco shop" means any enclosed indoor workplace dedicated to or predominantly for the retail sale of tobacco, tobacco products, and accessories for such products, in which the sale of other products or services is merely incidental. Any enclosed indoor workplace of a business that manufactures, imports, or distributes tobacco products or of a tobacco leaf dealer is a business dedicated to or predominantly for the retail sale of tobacco and tobacco products when, as a necessary and integral part of the process of making, manufacturing, importing, or distributing a tobacco product for the eventual retail sale of such tobacco or tobacco product, tobacco is heated, burned, or smoked or a lighted tobacco product is tested. (9) "Secondhand smoke," also known as environmental tobacco smoke (ETS), means smoke emitted from lighted, smoldering, or burning tobacco when the smoker is not inhaling; smoke emitted at the mouthpiece during puff drawing; and smoke exhaled by the smoker. (10) "Smoking" means inhaling, exhaling, burning, carrying, or possessing any lighted tobacco product, including cigarettes, cigars, pipe tobacco, and any other lighted tobacco product. (11) "Stand-alone bar" means any licensed premises devoted during any time of operation predominantly or totally to serving alcoholic beverages, intoxicating beverages, or intoxicating liquors, or any combination thereof, for consumption on the licensed premises; in which the serving of food, if any, is merely incidental to the consumption of any such beverage; and the licensed premises is not located within, and does not share any common entryway or common indoor area with, any other enclosed indoor workplace, including any business for which the sale of food or any other product or service is more than an incidental source of gross revenue. A place of business
386.204 Prohibition. A person may not smoke in an enclosed indoor workplace, except as otherwise provided in s. 386.2045.

386.207 Administration; enforcement; civil penalties. (1) The department or the Division of Hotels and Restaurants or the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation shall enforce this part based upon each department's specific areas of regulatory authority and to implement such enforcement shall adopt, in consultation with the State Fire Marshal, rules specifying procedures to be followed by enforcement personnel in investigating complaints and notifying alleged violators and rules specifying procedures by which appeals may be taken by aggrieved parties. (2) Public agencies responsible for the management and maintenance of government buildings shall report observed violations to the department. The State Fire Marshal shall report to the department observed violations of this part found during its periodic inspections conducted under its regulatory authority. (3) The department or the Division of Hotels and Restaurants or the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation, upon notification of observed violations of this part, shall issue to the proprietor or other person in charge of such enclosed indoor workplace a notice to comply with this part. If the person fails to comply within 30 days after receipt of the notice, the department or the Division of Hotels and Restaurants or the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation shall assess a civil penalty against the person of not less than $250 and not to exceed $750 for the first violation and not less than $500 and not to exceed $2,000 for each subsequent violation. The imposition of the fine must be in accordance with chapter 120. If a person refuses to comply with this part, after having been assessed such penalty, the department or the Division of Hotels and Restaurants or the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation may file a complaint in the circuit court of the county in which the enclosed indoor workplace is located to require compliance. (4) All fine moneys collected pursuant to this section shall be used by the department for children's medical services programs pursuant to the provisions of part I of chapter 391.

386.209 Regulation of smoking preempted to state. This part expressly preempts regulation of smoking to the state and supersedes any municipal or county ordinance on the subject; however, school districts may further restrict smoking by persons on school district property.

386.206 Posting of signs; requiring policies. (1) The proprietor or other person in charge of an enclosed indoor workplace must develop and implement a policy regarding the smoking prohibitions established in this part. The policy may include, but is not limited to, procedures to be taken when the proprietor or other person in charge witnesses or is made aware of a violation of s. 386.204 in the enclosed indoor workplace and must include a policy which prohibits an employee from smoking in the enclosed indoor workplace. In order to increase public awareness, the person in charge of an enclosed indoor workplace may, at his or her discretion, post "NO SMOKING" signs as deemed appropriate. (2) The person in charge of an airport terminal that includes a designated customs smoking room must conspicuously post, or cause to be posted, signs stating that no smoking is permitted except in the designated customs smoking room located in the customs area of the airport. Each sign posted pursuant to this section must have letters of reasonable size that can be easily read. The color, design, and precise locations at which such signs are posted shall be left to the discretion of the person in charge of the premises. (3) The proprietor or other person in charge of an enclosed indoor workplace where a smoking cessation program, medical research, or scientific research is conducted or performed must conspicuously post, or cause to be posted, signs stating that smoking is permitted for such purposes in designated areas in the enclosed indoor workplace. Each sign posted pursuant to this section must have letters of reasonable size which can be easily read. The color,
### 386.212 Smoking prohibited near school property; penalty.

(1) It is unlawful for any person under 18 years of age to smoke tobacco in, on, or within 1,000 feet of the real property comprising a public or private elementary, middle, or secondary school between the hours of 6 a.m. and midnight. This section does not apply to any person occupying a moving vehicle or within a private residence. (2) A law enforcement officer may issue a citation in such form as prescribed by a county or municipality to any person violating the provisions of this section. Any such citation must contain: (a) The date and time of issuance. (b) The name and address of the person cited. (c) The date and time the civil infraction was committed. (d) The statute violated. (e) The facts constituting the violation. (f) The name and authority of the law enforcement officer. (g) The procedure for the person to follow to pay the civil penalty, to contest the citation, or to appear in court. (h) The applicable civil penalty if the person elects not to contest the citation. (i) The applicable civil penalty if the person elects to contest the citation. (3) Any person issued a citation pursuant to this section shall be deemed to be charged with a civil infraction punishable by a maximum civil penalty not to exceed $25, or 50 hours of community service or, where available, successful completion of a school-approved anti-tobacco "alternative to suspension" program. (4) Any person who fails to comply with the directions on the citation shall be deemed to waive his or her right to contest the citation and an order to show cause may be issued by the court.

### Georgia

#### 31-12A-2. Definitions.

As used in this chapter, the term: (1) "Bar" means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including, but not limited to, taverns, nightclubs, cocktail lounges, and cabarets.


Smoking shall be prohibited in all enclosed facilities of, including buildings owned, leased, or operated by, the State of Georgia, its agencies and authorities, and any political subdivision of the state, municipal corporation, or local board or authority created by general, local, or special Act of the General Assembly or by ordinance or resolution of the governing body of a county or municipal corporation individually or jointly with other political subdivisions or municipalities of the state.

#### 31-12A-4 - Smoking prohibited in enclosed public places.

Except as otherwise specifically authorized in Code Section 31-12A-6, smoking shall be prohibited in all enclosed public places in this state.

#### 31-12A-5. Smoking prohibited in enclosed areas within places of employment; required communications.

(a) Except as otherwise specifically provided in Code Section 31-12A-6, smoking shall be prohibited in all enclosed areas within places of employment, including, but not limited to, common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, and all other enclosed facilities. (b) Such prohibition on smoking shall be communicated to all current employees by July 1, 2005, and to each prospective employee upon their application for employment.

#### 31-12A-6. Exemptions.

(a) Notwithstanding any other provision of this chapter, the following areas shall be exempt from the provisions of Code Sections 31-12A-4 and 31-12A-5: (1) Private residences, except when used as a licensed child care, adult day-care, or health care facility; (2) Hotel and motel rooms that are rented to guests and are designated as smoking rooms; provided, however, that not more than 20 percent of rooms rented to guests in a hotel or motel may be so designated; (3) Retail tobacco stores, provided that secondhand smoke from such stores does not infiltrate into areas where smoking is prohibited under the provisions of this chapter; (4) Long-term care facilities as defined in paragraph (3) of Code Section 31-8-81; (5) Outdoor areas of places of employment; (6) Smoking areas in international airports, as designated by the airport operator; (7) All workplaces of any manufacturer, importer, or wholesaler of tobacco products, of any tobacco leaf dealer or processor, all tobacco storage facilities, and any other entity set forth in Code Section 10-13A-2; (8) Private and semiprivate rooms in health care facilities licensed under this title that are occupied by one or more persons, all of whom have written authorization by their treating physician to smoke; (9) Bars and restaurants, as follows: (A) All bars and restaurants to which access is denied to any person under the age of 18 and that do not employ any individual under the age of 18; or (B) Private rooms in restaurants and bars if such rooms are enclosed and have an air handling system independent from the main air handling system that serves all other areas of the building and all air within the private room is exhausted directly to the outside by an exhaust fan of sufficient size; (10) Convention facility meeting rooms...
and public and private assembly rooms contained within a convention facility not wholly or partially owned, leased, or operated by the State of Georgia, its agencies and authorities, or any political subdivision of the state, municipal corporation, or local board or authority created by general, local, or special Act of the General Assembly while these places are being used for private functions and where individuals under the age of 18 are prohibited from attending or working as an employee during the function; (11) Smoking areas designated by an employer which shall meet the following requirements: (A) The smoking area shall be located in a nonwork area where no employee, as part of his or her work responsibilities, shall be required to enter, except such work responsibilities shall not include custodial or maintenance work carried out in the smoking area when it is unoccupied; (B) Air handling systems from the smoking area shall be independent from the main air handling system that serves all other areas of the building and all air within the smoking area shall be exhausted directly to the outside by an exhaust fan of sufficient size and capacity for the smoking area and no air from the smoking area shall be recirculated through or infiltrate other parts of the building; and (C) The smoking area shall be for the use of employees only. The exemption provided for in this paragraph shall not apply to restaurants and bars; (12) Common work areas, conference and meeting rooms, and private offices in private places of employment, other than medical facilities, that are open to the general public by appointment only; except that smoking shall be prohibited in any public reception area of such place of employment; and (13) Private clubs, military officer clubs, and noncommissioned officer clubs. (b) In order to qualify for exempt status under subsection (a) of this Code section, any area described in subsection (a) of this Code section, except for areas described in paragraph (1) of subsection (a) of this Code section, shall post conspicuously at every entrance a sign indicating that smoking is permitted.

31-12A-7. Smoking prohibited in designated nonsmoking places. Notwithstanding any other provision of this chapter, any place covered by the provisions of sections 328J-3 or 328J-4 that is accessed solely by means of a second place that is covered by the provisions of sections 328J-3 or 328J-4, HRS, is exempt from the signage requirements in section 328J-9, HRS; provided that the required signage is posted in the second place. (b) If the international "No Smoking" symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it, may be clearly and conspicuously posted by the owner, operator, manager, or other person in control in every public place and place of employment where smoking is prohibited by this chapter, and no air from the smoking area shall be recirculated through or infiltrate other parts of the building; and (C) The smoking area shall be for the use of employees only. The exemption provided for in this paragraph shall not apply to restaurants and bars; (12) Common work areas, conference and meeting rooms, and private offices in private places of employment, other than medical facilities, that are open to the general public by appointment only; except that smoking shall be prohibited in any public reception area of such place of employment; and (13) Private clubs, military officer clubs, and noncommissioned officer clubs. (b) In order to qualify for exempt status under subsection (a) of this Code section, any area described in subsection (a) of this Code section, except for areas described in paragraph (1) of subsection (a) of this Code section, shall post conspicuously at every entrance a sign indicating that smoking is permitted.

31-12A-8. "No Smoking" signs; ashtrays prohibited in nonsmoking areas. (a) "No Smoking" signs or the international "No Smoking" symbol consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it may be clearly and conspicuously posted by the owner, operator, manager, or other person in control in every public place and place of employment where smoking is prohibited by this chapter. (b) All ashtrays shall be removed from any area where smoking is prohibited by this chapter by the owner, operator, manager, or other person in control of the area, unless such ashtray is permanently affixed to an existing structure.

31-12A-10. Enforcement by the Department of Public Health and county boards of health. The Department of Public Health and the county boards of health and their duly authorized agents are authorized and empowered to enforce compliance with this chapter and the rules and regulations adopted and promulgated under this chapter and, in connection therewith, to enter upon and inspect the premises of any establishment or business at any reasonable time and in a reasonable manner, as provided in Article 2 of Chapter 5 of this title.

31-12A-11. Local operating procedures. The county boards of health may annually request other governmental and educational agencies having facilities within the area of the local government to establish local operating procedures in cooperation and compliance with this chapter.

31-12A-12. Other laws, rules, regulations, and ordinances not prohibited. This chapter shall be cumulative to and shall not prohibit the enactment of any other general or local laws, rules, and regulations of state or local governing authorities or local ordinances prohibiting smoking which are more restrictive than this chapter or are not in direct conflict with this chapter.

Hawaii 11-81-04 Signs. (a) Any place covered by the provisions of sections 328J-3 or 328J-4, HRS, that is accessed solely by means of a second place that is covered by the provisions of sections 328J-3 or 328J-4, HRS, is exempt from the signage requirements in section 328J-9, HRS; provided that the required signage is posted in the second place. (b) If the international "No Smoking" symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it, is used on a required sign, the symbol shall be not less than one inch in diameter and shall be clearly visible.

328J-2. Prohibition in facilities owned by the State or the counties. Smoking shall be prohibited in all enclosed or partially enclosed areas, including buildings and vehicles owned, leased, or operated by
328J-3. Prohibition in enclosed or partially enclosed places open to the public. Smoking shall be prohibited in all enclosed or partially enclosed areas open to the public, including but not limited to the following places: (1) Airports and public transportation facilities and vehicles, including buses and taxicabs, under the authority of the State or county, and ticket, boarding, and waiting areas of public transit depots, including airports from curb to cabin and including all areas within and immediately in front of and adjacent to passenger terminals and pick-up areas, throughout the airport facility, and up to the passenger loading gates of all state airports; (2) Aquariums, galleries, libraries, and museums; (3) Areas available to and customarily used by the general public, including but not limited to restrooms, lobbies, reception areas, hallways, and other common areas, in businesses and nonprofit entities patronized by the public, including but not limited to professional offices, banks, laundromats, hotels, and motels; (4) Bars; (5) Bowling alleys; (6) Convention facilities; (7) Educational facilities, both public and private; (8) Elevators; (9) Facilities primarily used for exhibiting a motion picture, stage, drama, lecture, musical recital, or other similar performance, except when part of the performance; (10) Health care facilities; (11) Hotel and motel lobbies, meeting rooms, and banquet facilities; (12) Licensed child care and adult day care facilities; (13) Lobbies, hallways, and other common areas in apartment buildings, condominiums, retirement facilities, nursing homes, multifamily dwellings, and other multiple-unit residential facilities; (14) Nightclubs; (15) Polling places; (16) Restaurants; (17) Retail stores; (18) Rooms, chambers, places of meeting or public assembly under the control of an agency, board, commission, committee or council of the State or county, to the extent the place is subject to the jurisdiction of the State or county; (19) Service lines; and (20) Shopping malls.

328J-4. Prohibition in enclosed or partially enclosed places of employment. Smoking shall be prohibited in all enclosed or partially enclosed areas of places of employment.

328J-5. Prohibition in sports arenas, outdoor arenas, stadiums, and amphitheaters. Smoking shall be prohibited in the enclosed or partially enclosed areas and in seating areas of sports arenas, outdoor arenas, stadiums, and amphitheaters.

328J-9]. Signs. Clearly legible signs that include the words "Smoking Prohibited by Law" with letters of not less than one inch in height or the international "No Smoking" symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it, shall be clearly and conspicuously posted in and at the entrance to every place open to the public and place of employment where smoking is prohibited by this chapter by the owner, operator, manager, or other person in control of that place.

328J-10. Nonretaliation and nonwaiver of rights. (a) No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, or customer because that employee, applicant, or customer exercises any rights afforded by this chapter or reports or attempts to prosecute a violation of this chapter. (b) An employee who works in a setting where an employer allows smoking does not waive or otherwise surrender any legal rights the employee may have against the employer or any other party.

328J-12 Penalties. (a) A person who smokes in an area where smoking is prohibited by this chapter shall be guilty of a violation and fined not more than $50 to be deposited into the general fund. The district courts may assess costs not to exceed $25 for issuing a penal summons upon any person who fails to appear at the place within the time specified in the citation issued to the person. (b) Any authorized police officer, upon making an arrest, shall take the name and address of the alleged violator and shall issue the violator a summons or citation in writing. (c) There shall be provided for use by an officer or employee of the respective government jurisdictions, duly authorized to issue a summons or citation, or any police officer, a form of summons or citation for use in citing a violator of this chapter that shall not provide for the physical arrest of the violator. The form and content of this summons or citation shall be as adopted or prescribed by the administrative judge of the district court. When a citation is issued, the original of the citation shall be given to the violator; provided that the administrative judge of the district court may prescribe that the violator be given a copy of the citation and provide for the disposition of the original and any other copies. Every citation shall be consecutively numbered and each copy shall bear the same number as its respective original. (d) If any person fails to comply with a penal summons given to the person, the court shall issue a warrant for the person's arrest. (e) Any police officer or other officer or employee of the respective government jurisdictions may eject from the premises any person to whom a citation has been issued and who

11-81-06 Permit or license suspension or revocation. (a) Consistent with any rules adopted to implement section 321-11, HRS, the director may suspend a permit or license authorized by section 321-11, HRS, after a person who owns, manages, operates, or otherwise controls any place or designated facility has been found to have violated the provisions of chapter 328J, HRS, or these rules at least three times within a two year period. This section shall apply only to permits or licenses that are issued by the director or the director's designee. Any action to suspend or revoke a permit or license not issued by the director or the director's designee shall be brought before the agency or authority that issued the permit or license or before a court of Competent jurisdiction. (b) A permit or license suspended pursuant to this section shall be reinstated sixty days after the date of suspension. An appeal of a suspension may be allowed if—and Shall be resolved—consistent with the rules adopted to implement section. 321-11, HRS, that authorize the issuance of the permit or license in question. (c) Consistent with any rules adopted to implement section 321-11, HRS, the director may revoke a permit or license authorized by section 321-11, HRS, if the permit or license has been suspended more than twice within a two-year calendar period. (d) A person whose permit or license has been revoked may apply for a new permit or license no sooner than one year after the revocation becomes effective. An appeal of a revocation may be allowed if—and shall be resolved—consistent with the rules adopted to implement section 321-11, HRS, that authorize the issuance of the permit or license in question.

Idaho

39-5502. Definitions. — As used in this chapter: (1) "Auditorium" means a public building where an audience sits and any corridors, hallways or lobbies adjacent thereto. (2) "Bar" means any indoor area open to the public operated primarily for the sale and service of alcoholic beverages for on-premises consumption and where: (a) the service of food is incidental to the consumption of such beverages, or (b) no person under the age of twenty-one (21) years is permitted except as provided in section 23-943, Idaho Code, as it pertain to employees, musicians and singers, and all public entrances are clearly posted with signs warning patrons that it is a smoking facility and that persons under twenty-one (21) years of age are not permitted. "Bar" does not include any area within a restaurant. (3) "Employer" means any person, partnership, limited liability company, association, corporation or nonprofit entity that employs one (1) or more persons, including the legislative, executive and judicial branches of state government; any county, city, or any other political subdivision of the state; or any other separate unit of state or local government. (4) "Indoor shopping mall" means an indoor facility located at least fifty (50) feet from any public street or highway and housing no less than ten (10) retail establishments. (5) "Public meeting" means all meetings open to the public. (6) "Public place" means any enclosed indoor place of business, commerce, banking, financial service or other service-related activity, whether publicly or privately owned and whether operated for profit or not, to which persons not employed at the public place have general and regular access or which the public uses including: (a) Buildings, offices, shops or restrooms; (b) Waiting rooms for means of transportation or common carriers; (c) Restaurants; (d) Theaters, auditoriums, museums or art galleries; (e) Hospitals, libraries, indoor shopping malls, indoor sports arenas, concert halls, or airport passenger terminals, and within twenty (20) feet of public entrances and exits to such facilities; (f) Public or private elementary or secondary school buildings and educational facilities and within twenty (20) feet of entrances and exits of such buildings or facilities; (g) Retail stores, grocery stores or arcades; (h) Barbershops, hair salons or laundromats; (i) Sports or fitness facilities; (j) Common areas of nursing homes, resorts, hotels, motels, bed and breakfast lodging facilities and other similar lodging facilities, including lobbies, hallways, restaurants and other designated dining areas and restrooms of any of these; (k) Any child care facility subject to licensure under the laws of Idaho, including those operated in private homes, when any child cared for under that license is present; (l) Public means of mass transportation including vans, trains, taxicabs and limousines when passengers are present; and (m) Any public place not exempted by section 39-5503, Idaho Code. (7) "Publicly-owned building or office" means any enclosed indoor place or portion of a place owned, leased or rented by any state, county or municipal government, or by any agency supported by appropriation of, or by contracts or grants from, funds derived from the collection of federal, state, municipal or county taxes. (8) "Restaurant" means an
410 ILCS 82/15 Sec. 15. Smoking in public places, places of employment, and governmental vehicles prohibited. No person shall smoke in a public place or in any place of employment or within 15 feet of any entrance to a public place or place of employment. No person may smoke in any vehicle owned, leased, or operated by the State or a political subdivision of the State. An owner shall reasonably assure that smoking is prohibited in indoor public places and workplaces unless specifically exempted by Section 35 of this Act.

410 ILCS 82/20 Sec. 20. Posting of signs; removal of ashtrays. (a) "No Smoking" signs or the international "No Smoking" symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it, shall be clearly and conspicuously posted in each public place and place of employment where smoking is prohibited by this Act by the owner, operator, manager, or other person in control of that place. (b) Each public place and place of employment where smoking is prohibited by this Act shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited. (c) All ashtrays shall be removed from any area where smoking is prohibited by this Act by the owner, operator, manager, or other person having control of the area.

410 ILCS 82/45 Sec. 45. Violations. (a) A person, corporation, partnership, association or other entity who violates Section 15 of this Act shall be fined pursuant to this Section. Each day that a violation occurs is a separate violation. (b) A person who smokes in an area where smoking is prohibited under...
Section 15 of this Act shall be fined in an amount that is $100 for a first offense and $250 for each subsequent offense. A person who owns, operates, or otherwise controls a public place or place of employment that violates Section 15 of this Act shall be fined (i) $250 for the first violation, (ii) $500 for the second violation within one year after the first violation, and (iii) $2,500 for each additional violation within one year after the first violation. (c) A fine imposed under this Section shall be allocated as follows: (1) one-half of the fine shall be distributed to the Department; and (2) one-half of the fine shall be distributed to the enforcing agency. (d) Rulemaking authority to implement this amendatory Act of the 95th General Assembly, if any, is conditioned on the rules being adopted in accordance with all provisions of the Illinois Administrative Procedure Act and all rules and procedures of the Joint Committee on Administrative Rules; any purported rule not so adopted, for whatever reason, is unauthorized.

410 ILCS 82/55 Sec. 55. Discrimination prohibited. No individual may be discriminated against in any manner because of the exercise of any rights afforded by this Act.

820 ILCS 55/5 (from Ch. 48, par. 2855) Sec. 5. Discrimination for use of lawful products prohibited. (a) Except as otherwise specifically provided by law and except as provided in subsections (b) and (c) of this Section, it shall be unlawful for an employer to refuse to hire or to discharge any individual, or otherwise discriminate against any individual, with respect to compensation, terms, conditions or privileges of employment because the individual uses lawful products off the premises of the employer during nonworking hours. (b) This Section does not apply to any employer that is a non-profit organization that, as one of its primary purposes or objectives, discourages the use of one or more lawful products by the general public. This Section does not apply to the use of those lawful products which impairs an employee's ability to perform the employee's assigned duties. (c) It is not a violation of this Section for an employer to offer, impose or have in effect a health, disability or life insurance policy that makes distinctions between employees for the type of coverage or the price of coverage based upon the employees' use of lawful products provided that: (1) differential premium rates charged employees reflect a differential cost to the employer; and (2) employers provide employees with a statement delineating the differential rates used by insurance carriers.

820 ILCS 55/15 (from Ch. 48, par. 2865) Sec. 15. Administration and enforcement. (a) The Director of Labor or his authorized representative shall administer and enforce the provisions of this Act. The Director of Labor may issue rules and regulations necessary to administer and enforce the provisions of this Act. (b) If an employee or applicant for employment alleges that he or she has been denied his or her rights under this Act, he or she may file a complaint with the Department of Labor. The Department shall investigate the complaint and shall have authority to request the issuance of a search warrant or subpoena to inspect the files of the employer or prospective employer, if necessary. The Department shall attempt to resolve the complaint by conference, conciliation, or persuasion. If the complaint is not so resolved and the Department finds the employer or prospective employer has violated the Act, the Department may commence an action in the circuit court to enforce the provisions of this Act including an action to compel compliance. The circuit court for the county in which the complainant resides or in which the complainant is employed shall have jurisdiction in such actions. (c) If an employer or prospective employer violates this Act, an employee or applicant for employment may commence an action in the circuit court to enforce the provisions of this Act, including actions to compel compliance, where efforts to resolve the employee's or applicant for employment's complaint concerning the violation by conference, conciliation or persuasion under subsection (b) have failed and the Department has not commenced an action in circuit court to redress the violation. The circuit court for the county in which the complainant resides or in which the complainant is employed shall have jurisdiction in such actions. (d) Failure to comply with an order of the court may be punished as contempt. In addition, the court shall award an employee or applicant for employment prevailing in an action under this Act the following damages: (1) Actual damages plus costs. (2) For a willful and knowing violation of this Act, $200 plus costs, reasonable attorney's fees, and actual damages. (3) For a willful and knowing violation of Section 12(c) or Section 12(c-2) of this Act, $500 per affected employee plus costs, reasonable attorneys fees, and actual damages. (e) Any employer or prospective employer or his agent who violates the provisions of this Act is guilty of a petty offense. (f) Any employer or prospective employer, or the officer or agent of any employer or prospective employer, who discharges or in any other manner discriminates against any employee or applicant for employment because that employee or applicant for employment has made a complaint to his employer, or to the Director or his authorized representative, or because that employee or applicant for employment has caused to be instituted or is about to cause to be instituted any proceeding under or related to this Act, or because that employee or applicant for employment has testified or is about to testify in an investigation or proceeding under this Act, is guilty of a petty...
### Indiana

**22-5-4-1** (a) Except as provided in subsection (b), an employer may.... (a) Except as provided in subsection (b), an employer may not: (1) require, as a condition of employment, an employee or prospective employee to refrain from using; or (2) discriminate against an employee with respect to: (A) the employee's compensation and benefits; or (B) terms and conditions of employment; based on the employee's use of; tobacco products outside the course of the employee's or prospective employee's employment. (b) An employer may implement financial incentives: (1) intended to reduce tobacco use; and (2) related to employee health benefits provided by the employer.

### Iowa

**142D.3 Prohibition of smoking — public places, places of employment, and outdoor areas.** 1. Smoking is prohibited and a person shall not smoke in any of the following: a. Public places. b. All enclosed areas within places of employment including but not limited to work areas, private offices, conference and meeting rooms, classrooms, auditoriums, employee lounges and cafeterias, hallways, medical facilities, restrooms, elevators, stairways and stairwells, and vehicles owned, leased, or provided by the employer unless otherwise provided under this chapter. 2. In addition to the prohibitions specified in subsection 1, smoking is prohibited and a person shall not smoke in or on any of the following outdoor areas: a. The seating areas of outdoor sports arenas, stadiums, amphitheaters, and other entertainment venues where members of the general public assemble to witness entertainment events. b. Outdoor seating or serving areas of restaurants. c. Public transit stations, platforms, and shelters under the authority of the state or its political subdivisions. d. School grounds, including parking lots, athletic fields, playgrounds, tennis courts, and any other outdoor area under the control of a public or private educational facility, including inside any vehicle located on such school grounds. e. The grounds of any public buildings owned, leased, or operated by or under the control of the state government or its political subdivisions, including the grounds of a private residence of any state employee any portion of which is open to the public with the following exceptions: (1) This paragraph shall not apply to the Iowa state fairgrounds, or fairgrounds as defined in section 174.1. (2) This paragraph shall not apply to institutions administered by the department of corrections, except that smoking on the grounds shall be limited to designated smoking areas. (3) This paragraph shall not apply to facilities of the Iowa national guard as defined in section 29A.1, except that smoking on the grounds shall be limited to designated smoking areas.

**142D.6 Notice of nonsmoking requirements — posting of signs.** 1. Notice of the provisions of this chapter shall be provided to all applicants for a business license in this state, to all law enforcement agencies, and to any business required to be registered with the office of the secretary of state. 2. All employers subject to the prohibitions of this chapter shall communicate to all existing employees and to all prospective employees upon application for employment the smoking prohibitions prescribed in this chapter. 3. The owner, operator, manager, or other person having custody or control of a public place, place of employment, area declared a nonsmoking place pursuant to section 142D.5, or outdoor area where smoking is prohibited under this chapter, visible from the exterior of the vehicle. All signs shall contain the telephone number for reporting complaints and the internet site of the department of public health. The owner, operator, manager, or other person having custody or control of a public place, place of employment, area declared a nonsmoking place pursuant to section 142D.5, or outdoor area where smoking is prohibited and a person shall not smoke in any of the following: a. Public places. b. All enclosed areas within places of employment including but not limited to work areas, private offices, conference and meeting rooms, classrooms, auditoriums, employee lounges and cafeterias, hallways, medical facilities, restrooms, elevators, stairways and stairwells, and vehicles owned, leased, or provided by the employer unless otherwise provided under this chapter. 2. In addition to the prohibitions specified in subsection 1, smoking is prohibited and a person shall not smoke in or on any of the following outdoor areas: a. The seating areas of outdoor sports arenas, stadiums, amphitheaters, and other entertainment venues where members of the general public assemble to witness entertainment events. b. Outdoor seating or serving areas of restaurants. c. Public transit stations, platforms, and shelters under the authority of the state or its political subdivisions. d. School grounds, including parking lots, athletic fields, playgrounds, tennis courts, and any other outdoor area under the control of a public or private educational facility, including inside any vehicle located on such school grounds. e. The grounds of any public buildings owned, leased, or operated by or under the control of the state government or its political subdivisions, including the grounds of a private residence of any state employee any portion of which is open to the public with the following exceptions: (1) This paragraph shall not apply to the Iowa state fairgrounds, or fairgrounds as defined in section 174.1. (2) This paragraph shall not apply to institutions administered by the department of corrections, except that smoking on the grounds shall be limited to designated smoking areas. (3) This paragraph shall not apply to facilities of the Iowa national guard as defined in section 29A.1, except that smoking on the grounds shall be limited to designated smoking areas.
142D.7 Nonretaliation — nonwaiver of rights. 1. A person or employer shall not discharge, refuse to employ, or in any manner retaliate against an employee, applicant for employment, or customer because that employee, applicant, or customer exercises any rights afforded under this chapter, registers a complaint, or attempts to prosecute a violation of this chapter. 2. An employee who works in a location where an employer allows smoking does not waive or surrender any legal rights the employee may have against the employer or any other person.

142D.9 Civil penalties. 1. A person who smokes in an area where smoking is prohibited pursuant to this chapter shall pay a civil penalty pursuant to section 805.8C, subsection 3, paragraph “a”, for each violation. 2. A person who owns, operates, manages, or otherwise has custody or control of a public place, place of employment, area declared a nonsmoking place pursuant to section 142D.5, or outdoor area regulated under this chapter and who fails to comply with this chapter shall pay a civil penalty as follows: a. For a first violation, a monetary penalty not to exceed one hundred dollars. b. For a second violation within one year, a monetary penalty not to exceed two hundred dollars. c. For each violation in excess of a second violation within one year, a monetary penalty not to exceed five hundred dollars for each additional violation. 3. An employer who discharges or in any manner discriminates against an employee because the employee has made a complaint or has provided information or instituted a legal action under this chapter shall pay a civil penalty of not less than two thousand dollars and not more than ten thousand dollars for each violation. 4. In addition to the penalties established in this section, violation of this chapter by a person who owns, operates, manages, or who otherwise has custody or control of a public place, place of employment, area declared a nonsmoking place pursuant to section 142D.5, or outdoor area regulated under this chapter may result in the suspension or revocation of any permit or license issued to the person for the premises on which the violation occurred. 5. Violation of this chapter constitutes a public nuisance which may be abated by the department of public health or the department's designee by restraining order, preliminary or permanent injunction, or other means provided by law, and the entity abating the public nuisance may take action to recover the costs of such abatement. 6. Each day on which a violation of this chapter occurs is considered a separate and distinct violation. 7. Civil penalties paid pursuant to this chapter shall be deposited in the general fund of the state, unless a local authority as designated by the department in administrative rules is involved in the enforcement, in which case the civil penalties paid shall be deposited in the general fund of the respective city or county.

681-13.17 (262) Regulation of smoking, alcohol and food and beverages. 13.17(1) Smoking is prohibited in all university academic, administrative and service buildings. Smoking may be allowed in some student living areas. The university may also limit smoking at outdoor events, such as football games at Jack Trice Stadium, by entryway and courtyard areas. Smoking areas will be designated away from seating and assembly areas. Smoking is prohibited in Iowa State Center buildings, including Hilton Coliseum and C.Y. Stephens Auditorium. 13.17(2) Unless specifically authorized, the consumption of alcoholic beverages is not permitted on the campus, within university buildings, within university vehicles, or on other university property. Alcohol may be consumed in residences or privately leased units on the campus as allowed by law and the rules or lease agreement applicable to the unit. Otherwise, the university will determine the time, place, and conditions under which alcoholic beverages are consumed on university property. Events at which alcoholic beverages are served require evidence of a properly issued state alcohol permit. Persons violating state law with respect to possession and consumption of alcoholic are subject to citation, arrest or exclusion from the campus. 13.17(3) Food and beverages shall be consumed in academic buildings only in areas designated by the responsible departmental supervisor.

Kansas

65-530. Smoking prohibited in day care homes. (a) As used in this section: (1) "Day care home" means a day care home as defined under Kansas administrative regulation 28-4-113 and a group day care home as defined under Kansas administrative regulation 28-4-113. (2) "Smoking" means possession of a lighted cigarette, cigar, pipe or burning tobacco in any other form or device designed for the use of tobacco. (b) Smoking within any room, enclosed area or other enclosed space of a facility or facilities of a day care home during a time when children who are not related by blood, marriage or legal adoption to the person who maintains the home are being cared for, as part of the operation of the day care home, within the facility or facilities is hereby prohibited. Nothing in this subsection shall be construed to prohibit smoking on the premises of the day care home outside the facility or facilities of a day care home, including but not limited to porches, yards or garages. (c) Each child care license shall contain a statement in bold print that smoking is prohibited within a room, enclosed area or other enclosed space of the facility or facilities of the day care home under the conditions specified in subsection (b). The statement shall be phrased in substantially the same
21-34-12. Regulation of smoking. A covered entity may prohibit or impose restrictions on smoking in places of employment.

21-34-1. Definitions. (a) "Covered entity" means an employer, labor organization, employment agency, or joint labor-management committee. (b) "Direct threat" means a significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation. (c) "Essential function" means the fundamental job duties of the employment position the individual with a disability holds or desires. The term "essential function" does not include the marginal functions of the position. (d) "Has a record of such impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities. (e) "Is regarded as having such an impairment" means: (1) Has a physical or mental impairment that does not substantially limit major life activities but is treated by a covered entity as constituting a limitation; (2) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward the impairment; or (3) Has none of the impairments defined in subsections (h)(1) or (2) of this section but is treated by a covered entity as having an impairment. (f) "Illegal use of drugs" means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act (21 U.S.C. § 812). This term does not include the use of a drug taken under the supervision of a licensed health care professional, or other uses authorized by Controlled Substances Act or other provisions of Federal or Kansas law. (g) "Major life activities" means functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. (h) "Physical or mental impairment" means: (1) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine; or (2) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. (i) "Qualified individual with a disability" means an individual with a disability who satisfies the requisite skill, experience, education and other job-related requirements of the employment position the person holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of the position. (j) "Qualification standards" means the personal and professional attributes including the skill, experience, education, physical, medical, safety and other requirements established by a covered entity as requirements which an individual must meet in order to be eligible for the position held or desired. (k) "Substantially limits" means: (1) unable to perform a major life activity that the average person in the general population can perform; or (2) significantly restricted as to the condition, manner or duration under which an individual can perform a particular major life activity as compared to the condition, manner, or duration under which the average person in the general population can perform the same major life activity.

65-530. Smoking prohibited in day care homes. (a) As used in this section: (1) "Day care home" means a day care home as defined under Kansas administrative regulation 28-4-113 and a group day care home as defined under Kansas administrative regulation 28-4-113. (2) "Smoking" means possession of a lighted cigarette, cigar, pipe or burning tobacco in any other form or device designed for the use of tobacco. (b) Smoking within any room, enclosed area or other enclosed space of a facility or facilities of a day care home during a time when children who are not related by blood, marriage or legal adoption to the person who maintains the home are being cared for, as part of the operation of the day care home, within the facility or facilities is hereby prohibited. Nothing in this subsection shall be construed to prohibit smoking on the premises of the day care home outside the facility or facilities of a day care home, including but not limited to porches, yards or garages. (c) Each child care license shall contain a statement in bold print that smoking is prohibited within a room, enclosed area or other enclosed space of the facility or facilities of the day care home under the conditions specified in subsection (b). The statement shall be phrased in substantially the same language as subsection (b). The license shall be posted in a conspicuous place in the facility or
<table>
<thead>
<tr>
<th>State</th>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kentucky</td>
<td>344.040</td>
<td>Unlawful discrimination by employers — Difference in health plan contribution rates for smokers and non-smokers and benefits for smoking cessation program participants excepted.</td>
</tr>
<tr>
<td>Louisiana</td>
<td>40:1300.256</td>
<td>General smoking prohibitions; exemptions</td>
</tr>
</tbody>
</table>

### Kentucky

<table>
<thead>
<tr>
<th>Subsection</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Except as permitted by Subsection B of this Section, no person shall: (1) Smoke in any public building. (2) Smoke in any school. (3) Smoke in any public place and in any enclosed area within a place of employment. (4) As an employer, knowingly permit smoking in any enclosed area within a place of employment. B. Nothing in this Part shall prohibit smoking in any of the following places: (1) Private homes, private residences, and private automobiles; except that this Subsection shall not apply if any such home, residence, or vehicle is being used for child care or day care or if a private vehicle is being used for the public transportation of children or as part of health care or day care transportation in which case smoking is prohibited. (2) Limousines under private hire. (3) A hotel or motel room designated as a smoking room and rented to a guest; provided that a maximum of fifty percent of the hotel rooms, at the discretion of the hotel owner or general manager, available for rent to guests in a hotel or motel may be designated as smoking rooms. (4) Any retail tobacco business. (5) Any bar. (6) The outdoor area of places of employment; except that the owner or manager of such business may post signs prohibiting smoking in any such outdoor area, which shall have the effect of making that outdoor area an area in which smoking is prohibited under the provisions of this Part. (7) Private and semiprivate rooms or apartments in assisted living residences, and other long-term care facilities that are occupied by one or more persons, who are all smokers and who have requested in writing to be placed in a room where smoking is permitted; provided that smoke from such rooms or apartments does not infiltrate into areas where smoking is prohibited under the provisions of this Part. (8) Designated smoking areas in which gaming operations are permitted to occur upon a riverboat, at the official gaming establishment, at a facility licensed for the operation of electronic video draw poker devices, at an eligible facility licensed for the operation of slot machines, by a licensed charitable organization, or at a pari-mutuel wagering facility or off-track wagering facility which is licensed for operation and regulated under the provisions of Chapters 4 and 11 of Title 4 and Chapters 5, 6, and 7 of Title 27 of the Louisiana Revised Statutes of 1950, or any other gaming operations authorized by law, except that smoking shall be prohibited in all restaurants, including snack bars and any other type of eating area whether or not such area is separated from the gaming area, that are located within the facilities where gaming operations are conducted regardless of any type of license issued relevant to the operation of the restaurant. (9) All workplaces of any manufacturer, importer, wholesaler or distributor of tobacco products, of any tobacco leaf dealer or processor, and all tobacco storage facilities. (10) Convention facilities during the time such facilities are being used for professional meetings and trade shows which are not open to the public that are produced or organized by tobacco businesses or convenience store associations where tobacco products are displayed and limited to the location of such meetings or shows and during the time such facilities are used by a carnival organization, traditionally known as a krewe or a courir de Mardi Gras for the purpose of the conduct of a Mardi Gras ball and limited to the location of such ball. (11) Designated and well-ventilated smoking rooms in nursing homes which</td>
</tr>
</tbody>
</table>
40:1300.26. Notice of prohibition of smoking  A. "No smoking" signs or the international "No smoking" symbol consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it shall be clearly and conspicuously posted by the owner, operator, manager, or other person in control in every public building, public place, and place of employment where smoking is prohibited by this Part. B. The owner, operator, manager, or other person in control shall remove all ashtrays from any area where smoking is prohibited by this Part. C. The Department of Health and Hospitals may treat a violation of this Section as a deficiency to be assessed against any licensee or facility over which it has statutory jurisdiction.

40:1300.262. Enforcement; penalties  A. (1) Any violation of any prohibition in R.S. 40:1300.256(A) may be cited by any law enforcement officer by the issuance of a citation and summons to appear before a court of proper jurisdiction. (2) Such citations shall be in a form such that there shall be retained in each book of citations a receipt and each shall have a copy to be deposited by the law enforcement officer with a court having jurisdiction over the alleged offense. (3) Upon the deposit of the copy, the court shall notify the alleged violator of the time and place of his hearing or of his opportunity to plead guilty by the payment of his specified fine. Failure to appear, unless the fine is paid, may be punished within the discretion of the court as contempt of court. B. (1)(a) Any person who is guilty of a violation of the prohibition in R.S. 40:1300.256(A)(1), (2), and (3) shall, upon a first offense, be fined twenty-five dollars. (b) Any person who is guilty of violating such prohibition a second time shall be fined fifty dollars. (c) Any person who is guilty of violating such prohibition a third or subsequent time shall be fined one hundred dollars. (2)(a) Any employer who is guilty of a violation of the prohibition in R.S. 40:1300.256(A)(4) shall, upon a first offense, be fined one hundred dollars. (b) Any employer who is guilty of violating such prohibition a second time shall be fined two hundred fifty dollars. (c) Any employer who is guilty of violating such prohibition a third or subsequent time shall be fined five hundred dollars.

32:300.4. Smoking in motor vehicles prohibited; penalties  A. It shall be unlawful for the operator or any passenger in a motor vehicle to smoke cigarettes, pipes, or cigars in a motor vehicle, passenger van, or pick-up truck, when a child who is required to be restrained in a rear-facing child safety seat, a forward-facing child safety seat, a booster seat, or a motor vehicle's safety belt as required in R.S. 32:295 is also present in such vehicle, regardless of whether windows of the motor vehicle are down. For purposes of this Section, the term "smoke" shall mean inhaling, exhaling, burning, or carrying any lighted cigarette, cigar, pipe, weed, plant, or other combustible substance in any manner or in any form. B. Whoever violates the provisions of this Section shall be fined one hundred fifty dollars per offense, or at the discretion of the judge, may be sentenced to no less than twenty-four hours of community service. C. Probable cause for a violation of this Section shall be based solely upon a law enforcement officer's clear and unobstructed view of a person smoking as prohibited by this Section. Violation of this Section shall be considered a primary offense, and any law enforcement officer may stop a motor vehicle solely because of a violation of this Section; however, a law enforcement officer may not search or inspect a motor vehicle, its contents, the driver, or a passenger solely because of a violation of this Section. D. A violation of this Section shall be considered a nonmoving violation, and a citation issued by any law enforcement officer for such violation shall not be included on the driver's operating record.

40:2115. Smoking in hospitals; prohibition; exceptions  A. Except as provided herein, smoking shall be prohibited in enclosed areas of all hospitals licensed pursuant to this Part. However, smoking may, at the discretion of the governing board of the hospital, be permitted in patient rooms, but only: (1) Upon the order of the patient's primary treating physician. (2) With the consent of all patients in the room, if any. (3) In accordance with all standards established by the Joint Commission on
### Prohibition of Smoking Discrimination

**23:966. Prohibition of smoking discrimination**

A. As long as an individual, during the course of employment, complies with applicable law and any adopted workplace policy regulating smoking, it shall be unlawful for an employer: (1) To discriminate against the individual with respect to discharge, compensation, promotion, any personnel action or other condition, or privilege of employment because the individual is a smoker or nonsmoker. (2) To require, as a condition of employment, that the individual abstain from smoking or otherwise using tobacco products outside the course of employment. B. A smoker, as referred to herein, is limited to a person who smokes tobacco. C. Nothing in this Section shall preclude an employer from formulating and adopting a policy regulating an employee's workplace use of a tobacco product or from taking any action consistent therewith. D. Any employer who violates the provisions of this Section shall be fined up to two hundred fifty dollars for the first offense and up to five hundred dollars for any subsequent offense.

### Conditions of Employment

**597. Conditions of employment**

An employer or an agent of an employer may not require, as a condition of employment, that any employee or prospective employee refrain from using tobacco products outside the course of that employment or otherwise discriminate against any person with respect to the person's compensation, terms, conditions or privileges of employment for using tobacco products outside the course of employment as long as the employee complies with any workplace policy concerning use of tobacco.

### Smoking Prohibited in Public Places

**1542. Smoking prohibited in public places**

1. **Prohibition.** Smoking is prohibited in all enclosed areas of public places, outdoor eating areas as provided in section 1550 and all rest rooms made available to the public. In the case of a child care facility that is not home-based, smoking is also prohibited in a facility-designated motor vehicle within 12 hours before transporting a child who is in the care of the child care facility, and whenever such a child is present in the vehicle. Smoking is also prohibited in outdoor areas of the facility where children may be present.

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. During its normal business hours, a public place must be closed for at least one hour to be considered "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. **Repealed.**

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

**I. Repealed.** J. Smoking is not prohibited in a private residence, subject to section 1580-A, unless the private residence is used as a day care or baby-sitting service. If a private residence is used as a day care or baby-sitting service, smoking is prohibited: (1) In the residence, during the hours of operation as a day care or baby-sitting service; (2) In outdoor areas on the property of that private residence, wherever a child under care may be present; and (3) During the facility's hours of operation, in a motor vehicle owned or operated by the facility whenever a child under care is in the vehicle. 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 tobacco specialty store. The on-premises service, preparation or consumption of food or drink, if the tobacco specialty store is not licensed for such service or consumption prior to January 1, 2007, is prohibited in such a store. Smoking a waterpipe or hookah is prohibited in a tobacco specialty store that is newly licensed or that requires a new license after January 1, 2007. M. **Repealed.** 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, is purchased from the owner or purchaser of a facility licensed pursuant to Title 8, chapter 11 and in operation on June 30, 2003 or is moved to another location within the same municipality by the owner or purchaser of a facility 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; (4) No one under 18 years of age is permitted in the designated smoking area; (5) The designated smoking area within the purchased or relocated off-track betting facility or purchased or relocated simulcast racing facility has a floor area no larger than 2,000 square feet, except that any designated smoking area larger than 2,000 square feet and in existence on January 1, 2005 is exempt from this subparagraph; (6) No slot machines are located within the off-track betting or simulcast racing facility. For the purposes of this subparagraph, an off-track betting facility or a simulcast racing facility must be in a separately enclosed area, whether stand-alone or within another facility, that is accessible by either an interior or exterior door; and (7) The designated smoking area is located entirely within a separately enclosed area of an off-track betting facility or simulcast racing facility and proper signs are mounted to the exterior of the designated smoking area indicating that use of that area is for off-track betting and simulcast racing patrons only.

3. 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 any person who pursues any remedy available to enforce the requirements of this chapter.

1549. Smoking in vehicles when minor under 16 years of age is present 1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Motor vehicle" has the same meaning as in Title 29-A, section 101, subsection 42. B. "Smoking" means inhaling, exhaling, burning or carrying a lighted cigarette, cigar, pipe, weed, plant, regulated narcotic or other combustible substance.

2. Prohibition. Smoking is prohibited in a motor vehicle by the operator or a passenger when a person who has not attained 16 years of age is present in that motor vehicle, regardless of whether the motor vehicle's windows are open.

3. Prohibition on inspection or search. A motor vehicle, the contents of the motor vehicle or the operator or a passenger in the motor vehicle may not be inspected or searched solely because of a violation of this section.

4. Not a moving violation. A violation of this section is not a moving violation as defined in Title 29-A, section 101, subsection 44.

5. Penalty; warning. Notwithstanding section 1545, penalties for violations of this section are as set out in this subsection.

A. From September 1, 2008 to August 31, 2009, a law enforcement officer shall give a written warning to an operator or passenger of a motor vehicle who is in violation of this section.

B. Beginning September 1, 2009, a person who violates this section commits a civil violation for which a fine of $50 must be assessed, except that a law enforcement officer may give a written warning to the operator or a passenger of a motor vehicle who is in violation of this section.

1550. Smoking in outdoor eating areas 1. Definition. As used in this section, "outdoor eating area" means a patio, deck or other property that is partially enclosed or open to the sky that is permitted for outdoor eating or drinking under the control of an eating establishment, as defined in section 2491, subsection 7, as long as food or drink is served by the eating establishment to the public for consumption on the premises.

2. Smoking prohibited. Smoking is prohibited in an outdoor eating area if the outdoor eating area or any portion thereof is open and available for dining and beverage service.

3. Notification; request for compliance. An eating establishment with an outdoor eating area shall post signs in accordance with section 1543, notify its patrons of the prohibition on smoking in outdoor eating areas and request that all persons within an outdoor eating area comply with this section.

1580-A. Smoking in places of employment 1. Title. This law shall be known as the "Workplace Smoking Act of 1985.” 2. Definitions. As used in this section, unless the context indicates otherwise, the following terms have the following meanings.

A. "Business facility" means a structurally enclosed
location or portion thereof at which employees perform services for their employer. A business facility does not include any workplace or portion of a workplace that also serves as the employee's or employer's personal residence. A business facility is a place of employment. Notwithstanding this paragraph, a personal residence or unit or apartment in a residential facility is a business facility only during the period of time that an employee is physically present to perform work there. A residential facility, nursing home or a hospital is a business facility. A-1. "Club" means a reputable group of individuals, including a veterans' service organization chartered under 36 United States Code, Subtitle II, Part B (2004), incorporated and operating in a bona fide manner solely for purposes of a recreational, social, patriotic or fraternal nature and not for pecuniary gain. A-2. "Designated smoking area" means an outdoor area where smoking is permitted, which must be at least 20 feet from entryways, vents and doorways. B. "Employee" means a person who performs a service for wages or other remuneration under a contract of hire, written or oral, expressed or implied. Employee includes a person employed by the State or a political subdivision of the State. C. "Employer" means a person who has one or more employees. Employer includes an agent of an employer and the State or a political subdivision of the State. C-1. "Member" means a person who, whether as a charter member or admitted in accordance with applicable bylaws, is a bona fide member of a club and who maintains membership in good standing by payment of dues in a bona fide manner in accordance with bylaws and whose name and address are entered on the list of members. A person who does not have full membership privileges may not be considered a bona fide member. C-2. "Qualifying club" means a veterans' service organization chartered under 36 United States Code, Subtitle II, Part B (2004) that is not open to the public or any other club that was not open to the public and that was in operation prior to January 1, 2004. C-3. "Residential facility" means a facility with one or more residential units or apartments that is licensed by the Department of Health and Human Services. D. "Smoking" means carrying or having in one's possession a lighted cigarette, cigar, pipe or other object giving off or containing any substance giving off tobacco smoke. 3. Policy; notice. Each employer shall establish, or may negotiate through the collective bargaining process, a written policy concerning smoking and nonsmoking by employees in that portion of any business facility for which the employer is responsible, subject to paragraph A. In order to protect the employer and employees from the detrimental effects of smoking by others, the policy must prohibit smoking indoors subject to paragraph A, prevent environmental tobacco smoke from circulating into enclosed areas and prohibit smoking outdoors except in designated smoking areas. The policy may prohibit smoking throughout the business facility, including outdoor areas. The employer shall post and supervise the implementation of the policy. The employer shall provide a copy of this policy to any employee upon request. Nothing in this section may be construed to subject an employer to any additional liability, other than liability that may exist by law, for harm to an employee from smoking by others in any business facility covered by this section. A. All areas of a business facility into which members of the public are invited or allowed are governed by the provisions of chapter 262. B. The Maine Center for Disease Control and Prevention shall accept inquiries from employers and employees and shall, when requested, assist employers in developing a policy. 4. Violations. Any violation of this section is a civil violation for which a fine of not more than $100 may be adjudged, except that a fine of not more than $1,500 may be adjudged for each violation of this section in cases in which the employer has engaged in a pattern of conduct that demonstrates a lack of good faith in complying with the requirements of this section. The Bureau of Health has authority to enforce provisions of this section. 4-A. Injunctive relief. The Attorney General may bring an action to enforce this section in District Court or Superior Court and may seek injunctive relief, including a preliminary or final injunction and fines, penalties and equitable relief, and may seek to prevent or restrain violations of this section by any person. 5. Civil remedies. Nothing in the section may be construed as precluding any person from pursuing, in any court of competent jurisdiction, any civil remedy that person may have at law or in equity for harm occasioned to that person from smoking by others in any business facility covered by this section. 6. Discharge, discipline or discrimination against employees. It is unlawful for any employer to discharge, discipline or otherwise discriminate against any of its employees because that employee has assisted in the supervision or enforcement of this section. 7. Repealed. 8. Effective date. This section shall take effect January 1, 1986. 9. Exception. Beginning September 1, 2006, and notwithstanding any provision to the contrary in this section, a qualifying club may allow smoking in its business facility in accordance with the following provisions. A. Policies concerning smoking must have been mutually agreed upon by the employer and all the employees. B. The qualifying club must have met the requirements of this paragraph. (1) The qualifying club must have written policies allowing onto the premises only the employer and employees, members and invited guests accompanied by a member. (2) A vote in favor of smoking has been conducted according to the following provisions: (a) The qualifying club must provide all members notice of the date of the vote at least 30 days prior to the vote and an opportunity for an absentee ballot. Information designed to influence the vote of the member may not be provided with the notice and the absentee ballot; (b)
Members may not be subjected to undue influence regarding the vote; (c) A majority of all valid ballots received must be in favor of smoking; and (d) The ballot and procedures for voting and making available, collecting and counting absentee ballots must meet the requirements established by rule adopted by the Maine Center for Disease Control and Prevention. (3) The qualifying club must have provided written notice to the Maine Center for Disease Control and Prevention of the results of the vote within 30 days of the vote. C. The qualifying club may allow smoking under authority of this subsection for no longer than 3 years from the date of the vote. D. The qualifying club may revoke under this subsection at any time. E. The qualifying club must have retained all ballots for at least 3 years and make them available to the Maine Center for Disease Control and Prevention upon request. F. The Maine Center for Disease Control and Prevention shall adopt rules to implement this subsection. Rules adopted pursuant to this subparagraph are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

1580-E. Smoking in state parks and state historic sites. 1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings: A. "Enclosed area" has the same meaning as in section 1541, subsection 2; B. "Public place" has the same meaning as in section 1541, subsection 6; C. "Smoking" has the same meaning as in section 1541, subsection 6; D. "State historic site" has the same meaning as "historic site" in Title 12, section 1801, subsection 5; and E. "State park" has the same meaning as "park" in Title 12, section 1801, subsection 7. 2. Smoking prohibited. A person may not smoke tobacco or any other substance in, on or within 20 feet of a beach, playground, snack bar, group picnic shelter, business facility, enclosed area, public place or restroom in a state park or state historic site. 3. Signs; public education. To the extent possible within existing budgeted resources, the Maine Center for Disease Control and Prevention shall erect signs and undertake public education initiatives regarding the prohibition on smoking in certain areas of state parks and state historic sites.

### Maryland

**5-608 LAB. & EMPL. Smoking in indoor places of employment.** (a) In general. — Except as provided in § 24-505 of the Health — General Article, an individual may not smoke in an indoor place of employment. (b) Regulations; violations; penalties. — (1) The Department shall adopt regulations that prohibit environmental tobacco smoke, as defined in § 24-501 of the Health — General Article, in indoor places of employment not normally open to the general public. (2) Subject to subsection (c) of this section, a person who violates a regulation adopted under this subtitle: (i) for a first violation, shall be issued a written reprimand by the Commissioner or the Commissioner's designee; (ii) for a second violation, is subject to a civil penalty of $100; and (iii) for each subsequent violation, is subject to a civil penalty not less than $250. (c) Waiver of penalties. — The Commissioner may waive a penalty established under subsection (b) of this section, giving consideration to factors that include: (1) the seriousness of the violation; and (2) any demonstrated good faith measures to comply with the provisions of this subtitle. (d) Payment of penalties into Cigarette Restitution Fund. — A penalty collected by the Commissioner under this section shall be paid to the Cigarette Restitution Fund established under § 7-317 of the State Finance and Procurement Article. (e) Annual reports. — On or before September 30 of each year, the Department shall report, in accordance with § 2-1246 of the State Government Article, to the General Assembly on: (1) the enforcement efforts of the Department to eliminate environmental tobacco smoke, as defined in § 24-501 of the Health — General Article, in indoor places of employment during the prior year; and (2) the results of these enforcement efforts. (f) Retaliation prohibited. — An employer who discharges or discriminates against an employee because that employee has made a complaint under this section, has given information to the Department in accordance with this section, has caused to be instituted or is about to cause to be instituted a proceeding under this section, or has testified or is about to testify in a proceeding, shall be deemed in violation of this section and shall be subject to a civil penalty of at least $2,000 but not more than $10,000 for each violation. (g) Malicious complaints or bad faith actions prohibited; injunctions and damages. — (1) An employee may not: (i) make a groundless or malicious complaint to the Commissioner or an authorized representative of the Commissioner; (ii) in bad faith, bring an action under this subtitle; or (iii) in bad faith, testify in an action under this subtitle or a proceeding that relates to the subject of this subtitle. (2) The Commissioner may bring an action for injunctive relief and damages against a person who violates the provisions of paragraph (1) of this subsection.

**24-504 HEALTH-GEN. Prohibited smoking areas.** Except as provided in § 24-505 of this subtitle, beginning on February 1, 2008, a person may not smoke in: (1) An indoor area open to the public; (2) An indoor place in which meetings are open to the public in accordance with Title 10, Subtitle 5 of the State Government Article; (3) A government-owned or government-operated means of mass transportation including buses, vans, trains, taxicabs, and limousines; or (4) An indoor place of employment.
24-505 HEALTH-GEN. Applicability. This subtitle does not apply to: (1) Private homes, residences, including residences used as a business or place of employment, unless being used by a person who is licensed or registered under Subtitle 5 of the Family Law Article to provide day care or child care, and private vehicles, unless being used for the public transportation of children, or as part of health care or day care transportation; (2) A hotel or motel room rented to one or more guests as long as the total percent of hotel or motel rooms being so used does not exceed 25%; (3) A retail tobacco business that is a sole proprietorship, limited liability company, corporation, partnership, or other enterprise, in which: (i) The primary activity is the retail sale of tobacco products and accessories; and (ii) The sale of other products is incidental; (4) Any facility of a manufacturer, importer, wholesaler, or distributor of tobacco products or of any tobacco leaf dealer or processor in which employees of the manufacturer, importer, wholesaler, distributor, or processor work or congregate; or (5) A research or educational laboratory for the purpose of conducting scientific research into the health effects of tobacco smoke.

24-506 HEALTH-GEN. "Smoking Permitted in this Room" signs. (a) In general. — Signs that state "Smoking Permitted in This Room" shall be prominently posted and properly maintained where smoking is allowed under § 24-505(2) of this subtitle. (b) Posting and maintenance. — The signs shall be posted and maintained by the owner, operator, manager, or other person having control of the area. (c) Requirements. — The letters on the signs shall be at least 1 inch in height.

24-508 HEALTH-GEN. Violations. (a) In general. — Subject to subsection (c) of this section and except as provided in subsection (d) of this section, a person who violates a provision of this subtitle or a regulation adopted under § 24-507(a) of this subtitle: (1) For a first violation, shall be issued a written reprimand by the Secretary or the Secretary's designee; (2) For a second violation, is subject to a civil penalty of $100; and (3) For each subsequent violation, is subject to a civil penalty not less than $250. (b) Waiver of penalties. — The Secretary may waive a penalty established under subsection (a) of this section, giving consideration to factors that include: (1) The seriousness of the violation; and (2) Any demonstrated good faith measures to comply with the provisions of this subtitle. (c) Scope. — (1) This subsection does not apply to an alleged violation of subsection (d) of this section. (2) It is an affirmative defense to a complaint brought against a person for a violation of a provision of this subtitle or a regulation adopted under this subtitle that the person or an employee of the person: (i) Posted a "No Smoking" sign as required under § 24-506 of this subtitle; (ii) Removed all ashtrays and other smoking paraphernalia from all areas where smoking is prohibited; and (iii) If the violation occurred in a bar, tavern, or restaurant: 1. Refused to seat or serve any individual who was smoking in a prohibited area; and 2. If the individual continued to smoke after an initial warning, asked the individual to leave the establishment. (d) Retaliation prohibited. — An employer who discharges or discriminates against an employee because that employee has made a complaint, has given information to the Department in accordance with this subtitle, has caused to be instituted or is about to cause to be instituted a proceeding under this subtitle, or has testified or is about to testify in a proceeding under this subtitle, shall be deemed in violation of this subtitle and shall be subject to a civil penalty of at least $2,000 but not more than $10,000 for each violation. (e) Malicious complaints or bad faith actions prohibited; injunctions and damages. — (1) An employee may not: (i) Make a groundless or malicious complaint under this subtitle to the Secretary or an authorized representative of the Secretary; (ii) In bad faith, bring an action under this subtitle; or (iii) In bad faith, testify in an action under this subtitle or a proceeding that relates to the subject of this subtitle. (2) The Secretary may bring an action for injunctive relief and damages against a person who violates the provisions of paragraph (1) of this subsection. (f) Use of penalty funds. — A penalty collected by the Secretary under this section shall be paid to the Cigarette Restitution Fund established under § 7-317 of the State Finance and Procurement Article.

09.12.23.01 Definitions. A. In this chapter, the following terms have the meanings indicated. B. Terms Defined. (1) "Indoor place of employment" includes, but is not limited to: (a) An indoor work area; (b) A vehicle other than a private vehicle as used in Health-General Article, § 24-505(1), Annotated Code of Maryland, when an employee uses it in the course of employment; (c) An employee lounge or restroom; (d) A conference and meeting room; (e) A classroom; (f) A cafeteria operated by an employer for use by its employees; (g) A hallway; (h) A restaurant; (i) A bar or tavern; (j) A sleeping room in a hotel or motel; and (k) An assembly, conference, convention, or meeting establishment or enclosed portion of the establishment. (2) "Private vehicle", as used in Health-General Article, § 24-505(1), Annotated Code of Maryland, means: (a) An individual's own vehicle being used for nonemployment purposes; or (b) An individual's own vehicle, when used in the course of employment and occupied by only one individual. (3) "Smoking" means the burning of a lighted cigarette, cigar, pipe, or any other matter or substance that contains tobacco.
Section 22. (a) As used in this section, the following words shall have the following meanings, unless the context requires otherwise: “Business agent”, an individual who has been designated by the owner or operator of any establishment to be the manager or otherwise in charge of the establishment. “Compensation”, money, gratuity, privilege, or benefit received from an employer in return for work performed or services rendered. “Customer service area”, an area of the workplace that a business invitee may access. “Employee”, an individual or person who performs a service for compensation for an employer at the employer’s workplace, including a contract employee, temporary employee, and independent contractor who performs a service in the employer’s workplace for more than a de minimis amount of time. “Employer”, an individual, person, partnership, association, corporation, trust, organization, school, college, university or other educational institution or other legal entity, whether public, quasi-public, private, or non-profit which uses the services of 1 or more employees at 1 or more workplaces, at any 1 time, including the commonwealth or its agencies, authorities or political subdivisions. “Enclosed”, a space bounded by walls, with or without windows or fenestrations, continuous from floor to ceiling and enclosed by 1 or more doors, including but not limited to an office, function room or hallway. “Lodging home”, a dwelling or part thereof which contains 1 or more rooming units in which space is let or sublet for compensation by the owner or operator to 4 or more persons. The residential portion of boarding houses, rooming houses, dormitories, and other similar dwelling places are included in this definition. Hospitals, sanitariums, jails, houses of correction, homeless shelters, and assisted living homes are not included in this definition. “Membership association”, a not-for-profit entity that has been established and operates, for a charitable, philanthropic, civic, social, benevolent, educational, religious, athletic, recreation or similar purpose, and is comprised of members who collectively belong to: (i) a society, organization or association of a fraternal nature that operates under the lodge system, and having 1 or more affiliated chapters or branches incorporated in any state; or (ii) a corporation organized under chapter 180; or (iii) an established religious place of worship or instruction in the commonwealth whose real or personal property is exempt from taxation; or (iv) a veterans’ organization incorporated or chartered by the Congress of the United States, or otherwise, having 1 or more affiliated chapters or branches incorporated in any state. Except for a religious place of worship or instruction, an entity shall not be a membership association for the purposes of this definition, unless individual membership is required for all members of the association for a period of not less than 90 days. “Outdoor space”, an outdoor area, open to the air at all times and cannot be enclosed by a wall or side covering. “Public building”, a building owned by the commonwealth or any political subdivision thereof, or in an enclosed indoor space occupied by a state agency or department of the commonwealth which is located in a building not owned by the commonwealth. “Public transportation conveyance”, a vehicle or vessel used in mass public transportation or in the transportation of the public, including a train, passenger bus, school bus or other vehicle used to transport pupils, taxi, passenger ferry boat, water shuttle or other equipment used in public transportation owned by, or operated under the authority of the Massachusetts Bay Transportation Authority, the Woods Hole, Martha’s Vineyard & Nantucket Steamship Authority, Massachusetts Port Authority; state transportation department; or a vehicle or vessel open to the public that is owned by, or operated under the authority of a business, including tour vehicles or vessels, enclosed ski lifts or trams, passenger buses or vans regularly used to transport customers. Notwithstanding the foregoing, a private vehicle or vessel not open to the public or not used for the transportation of the public during the times of use, including a private passenger vehicle, a private charter or rental of a limousine, bus or van or the private rental of a boat or other vessel, shall not be considered a public transportation conveyance. “Residence”, the part of a structure used as a dwelling including without limitation: a private home, townhouse, condominium, apartment, mobile home; vacation home, cabin or cottage; a residential unit in a governmental public housing facility; and the residential portions of a school, college or university dormitory or facility. A residential unit provided by an employer to an employee at a place of employment shall be considered to be a residence; if the unit is an enclosed indoor space used exclusively as a residence, and other employees, excluding family members of the employee, or the public has no right of access to the residence. For the purposes of this definition, a hotel, motel, inn, lodge, bed and breakfast or other similar public accommodation, hospital, nursing home or assisted living facility shall not be considered a residence. “Retail tobacco store”, an establishment which is not required to possess a retail food permit whose primary purpose is to sell or offer for sale to consumers, but not for resale, tobacco products and paraphernalia, in which the sale of other products is merely incidental, and in which the entry of persons under the age of 18 is prohibited at all times, and maintains a valid permit for the retail sale of tobacco products as required to be issued by
“Smoking” or “smoke”, the lighting of a cigar, cigarette, pipe or other tobacco product or possessing a lighted cigar, cigarette, pipe or other tobacco or non-tobacco product designed to be combusted and inhaled. “Smoking bar”, an establishment that occupies exclusively an enclosed indoor space and that primarily is engaged in the retail sale of tobacco products for consumption by customers on the premises; derives revenue from the sale of food, alcohol or other beverages that is incidental to the sale of the tobacco products; prohibits entry to a person under the age of 18 years of age during the time when the establishment is open for business; prohibits any food or beverage not sold directly by the business to be consumed on the premises; maintains a valid permit for the retail sale of tobacco products as required to be issued by the appropriate authority in the city or town where the establishment is located; and, maintains a valid permit to operate a smoking bar issued by the department of revenue. “Workplace”, an indoor area, structure or facility or a portion thereof, at which 1 or more employees perform a service for compensation for the employer, other enclosed spaces rented to or otherwise used by the public; and where the employer has the right or authority to exercise control over the space. “Work space or work spaces”, an enclosed area occupied by an employee during the course of his employment. (b)(1) It shall be the responsibility of the employer to provide a smoke free environment for all employees working in an enclosed workplace. (2) Smoking shall be prohibited in workplaces, work spaces, common work areas, classrooms, conference and meeting rooms, offices, elevators, hallways, medical facilities, cafeterias, employee lounges, staircases, restrooms, restaurants, cafes, coffee shops, food courts or concessions, supermarkets or retail food outlets, bars, taverns, or in a place where food or drink is sold to the public and consumed on the premise as part of a business required to collect state meals tax on the purchase; or in a train, airplane, theatre, concert hall, exhibition hall, convention center, auditorium, arena, or stadium open to the public; or in a school, college, university, museum, library. health care facility as defined in section 9C of chapter 112, group child care center, school age child care center, family child care center, school age day or overnight camp building, or on premises where activities are licensed under section 38 of chapter 10 or in or upon any public transportation conveyance or in any airport, train station, bus station, transportation passenger terminal, or enclosed outdoor platform.

(c) Notwithstanding subsection (b), smoking may be permitted in the following places and circumstances: (1) Private residences; except during such time when the residence is utilized as part of a business as a group childcare center, school age child care center, school age day or overnight camp, or a facility licensed by the department of early education and care or as a health care related office or facility; (2)(i) premises occupied by a membership association, if the premises is owned, or under a written lease for a term of not less than 90 consecutive days, by the association during the time of the permitted activity if the premises are not located in a public building; but no smoking shall be permitted in an enclosed indoor space of a membership association during the time the space is: (A) open to the public; or (B) occupied by a non-member who is not an invited guest of a member or an employee of the association; or (C) rented from the association for a fee or other agreement that compensates the association for the use of such space. (ii) Smoking may be permitted in an enclosed indoor space of a membership association at all times, if the space is restricted by the association to admittance only of its members, the invited guest of a member, and the employees of the membership association. A person who is a contract employee, temporary employee, or independent contractor shall not be considered an employee of a membership association under this subsection. A person who is a member of an affiliated chapter or branch of a membership association that is fraternal in nature operating under the lodge system, and is visiting the affiliated association, shall be an invited guest for the purposes of this subsection. (3) A guest room in a hotel, motel, inn, bed and breakfast or lodging home that is designed and normally used for sleeping and living purposes, that is rented to a guest and designated as a smoking room pursuant to paragraph (1) of subsection (g). (4) A retail tobacco store, if the store maintains a valid permit for the sale of tobacco products issued by the appropriate authority in the city or town in which the retail tobacco store is located. All required permits shall be displayed in a conspicuous manner, visible at all times to patrons of the establishment. (5) A smoking bar, if the smoking bar maintains a valid permit pursuant to this section. All required permits shall be displayed in a conspicuous manner, visible at all times to patrons of the establishment. (6) By a theatrical performer upon a stage or in the course of a professional film production, if the smoking is part of a theatrical production, and if permission has been obtained from
(7) By a person, organization or other entity that conducts medical or scientific research on tobacco products, if the research is conducted in an enclosed space not open to the public, in a laboratory facility at an accredited college or university, or in a professional testing laboratory as defined by regulation of the department of public health; (8) Religious ceremonies where smoking is part of the ritual; and (9) A tobacco farmer, leaf dealer, manufacturer, importer, exporter, or wholesale distributor of tobacco products, may permit smoking in the workplace for the sole purpose of testing said tobacco for quality assurance purposes; if the smoking is necessary to conduct the test. [There is no subsection (d).] (e) If the outdoor space has a structure capable of being enclosed by walls or covers, regardless of the materials or the removable nature of the walls or covers, the space will be considered enclosed, when the walls or covers are in place. All outdoor spaces shall be physically separated from an enclosed work space. If doors, windows, sliding or folding windows or doors or other fenestrations form any part of the border to the outdoor space, the openings shall be closed to prevent the migration of smoke into the enclosed work space. If the windows, sliding or folding windows or doors or other fenestrations are opened or otherwise do not prevent the migration of smoke into the work space, the outdoor space shall be considered an extension of the enclosed work space and subject to this section. (f) (1) A nursing home, licensed pursuant to section 71 of chapter 111 and any acute care substance abuse treatment center under the jurisdiction of the commonwealth, may apply to the local board of health having jurisdiction over the facility for designation of part of the facility as a residence. (2) All applications shall designate the residential area of the facility. The residential area shall not contain an employee workspace, such as offices, restrooms or other areas used primarily by employees. (3) The entire facility may not be designated as a residence. (4) The designated residential area must be for the sole use of permanent residents of the facility. No temporary or short-term resident may reside in the residential portion of the facility. (5) All areas in the designated residential area in which smoking is allowed shall be conspicuously designated as smoking areas and be adequately ventilated to prevent the migration of smoke to nonsmoking areas. (6) The facility shall provide suitable documentation, acceptable to the local board of health, that the facility is the permanent domicile of the residents residing in that portion of the facility, that information on the hazards of smoking and second hand smoke have been provided to all residents and that smoking cessation aids are available to all residents who use tobacco products. (7) The designated residential area shall be in conformance with the smoking restriction requirements of section 72X of chapter 111 and 105 CMR 150.015 (D)(11)(b). All residential areas shall be clearly designated as such and shall not be altered or otherwise changed without the express approval of the local board of health. (8) All areas of a nursing home not designated as a residence shall comply with this section. (9) The nursing home shall make reasonable accommodations for an employee, resident or visitor who does not wish to be exposed to tobacco smoke. (10) Upon compliance with this section, submission of the required documentation and satisfactory inspection, the local board of health shall certify the designated portion of the facility as a residence. The certification shall be valid for 1 year from the date of issuance. No fewer than 30 days before the expiration of the certification, the facility may apply for re-certification. If the local board of health does not renew the certification before its expiration or provide notice that it has found sufficient cause to not recertify the residence portion of the nursing home as such, the certification shall be considered to continue until the time as the local board of health notifies the nursing home of its certification status. (g) (1) A designated smoking room in a hotel, motel, inn, bed and breakfast and lodging home shall be clearly marked as a designated smoking room on the exterior of all entrances from a public hallway and public spaces; and in the interior of the room. Instead of marking each room, an establishment may designate an entire floor of residential rooms as smoking. The floor shall be conspicuously designated as smoking at each entrance way on to the floor. Smoking shall not be allowed in the common areas of the floor, such as halls, vending areas, ice machine locations and exercise areas and shall comply with paragraph (4). (2) A retail tobacco store that permits smoking on the premises shall, pursuant to paragraph (4), post in a clear and conspicuous manner, a sign at each entrance warning persons entering the establishment that smoking may be present on the premises; of the health risks associated from second hand smoke; and, that persons under the age of 18 years of age may not enter the premises. (3) A smoking bar shall, pursuant to paragraph (4), post in a clear and conspicuous manner signs at all entrances which warn persons entering the establishment that smoking may be present on the premises; and, of the health risks associated from second hand smoke; and, that persons under the age of 18 years of age may not enter the premises. (4) Every area in which smoking is prohibited by law shall have “no smoking” signs conspicuously posted so that the signs are clearly visible to all employees, customers, or visitors while in the workplace. (5) Additional signs may be posted in public areas such as, the following areas: lobbies; hallways; cafeterias; kitchens; locker rooms; customer service areas; offices where the public is invited; conference rooms; lounges; waiting areas; and elevators. (6) Approved signs and templates for signage design may be obtained from the department of public health or the local boards of health. (7) It shall be the responsibility of the establishment to ensure that the
in the event a business
ic. (l) An owner, manager or other person in control of a building, vehicle or vessel who violates this section repeatedly, in a manner other than by smoking in a place where smoking is prohibited, shall be punished by a fine of $100 for the first violation; $200 for a second violation occurring within 2 years of the date of the first offense; and $300 for a third or subsequent violation within 2 years of the second violation. Each calendar day on which a violation occurs shall be considered a separate offense. If an owner, manager or other person in control of a building, vehicle or vessel violates this section repeatedly, demonstrating egregious noncompliance as defined by regulation of the department of public health, the local board of health may revoke or suspend the license to operate and shall send notice of the revocation or suspension to the department of public health. The department of public health shall promulgate regulations to implement this section including, but not limited to, notice, collection, and reporting of the fines or license action, and defining uniform standards that warrant license suspension or revocation. (m)(1) The local board of health, the department of public health, the local inspection department or the equivalent, a municipal government or its agent, and the alcoholic beverages control commission shall enforce this section. In addition, in the city of Boston, the commissioner of health and his authorized agents shall enforce this section. (2) An individual or person who violates this section by smoking in a place where smoking is prohibited shall be considered a separate offense. If an owner, manager or other person in control of a building, vehicle or vessel violates this section repeatedly, demonstrating egregious noncompliance as defined by regulation of the department of public health, the local board of health may revoke or suspend the license to operate and shall send notice of the revocation or suspension to the department of public health. The department of public health shall promulgate regulations to implement this section including, but not limited to, notice, collection, and reporting of the fines or license action, and defining uniform standards that warrant license suspension or revocation. (n)(1) A smoking bar operating in the commonwealth shall obtain a smoking bar permit from the department of revenue. A permit issued by the department shall be valid for a period of 2 years from date of issuance unless suspended or revoked. A valid permit that is not suspended at the time of its expiration may be renewed for consecutive 2-year periods. (2) A non-refundable fee may be required with each permit and renewal application. Each permit issued by the department shall be non-transferable, for a specific location and business; and, only 1 permit may be issued to a business for a specific location during any permit period. (3) The department shall not issue or renew a smoking bar permit to any business that has not filed all tax returns and paid all taxes due the commonwealth; or is delinquent in filing all declaration statements in connection with the smoking bar permit as required by the department. (4) The department shall notify the local board of health or municipal health department in the city or town where the establishment is located of any permits issued, renewed, suspended, revoked or reinstated to a business. (b) A smoking bar shall demonstrate on a quarterly basis that revenue generated from the sale of tobacco products are equal to or greater than 51 per cent of the total combined revenue generated by the sale of tobacco products, food and beverages. The department shall require each business that has been issued a smoking bar permit to submit a quarterly declaration for each 3 month period that the business is in operation; notwithstanding, the first declaration may include a period of not to exceed 4 months. A declaration submitted to the department in connection with a smoking bar permit shall be signed by the owner or business agent under the pains and penalties of perjury. A declaration received by the department shall be confidential and the financial information contained therein shall not be disclosed to the public or any other state governmental agency or department except the attorney general. In the event a business has not filed a required declaration statement, the department shall give written notice to the business that the statement is delinquent and, shall suspend the permit of a business that does not submit the required report after 21 days of the date of notice; but the department shall reinstate the suspended permit within 5 days after receiving the delinquent report. (c) The department of revenue shall promulgate regulations to implement this section. (i) Companies which sell ownership rights to owners of time share properties shall distinguish between smoking and non-smoking time share properties. Companies shall disclose to potential buyers whether the unit they are purchasing is a smoking or non-smoking property and post signs accordingly. (j) Nothing in this section shall permit smoking in an area in which smoking is or may hereafter be prohibited by law including, without limitation: any other law or ordinance or by-law or any fire, health or safety regulation. Nothing in this section shall preempt further limitation of smoking by the commonwealth or any department, agency or political subdivision of the commonwealth. (k) An individual, person, entity or organization subject to the smoking prohibitions of this section shall not discriminate or retaliate in any manner against a person for making a complaint of a violation of this section or furnishing information concerning a violation, to a person, entity or organization or to an enforcement authority. Notwithstanding the foregoing, a person making a complaint or furnishing information during any period of work or time of employment, shall do so only at a time that will not pose an increased threat of harm to the safety of other persons in or about such place of work or to the public. (l) An owner, manager or other person in control of a building, vehicle or vessel who violates this section, in a manner other than by smoking in a place where smoking is prohibited, shall be punished by a fine of $100 for the first violation; $200 for a second violation occurring within 2 years of the date of the first offense; and $300 for a third or subsequent violation within 2 years of the second violation. Each calendar day on which a violation occurs shall be considered a separate offense. If an owner, manager or other person in control of a building, vehicle or vessel violates this section repeatedly, demonstrating egregious noncompliance as defined by regulation of the department of public health, the local board of health may revoke or suspend the license to operate and shall send notice of the revocation or suspension to the department of public health. The department of public health shall promulgate regulations to implement this section including, but not limited to, notice, collection, and reporting of the fines or license action, and defining uniform standards that warrant license suspension or revocation. (m)(1) The local board of health, the department of public health, the local inspection department or the equivalent, a municipal government or its agent, and the alcoholic beverages control commission shall enforce this section. In addition, in the city of Boston, the commissioner of health and his authorized agents shall enforce this section. (2) An individual or person who violates this section by smoking in a place where smoking is prohibited shall be subject to a civil penalty of $100 for each violation. As an alternative to criminal prosecution, a violation of subsection (l) may also be considered a civil violation. Each enforcing agency under paragraph (1) shall dispose of a civil violation of this section by the non-criminal method of disposition procedures contained in section 21D of chapter 40, without an enabling ordinance or by-law, or by the equivalent of these procedures by a state agency under regulations of the department of public health. The disposition of fines assessed under this section shall be subject to section 188 of chapter 111. Fines assessed by the

Michigan Definitions. Sec. 12601. (1) As used in this part: (a) "Casino" means that term as defined in section 2 of the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.202. (b) "Child caring institution" and "child care center" mean those terms as defined in section 1 of 1973 PA 116, MCL 722.111. (c) "Cigar" means any roll of tobacco weighing 3 or more pounds per 1,000, which roll has a wrapper or cover consisting only of tobacco. (d) "Cigar bar" means an establishment or area within an establishment that is open to the public and is designated for the smoking of cigars, purchased on the premises or elsewhere. (e) "County medical care facility" means that term as defined in section 20104. (f) "Educational facility" means a building owned, leased, or under the control of a public or private school system, college, or university. (g) "Food service establishment" means a food service establishment as defined in section 12905. (h) "Health facility" means a health facility or agency licensed under article 17, except a home for the aged, nursing home, county medical care facility, hospice, or hospital long-term care unit. (i) "Home for the aged" means that term as defined in section 20106. (j) "Hospice" means that term as defined in section 20106. (k) "Hospital long-term care unit" means that term as defined in section 20106. (l) "Meeting" means a meeting as defined in section 2 of the open meetings act, 1976 PA 267, MCL 15.262. (m) "Motor vehicle" means that term as defined in section 33 of the Michigan vehicle code, 1949 PA 300, MCL 257.33. (n) "Nursing home" means that term as defined in section 20109. (o) "Place of employment" means an enclosed indoor area that contains 1 or more work areas for 1 or more persons employed by a public or private employer. Place of employment does not include any of the following: (i) A structure used primarily as the residence of the owner or lessee that is also used as an office for the owner or lessee and for no other employees. (ii) A food service establishment that is subject to section 12905. (iii) A motor vehicle. (p) "Public body" means a public body as defined in section 2 of the open meetings act, 1976 PA 267, MCL 15.262. (q) "Public place", except as otherwise provided in subsection (2), means any of the following: (i) An enclosed, indoor area owned or operated by a state or local governmental agency and used by the general public or serving as a meeting place for a public body, including an office, educational facility, home for the aged, nursing home, county medical care facility, hospice, hospital long-term care unit, auditorium, arena, meeting room, or public conveyance. (ii) An enclosed, indoor area that is not owned or operated by a state or local governmental agency, is used by the general public, and is any of the following: (A) An educational facility. (B) A home for the aged, nursing home, county medical care facility, hospice, or hospital long-term care unit. (C) An auditorium. (D) An arena. (E) A theater. (F) A museum. (G) A concert hall. (H) Any other facility during the period of its use for a performance or exhibit of the arts. (iii) Unless otherwise exempt under this part, a place of employment. (r) "Smoking" or "smoke" means the burning of a lighted cigar, cigarette, pipe, or any other matter or substance that contains a tobacco product. (s) "Smoking paraphernalia" means any equipment, apparatus, or furnishing that is used in or necessary for the activity of smoking. (t) "Tobacco product" means a product that contains tobacco and is intended for human consumption, including, but not limited to, cigarettes, noncigarette smoking tobacco, or smokeless tobacco, as those terms are defined in section 2 of the tobacco products tax act, 1993 PA 327, MCL 205.422, and cigars. (u) "Tobacco specialty retail store" means an establishment in which the primary purpose is the retail sale of tobacco products and smoking paraphernalia, and in which the sale of other products is incidental. Tobacco specialty retail store does not include a tobacco department or section of a larger commercial establishment or any establishment with any type of liquor, food, or restaurant license. (v) "Work area" means a site within a place of employment at which 1 or more employees perform services for an employer. (2) In addition, article 1 contains general definitions and principles of construction applicable to all articles of this code.
333.12603 Smoking in public place or at meeting of public body prohibited; duties of owner, operator, manager, or person having control of public place, food establishment, or casino; good faith effort to prohibit smoking; affirmative defense; affidavit; section referred to as "Dr. Ron Davis Law." Sec. 12603. (1) An individual shall not smoke in a public place or at a meeting of a public body, and a state or local governmental agency or the person who owns, operates, manages, or is in control of a public place shall make a reasonable effort to prohibit individuals from smoking in a public place. (2) The owner, operator, manager, or person having control of a public place, a food service establishment, or a casino subject to section 12606b shall do all of the following: (a) Clearly and conspicuously post "no smoking" signs or the international "no smoking" symbol at the entrances to and in every building or other area where smoking is prohibited under this act. (b) Remove all ashtrays and other smoking paraphernalia from anywhere smoking is prohibited under this act. (c) Inform individuals smoking in violation of this act that they are in violation of state law and subject to penalties. (d) If applicable, refuse to serve an individual smoking in violation of this act. (e) Ask an individual smoking in violation of this act to refrain from smoking and, if the individual continues to smoke in violation of this act, ask him or her to leave the public place, food service establishment, or nonsmoking area of the casino. (3) The owner, operator, manager, or person in control of a hotel, motel, or other lodging facility shall comply with subsection (2) and section 12606. It is an affirmative defense to a prosecution or civil or administrative action for a violation of this section that the owner, operator, manager, or person in control of a hotel, motel, or other lodging facility where smoking is prohibited under this section made a good faith effort to prohibit smoking by complying with subsection (2). To assert the affirmative defense under this subsection, the owner, operator, manager, or person shall file a sworn affidavit setting forth his or her efforts to prohibit smoking and his or her actions of compliance with subsection (2). (4) This section may be referred to as the "Dr. Ron Davis Law".

333.12604 Smoking in a child caring institution or child care center or on the real property under control of institution or center; violation; penalties. Sec. 12604. (1) An individual shall not smoke in a child caring institution or child care center or on real property that is under the control of a child caring institution or a child care center and upon which the child caring institution or child care center is located, including other related buildings. (2) An individual who violates this section is subject to all the penalties described in section 15 of Act No. 116 of the Public Acts of 1973, being section 722.125 of the Michigan Compiled Laws, except imprisonment.

333.12611 Violation; compliance; civil fine; perjury. Sec. 12611. A person or state or local governmental agency that violates this part or part 129 shall be directed to comply with this part and is subject to a civil fine of not more than $100.00 for a first violation and not more than $500.00 for a second or subsequent violation. A person who makes a false statement in an affidavit under this part is guilty of perjury under section 423 of the Michigan penal code, 1931 PA 328, MCL 750.423.

333.12905 Food service establishment; smoking prohibited; shopping malls; inspection; determination of compliance; investigation of complaint; order to cease food service operations; good faith effort to prohibit smoking; affirmative defense; affidavit; violation; civil fine; definitions. Sec. 12905. (1) An individual shall not smoke in a food service establishment, and the person who owns, operates, manages, or is in control of a food service establishment shall make reasonable effort to prohibit individuals from smoking in a food service establishment. (2) In addition to a food service establishment that provides its own seating, subsection (1) applies to a food service establishment or group of food service establishments that are located in a shopping mall in which the seating for the food service establishment or group of food service establishments is provided or maintained, or both, by the person who owns or operates the shopping mall. (3) The director, an authorized representative of the director, or a representative of a local health department to which the director has delegated responsibility for enforcement of this part shall inspect each food service establishment that is subject to this section. The inspecting entity shall determine compliance with this section during each inspection. (4) Within 5 days after receipt of a written complaint of violation of this section, a local health department shall investigate the complaint to determine compliance. If a violation of this section is identified and not corrected as ordered by the local health department within 2 days after receipt of the order by the food service establishment, the local health officer may issue an order to cease food service operations until compliance with this section is achieved. (5) A food service establishment shall comply with sections 12603(2) and 12606. It is an affirmative defense to a prosecution or civil or administrative action for a violation of this section that the owner, operator, manager, or person in control of a food service establishment where smoking is prohibited under this section made a good faith effort to prohibit smoking by complying with section 12603(2). To assert the affirmative defense under this subsection, the owner, operator, manager, or person shall file a
Minnesota 181.938 Nonwork Activities; Prohibited Employer Conduct. Subdivision 1. Definition. For the purpose of this section, "employer" has the meaning given it in section 179.01, subdivision 3. Subd. 2. Prohibited practice. An employer may not refuse to hire a job applicant or discipline or discharge an employee because the applicant or employee engages in or has engaged in the use or enjoyment of lawful consumable products, if the use or enjoyment takes place off the premises of the employer during nonworking hours. For purposes of this section, "lawful consumable products" means products whose use or enjoyment is lawful and which are consumed during use or enjoyment, and includes food, alcoholic or nonalcoholic beverages, and tobacco. Subd. 3. Exceptions. (a) It is not a violation of subdivision 2 for an employer to restrict the use of lawful consumable products by employees during nonworking hours if the employer's restriction: (1) relates to a bona fide occupational requirement and is reasonably related to employment activities or responsibilities of a particular employee or group of employees; or (2) is necessary to avoid a conflict of interest or the appearance of a conflict of interest with any responsibilities owed by the employee to the employer. (b) It is not a violation of subdivision 2 for an employer to refuse to hire an applicant or discipline or discharge an employee who refuses or fails to comply with the conditions established by a chemical dependency treatment or aftercare program. (c) It is not a violation of subdivision 2 for an employer to offer, impose, or have in effect a health or life insurance plan that makes distinctions between employees for the type of coverage or the cost of coverage based upon the employee's use of lawful consumable products, provided that, to the extent that different premium rates are charged to the employees, those rates must reflect the actual differential cost to the employer. (d) It is not a violation of subdivision 2 for an employer to refuse to hire an applicant or discipline or discharge an employee on the basis of the applicant's or employee's past or present job performance. Subd. 4. Remedy. The sole remedy for a violation of subdivision 2 is a civil action for damages. Damages are limited to wages and benefits lost by the individual because of the violation. A court shall award the prevailing party in the action, whether plaintiff or defendant, court costs and a reasonable attorney fee.

Mississippi 29-5-161. Smoking prohibited in government and university or college classroom buildings; exceptions. (1) As used in this section: (a) "Smoke" or "smoking" means inhaling, exhaling, burning, carrying or otherwise possessing any lighted cigarette, cigar, pipe or any other object or device of any form that contains lighted tobacco. (b) "Government building" means the New State Capitol Building, the Woolfolk State Office Building, the Carroll Gartin Justice Building, the Walter Sillers Office Building, the Heber Ladner Building, the Department of Transportation Building, the Robert E. Lee Office Building, the Robert G. Clark, Jr. Building, the State Board of Health Building, the Public Employees' Retirement System Building, the Central High Building, the Court of Appeals Building, the War Veterans' Memorial Building, the State Archives Building, the Ike Sanford Veterans Affairs Building, the Old State Capitol Building, the Burroughs Building, the Ike Sanford Veterans Affairs Building, 101 Capitol Centre and any other facility in the state that is owned or leased by the State of Mississippi or any agency, department or institution of the state and that is used for housing state employees during the time of performance of their regular duties for the state; any building owned, rented, leased, occupied or operated by the state, including the legislative, executive and judicial branches of state government; any county, municipality or any other political subdivision of the state; any public authority, commission, agency or public benefit corporation; or any other separate corporate instrumentality or unit of state or local government. If only part of a facility is leased by the state or an agency, department or institution of the state, or any county, municipality or other political subdivision of the state, then the entire facility will be considered to be a government building for the purposes of this definition. The term "government building" shall not include any building owned or leased by the state institutions of higher learning or the public community and junior colleges or any space in a government building used by law enforcement officers. (c) "University or college classroom building" means any building used by the state institutions of higher learning or the public community and junior colleges exclusively for student instructional purposes. The term includes classrooms, auditoriums, theaters, laboratories, hallways and restrooms. Smoking policies applicable in the private offices of faculty and staff and other "smoking permitted" space may be determined by each academic and administrative department. (2) No person shall smoke in any government building, except as follows: The State Veterans Affairs Board may designate smoking areas in the state veterans homes operated by the board in which smoking will be permitted. (3) No person shall smoke in any university or college classroom building. (4) The person, agency or entity...
97-32-29. Use of tobacco by adults on certain educational property prohibited; penalties for violation. No person shall use any tobacco product on any educational property as defined in Section 97-32-27. Any adult who violates this section shall be subject to a fine and shall be liable as follows: (a) for a first conviction, a warning; (b) for a second conviction, a fine of Seventy-five dollars ($75.00); and (c) for all subsequent convictions, a fine not to exceed One Hundred Fifty dollars ($150.00) shall be imposed. Any adult found in violation of this section shall be issued a citation by a law enforcement officer, which citation shall include notice of the date, time and location for hearing before the justice court having jurisdiction where the violation is alleged to have occurred. For the purposes of this section, "subsequent convictions" are for violations committed on any educational property within the State of Mississippi. Anyone convicted under this article shall be recorded as being fined for a civil violation of this article and not for violating a criminal statute. It is the responsibility of all law enforcement officers and law enforcement agencies of this state to ensure that the provisions of this article are enforced.

71-7-33. Requirement of abstention from use of tobacco products during nonworking hours as condition of employment prohibited. It shall be unlawful for any public or private employer to require as a condition of employment that any employee or applicant for employment abstain from smoking or using tobacco products during nonworking hours, provided that the individual complies with applicable laws or policies regulating smoking on the premises of the employer during working hours.

41-114-1. Use of tobacco by participant or spectator when persons under eighteen years of age are engaged in organized athletic event at public facility prohibited; exceptions, enforcement penalties. (1) As used in this section: (a) The term "public facility" means any building, gymnasium, athletic field, recreational area or park to which the public is invited, whether there is charge for admission or not. (b) The term "smoke" or "smoking" means inhaling, exhalng, burning, carrying or otherwise possessing any lighted cigarette, cigar, pipe or any other object or device of any form that contains lighted tobacco or any other smoking product. (2) During any time that persons under eighteen (18) years of age are engaged in an organized athletic event at a public facility in Mississippi, no participant in or spectator of the athletic event shall smoke in the facility, if the facility is enclosed, or within one hundred (100) feet of the facility, if the facility is not enclosed, except as permitted under subsection (3)(c) of this section. (3) The person, agency or entity having jurisdiction or supervision over a public facility shall not allow smoking at the facility in violation of this section, and shall use reasonable efforts to prevent smoking at the facility. The person, agency or entity may take the following steps: (a) Posting appropriate signs informing persons that smoking is prohibited at the public facility. (b) Securing the removal of persons who smoke at the public facility in violation of this section. (c) Providing a designated area separate from the fields of activity, to which smoking shall be restricted. (4) Any person who violates this section shall, upon conviction, be subject to a civil fine and shall be liable as follows: (a) For a first conviction, a warning; (b) For a second conviction, a fine of Seventy-five Dollars ($75.00); and (c) For all later convictions, a fine not to exceed One Hundred Fifty Dollars ($150.00). Anyone convicted under this section shall be recorded as being guilty of a civil penalty and not for violating a criminal statute. Any such violation shall be triable in any justice court or municipal court with proper jurisdiction. (5) It is the responsibility of all law enforcement officers and law enforcement agencies of this state to ensure that the provisions of this section are enforced. (6) If the actions of a person violate both this section and Section 97-32-29, the person shall be liable only under this section or Section 97-32-29, but not under both sections.

290.145. Discrimination, refusal to hire or discharge employee for alcohol or tobacco use not during working hours, prohibited, exception — not cause for legal actions. It shall be an improper employment practice for an employer to refuse to hire, or to discharge, any individual, or to otherwise disadvantage any individual, with respect to compensation, terms or conditions of employment because the individual uses lawful alcohol or tobacco products off the premises of the employer during hours such individual is not working for the employer, unless such use interferes with the duties and performance of the employee, the employee's coworkers, or the overall operation of the employer's business; except that, nothing in this section shall prohibit an employer from providing or contracting for health insurance benefits at a reduced premium rate or at a reduced deductible level for employees

(1) For purposes of this section, "lawful product" means a product that is legally consumed, used, or enjoyed and includes food, beverages, and tobacco.

(2) Except as provided in subsections (3) and (4), an employer may not refuse to employ or license and may not discriminate against an individual with respect to compensation, promotion, or the terms, conditions, or privileges of employment because the individual legally uses a lawful product off the employer's premises during nonworking hours.

(3) Subsection (2) does not apply to: (a) use of a lawful product, including the use of marijuana for a debilitating medical condition as defined in 50-46-302; that: (i) affects in any manner an individual's ability to perform job-related employment responsibilities or the safety of other employees; or (ii) conflicts with a bona fide occupational qualification that is reasonably related to the individual's employment; (b) an individual who, on a personal basis, has a professional service contract with an employer and the unique nature of the services provided authorizes the employer, as part of the service contract, to limit the use of certain products; or (c) an employer that is a nonprofit organization that, as one of its primary purposes or objectives, discourages the use of one or more lawful products by the general public.

(4) An employer does not violate this section if the employer takes action based on the belief that the employer's actions are permissible under an established substance abuse or alcohol program or policy, professional contract, or collective bargaining agreement.

(5) An employer may offer, impose, or have in effect a health, disability, or life insurance policy that makes distinctions between employees for the type or price of coverage based on the employees' use of a product if: (a) differential rates assessed against employees reflect actuarially justified differences in providing employee benefits; (b) the employer provides an employee with written notice delineating the differential rates used by the employer's insurance carriers; and (c) the distinctions in the type or price of coverage are not used to expand, limit, or curtail the rights or liabilities of a party in a civil cause of action.

### 50-40-103. Definitions.

As used in this part, the following definitions apply:

1. "Bar" means an establishment with a license issued pursuant to Title 16, chapter 4, that is devoted to serving alcoholic beverages for consumption by guests or patrons on the premises and in which the serving of food is only incidental to the service of alcoholic beverages or gambling operations, including but not limited to taverns, night clubs, cocktail lounges, and casinos.

2. "Department" means the department of public health and human services provided for in 2-15-2201.

3. "Enclosed public place" means an indoor area, room, or vehicle that the general public is allowed to enter or that serves as a place of work, including but not limited to the following: (a) restaurants; (b) stores; (c) public and private office buildings and offices, including all office buildings and offices of political subdivisions, as provided for in 50-40-201, and state government; (d) trains, buses, and other forms of public transportation; (e) health care facilities; (f) auditoriums, arenas, and assembly facilities; (g) meeting rooms open to the public; (h) bars; (i) community college facilities; (j) facilities of the Montana university system; and (k) public schools, as provided for in 20-1-220 and 50-40-104.

4. "Establishment" means an enterprise under one roof that serves the public and for which a single person, agency, corporation, or legal entity is responsible.

5. "Incidental to the service of alcoholic beverages or gambling operations" means that at least 60% of the business's annual gross income comes from the sale of alcoholic beverages or gambling receipts, or both.

6. "Person" means an individual, partnership, corporation, association, political subdivision, or other entity.

7. "Place of work" means an enclosed room where one or more individuals work.

8. "Smoking" or "to smoke" includes the act of lighting, smoking, or carrying a lighted cigar, cigarette, pipe, or any smokable product, including marijuana intended for medical use as provided for in Title 50, chapter 46.

### 50-40-104. Smoking in enclosed public places prohibited — notice to public — places where prohibition inapplicable.

(1) Except as otherwise provided in this section, smoking in an enclosed public place is prohibited.

(2) The proprietor or manager of an establishment containing enclosed public places shall post a sign in a conspicuous place at all public entrances to the establishment stating, in a manner that can be easily read and understood, that smoking in the enclosed public place is prohibited.

(3) The proprietor or manager of an intrastate bus that is not chartered shall prohibit smoking in all parts of the bus.

(4) The prohibition in subsection (1) does not apply to the following places, whether or not the public is allowed access to those places: (a) a private residence unless it is used for any of the following purposes, in which case the prohibition in subsection (1) applies: (i) a family day-care home or group day-care home, as defined in 52-2-703 and licensed pursuant to Title 52, chapter 2, part 7; (ii) an adult foster care home, as defined in 50-5-101 and licensed pursuant to...
50-40-115. Penalties. (1) It is unlawful for a person to smoke in any area where smoking is prohibited under 20-1-220 or 50-40-104. A person who violates 20-1-220 or 50-40-104 is guilty of a misdemeanor and shall be subject to a fine of not less than $25 or more than $100. (2) A person who owns, manages, operates, or otherwise controls a public place or place of employment and who fails to comply with the provisions of Title 50, chapter 40, is guilty of a misdemeanor after a third violation within a 3-year period and shall be warned, reprimanded, or punished as follows: (a) a warning for the first violation; (b) a written reprimand for a second violation; and (c) within any 3-year period, a fine of: (i) $100 for a third violation; (ii) $200 for a fourth violation; and (iii) $500 for a fifth or subsequent violation. (3) Penalties imposed under this section may not be considered by the department of revenue for the purposes of 16-4-401 or by the department of justice for the purposes of 23-5-119, 23-5-177, or 23-5-611(1)(a) or (1)(c). History: En. Sec. 8, Ch. 268, L. 2005. Compiler's Comments: Preamble: The preamble attached to Ch. 268, L. 2005, provided: "WHEREAS, numerous studies have found that tobacco smoke is a major contributor to indoor air pollution and that breathing secondhand smoke, also known as environmental tobacco smoke, is a cause of disease in healthy nonsmokers, including diseases such as heart disease, stroke, respiratory disease, and lung cancer; and WHEREAS, the National Cancer Institute determined in 1999 that secondhand smoke is responsible for the early deaths of up to 65,000 Americans annually; and WHEREAS, The National Toxicology Program of the U.S. Department of Health and Human Services has listed secondhand smoke as a known carcinogen; and WHEREAS, a study of hospital admissions for acute myocardial infarction in Helena, Montana, before, during, and after a local ordinance eliminating smoking in workplaces and public places was in effect, has determined that laws to enforce smoke-free workplaces and public places may be associated with a reduction in morbidity from heart disease; and WHEREAS, the U.S. Surgeon General has determined that the simple separation of smokers and nonsmokers within the same air space may reduce, but does not eliminate, the exposure of nonsmokers to secondhand smoke; and WHEREAS, the Environmental Protection Agency has determined, as of the introduction date of this bill, that secondhand smoke cannot be reduced to safe levels in businesses by high rates of ventilation and that air cleaners, which are only capable of filtering the particulate matter and odors in smoke, do not eliminate the known toxins in secondhand smoke; and WHEREAS, it has been determined by the Centers for Disease Control and Prevention that the risk of acute myocardial infarction and coronary heart disease associated with exposure to tobacco smoke is nonlinear at low doses, increasing rapidly with relatively small doses, such as those received from secondhand smoke or actively smoking one or two cigarettes a day; and WHEREAS, the Centers for Disease Control and Prevention warns that all patients at increased risk of coronary heart disease or with known coronary artery disease should avoid all indoor environments that permit smoking; and WHEREAS, numerous economic analyses examining restaurant and hotel receipts and controlling for economic variables have shown either no difference or a positive economic impact after enactment of laws requiring workplaces to be smoke-free; and WHEREAS, smoking is a potential cause of fires, and cigarette and cigar burns and ash stains on merchandise and fixtures cause economic damage to businesses; and WHEREAS, creation of smoke-free workplaces is sound economic policy and provides the maximum level of employee health and safety." Nonseverability: Section 13, Ch. 268, L. 2005, was a nonseverability clause.

20-1-220. Use of tobacco product in public school building or on public school property prohibited. (1) An individual may not use a tobacco product in a public school building or on public school property. (2) Subsection (1) does not apply to the use of a tobacco product in a classroom or on other school property as part of a lecture, demonstration, or educational forum sanctioned by a school administrator or faculty member concerning the risks associated with use of a tobacco product. (3) The principal of an elementary or secondary school, or the principal's designee, may enforce this section. (4) A violation of this section is subject to the penalties provided in 50-40-115. (5) For the purposes of this section, the following definitions apply: (a) "Public school building" or "public school property": (i) means public land, fixtures, buildings, or other property owned or occupied by an institution for the teaching of minor children that is established and maintained under the laws of the state of Montana at public expense; and (ii) includes school playgrounds, school steps, parking lots, administration buildings, athletic facilities, gymnasiums, locker rooms, and school buses. (b) "Tobacco product" means a substance intended for human consumption that contains tobacco, including cigarettes, cigars,
Nebraska

28-106 Misdemeanors; classification of penalties; sentences; where served. (1) For purposes of the Nebraska Criminal Code and any statute passed by the Legislature after the date of passage of the code, misdemeanors are divided into seven classes which are distinguished from one another by the following penalties which are authorized upon conviction: Class I misdemeanor ....... Maximum — not more than one year imprisonment, or one thousand dollars fine, or both Minimum — none Class II misdemeanor ....... Maximum — six months imprisonment, or one thousand dollars fine, or both Minimum — none Class III misdemeanor ....... Maximum — three months imprisonment, or five hundred dollars fine, or both Minimum — none Class IIIA misdemeanor ....... Maximum — seven days imprisonment, or five hundred dollars fine, or both Minimum — none Class IV misdemeanor ....... Maximum — no imprisonment, five hundred dollars fine Minimum — one hundred dollars fine Class V misdemeanor ....... Maximum — no imprisonment, one hundred dollars fine Minimum — none Class W misdemeanor ....... Driving under the influence or implied consent First conviction Maximum — sixty days imprisonment and five hundred dollars fine Mandatory minimum — seven days imprisonment and five hundred dollars fine Second conviction Maximum — six months imprisonment and five hundred dollars fine Mandatory minimum — thirty days imprisonment and five hundred dollars fine Third conviction Maximum — one year imprisonment and one thousand dollars fine Mandatory minimum — ninety days imprisonment and one thousand dollars fine (2) Sentences of imprisonment in misdemeanor cases shall be served in the county jail, except that in the following circumstances the court may, in its discretion, order that such sentences be served in institutions under the jurisdiction of the Department of Correctional Services: (a) If the sentence is for a term of one year upon conviction of a Class I misdemeanor; (b) If the sentence is to be served concurrently or consecutively with a term for conviction of a felony; or (c) If the Department of Correctional Services has certified as provided in section 28-105 as to the availability of facilities and programs for short-term prisoners and the sentence is for a term of six months or more.

71-5729 Smoking in place of employment or public place prohibited. Except as otherwise provided in section 71-5730, it is unlawful for any person to smoke in a place of employment or a public place.

71-5724 Place of employment, defined. Place of employment means an indoor area under the control of a proprietor that an employee accesses as part of his or her employment without regard to whether the employee is present or work is occurring at any given time. The indoor area includes, but is not limited to, any work area, employee breakroom, restroom, conference room, meeting room, classroom, employee cafeteria, and hallway. A private residence is a place of employment when such residence is being used as a licensed child care program and one or more children who are not occupants of such residence are present.

71-5732 Department of Health and Human Services; local public health department; enjoin violations; retaliation prohibited; waiver of act. (1) The Department of Health and Human Services or a local public health department as defined in section 71-1626 may institute an action in any court with jurisdiction to enjoin a violation of the Nebraska Clean Indoor Air Act. Any interested party may report possible violations of the act to such departments. (2) No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, or customer because such employee, applicant, or customer reports or attempts to report a violation of the act. (3) The Department of Health and Human Services may waive provisions of the Nebraska Clean Indoor Air Act upon good cause shown and shall provide for appropriate protection of the public health and safety in the granting of such waivers.

71-5733 Prohibited acts; penalties; act of employee or agent; how construed. (1) 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 a Class V misdemeanor for the first offense and a Class IV misdemeanor for the second and any subsequent offenses. A person charged with such offense may voluntarily participate, at his or her own expense, in a smoking cessation program approved by the Department of Health and Human Services, and such charge shall be dismissed upon successful completion of the program. (2) A proprietor who fails, neglects, or refuses to perform a duty under the Nebraska Clean Indoor Air Act is guilty of a Class V misdemeanor for the first offense and a Class IV misdemeanor for the second and any subsequent offenses. (3) Each day that a violation continues to exist shall constitute a separate and distinct violation. (4) Every act or omission constituting a violation of the Nebraska Clean Indoor Air Act by an employee or agent of a proprietor is deemed to be the act or omission of such proprietor, and such proprietor shall be subject to the same penalty as if the act or omission had been committed by such proprietor.
202.2483 Smoking tobacco: Prohibited in certain areas; voluntary creation of nonsmoking areas; local regulation; posting of paraphernalia; enforcement; retaliation prohibited. 1. Except as otherwise provided in subsection 3, smoking tobacco in any form is prohibited within indoor places of employment including, but not limited to, the following: (a) Child care facilities; (b) Movie theatres; (c) Video arcades; (d) Government buildings and public places; (e) Malls and retail establishments; (f) All areas of grocery stores; and (g) All indoor areas within restaurants. 2. Without exception, smoking tobacco in any form is prohibited within school buildings and on school property. 3. Smoking tobacco is not prohibited in: (a) Areas within casinos where loitering by minors is already prohibited by state law pursuant to NRS 463.350; (b) Stand-alone bars, taverns and saloons; (c) Strip clubs or brothels; (d) Retail tobacco stores; and (e) Private residences, including private residences which may serve as an office workplace, except if used as a child care, an adult day care or a health care facility; and (f) The area of a convention facility in which a meeting or trade show is being held, during the time the meeting or trade show is occurring, if the meeting or trade show: (1) Is not open to the public; (2) Is being produced or organized by a business relating to tobacco or a professional association for convenience stores; and (3) Involves the display of tobacco products. 4. In areas or establishments where smoking is not prohibited by this section, nothing in state law shall be construed to prohibit the owners of said establishments from voluntarily creating nonsmoking sections or designating the entire establishment as smoke free. 5. Nothing in state law shall be construed to restrict local control or otherwise prohibit a county, city or town from adopting and enforcing local tobacco control measures that meet or exceed the minimum applicable standards set forth in this section. 6. No Smoking signs or the international No Smoking symbol shall be clearly and conspicuously posted in every public place and place of employment where smoking is prohibited by this section. Each public place and place of employment where smoking is prohibited shall post, at every entrance, a conspicuous sign clearly stating that smoking is prohibited. All ashtrays and other smoking paraphernalia shall be removed from any area where smoking is prohibited. 7. Health authorities, police officers of cities or towns, sheriffs and their deputies shall, within their respective jurisdictions, enforce the provisions of this section and shall issue citations for violations of this section pursuant to NRS 202.2492 and NRS 202.24925. 8. No person or employer shall retaliate against an employee, applicant or customer for exercising any rights afforded by, or attempts to prosecute a violation of, this section. 9. For the purposes of this section, the following terms have the following definitions: (a) Casino means an entity that contains a building or large room devoted to gambling games or wagering on a variety of events. A casino must possess a nonrestricted gaming license as described in NRS 463.0177 and typically uses the word casino as part of its proper name. (b) Child care facility has the meaning ascribed to it in NRS 432A.024. (c) Completely enclosed area means an area that is enclosed on all sides by any combination of solid walls, windows or doors that extend from the floor to the ceiling. (d) Government building means any building or office space owned or occupied by: (1) Any component of the Nevada System of Higher Education and used for any purpose related to the System; (2) The State of Nevada and used for any public purpose; or (3) Any county, city, school district or other political subdivision of the State and used for any public purpose. (e) Health authority has the meaning ascribed to it in NRS 202.2485. (f) Incidental food service or sales means the service of prepackaged food items including, but not limited to, peanuts, popcorn, chips, pretzels or any other incidental food items that are exempt from food licensing requirements pursuant to subsection 2 of NRS 446.870. (g) Place of employment" means any enclosed area under the control of a public or private employer which employees frequent during the course of employment including, but not limited to, work areas, restrooms, hallways, employee lounges, cafeterias, conference and meeting rooms, lobbies and reception areas. (h) Public places means any enclosed areas to which the public is invited or in which the public is permitted. (i) Restaurant means a business which gives or offers for sale food, with or without alcoholic beverages, to the public, guests or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. (j) Retail tobacco store means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental. (k) School building means all buildings on the grounds of any public school described in NRS 388.020 and any private school as defined in NRS 394.103. (l) School property means the grounds of any public school described in NRS 388.020 and any private school as defined in NRS 394.103. (m) Stand-alone bar, tavern or saloon means an establishment devoted primarily to the sale of alcoholic beverages to be consumed on the premises, in which food service is incidental to its operation, and provided that smoke from such establishments does not infiltrate into areas where smoking is prohibited under the provisions of this section. In addition, a stand-alone bar, tavern or saloon must be housed in either: (1) A physically independent building that does not share a common entryway or indoor area with a restaurant, public place or any other indoor workplaces where smoking is prohibited by this section; or (2) A completely enclosed area of a larger structure, such as a strip mall or an airport, provided that indoor windows must remain shut at all times and doors must remain closed when not actively in use.
the Account. 5. All claims against the Account for Health Education for Minors, after deducting any applicable charges, must be credited to education for Public Instruction: (a) Shall administer the Account for Health Education for Minors; and (b) May, collected pursuant to this section with the State Treasurer for credit to the Account for Health education for Minors, which is hereby created in
the civil penalty, and may commence a civil proceeding for that purpose; and (b) Deposit any money within whose jurisdiction a violation of NRS 202.2491 or 202.24915 is committed shall:
202.2491 Smoking tobacco: Civil penalty; Account for Health Education for Minors created; administration of Account. 1. In addition to any criminal penalty, a person who violates NRS 202.2491 or 202.24915 is liable for a civil penalty of $100 for each violation. 2. A health authority
for any public purpose, other than that used by the Department of Corrections to house or provide other services to offenders. (3) Any county, city, school district or other political
means any building or office space owned or occupied by: (1) Any component of the Nevada System of Higher Education and used for any purpose related to the System. (2) The State of Nevada and used for any public purpose, other than a chartered bus, or in any maintenance facility or office associated with a bus system operated by any regional transportation commission. (h) School bus. (i) Video arcade. 2. The person in control of an area listed in paragraph (c), (d), (e) or (g) of subsection 1: (a) Shall post in the area signs prohibiting smoking in any place not designated for that purpose as provided in paragraph (b). (b) May designate separate rooms or portions of the area which may be used for smoking, except for a room or portion of the area of a store described in paragraph (e) of subsection 1 if the room or portion of the area: (1) Is leased to or operated by a person licensed pursuant to NRS 463.160; and (2) Does not otherwise qualify for an exemption set forth in NRS 202.24915. 3. The person in control of a public building: (a) Shall post in the area signs prohibiting smoking in any place not designated for that purpose as provided in paragraph (b). (b) Shall, except as otherwise provided in this subsection, designate a separate area which may be used for smoking. A school district which prohibits the use of tobacco by pupils need not designate an area which may be used by the pupils to smoke. 4. The operator of a restaurant with a seating capacity of 50 or more shall maintain a flexible nonsmoking area within the restaurant and offer each patron the opportunity to be seated in a smoking or nonsmoking area. 5. A business which derives more than 50 percent of its gross receipts from the sale of alcoholic beverages or 50 percent of its gross receipts from gaming operations may be designated as a smoking area in its entirety by the operator of the business. 6. The smoking of tobacco is not prohibited in: (a) Any room or area designated for smoking pursuant to paragraph (b) of subsection 2 or paragraph (b) of subsection 3. (b) A licensed gaming establishment. A licensed gaming establishment may designate separate rooms or areas within the establishment which may or may not be used for smoking. 7. As used in this section: (a) Child care facility means an establishment operated and maintained to furnish care on a temporary or permanent basis, during the day or overnight, to five or more children under 18 years of age, if compensation is received for the care of any of those children. The term does not include the home of a natural person who provides child care. (b) Licensed gaming establishment has the meaning ascribed to it in NRS 463.0169. (c) Public building means any building or office space owned or occupied by: (1) Any component of the Nevada System of Higher Education and used for any purpose related to the System. (2) The State of Nevada and used for any public purpose, other than that used by the Department of Corrections to house or provide other services to offenders. (3) Any county, city, school district or other political subdivision of the State and used for any public purpose. If only part of a building is owned or occupied by an entity described in this paragraph, the term means only that portion of the building which is so owned or occupied. (d) School bus has the meaning ascribed to it in NRS 483.160. (e) Video arcade means a facility legally accessible to persons under 18 years of age which is intended primarily for the use of pinball and video machines for amusement and which contains a minimum of 10 such machines. 202.24925 Smoking tobacco: Civil penalty; Account for Health Education for Minors created; administration of Account. 1. In addition to any criminal penalty, a person who violates NRS 202.2491 or 202.24915 is liable for a civil penalty of $100 for each violation. 2. A health authority within whose jurisdiction a violation of NRS 202.2491 or 202.24915 is committed shall: (a) Collect the civil penalty, and may commence a civil proceeding for that purpose; and (b) Deposit any money collected pursuant to this section with the State Treasurer for credit to the Account for Health Education for Minors, which is hereby created in the State General Fund. 3. The Superintendent of Public Instruction: (a) Shall administer the Account for Health Education for Minors; and (b) May, with the advice of the State Health Officer, expend money in the Account only for programs of education for minors regarding human health. 4. The interest and income earned on the money in the Account for Health Education for Minors, after deducting any applicable charges, must be credited to the Account. 5. All claims against the Account for Health Education for Minors must be paid as other.
613.333 Unlawful employment practices: Discrimination for lawful use of any product outside premises of employer which does not adversely affect job performance or safety of other employees. 1. It is an unlawful employment practice for an employer to: (a) Fail or refuse to hire a prospective employee; or (b) Discharge or otherwise discriminate against any employee concerning the employee's compensation, terms, conditions or privileges of employment, because the employee engages in the lawful use in this state of any product outside the premises of the employer during the employee's nonworking hours, if that use does not adversely affect the employee's ability to perform his or her job or the safety of other employees. 2. An employee who is discharged or otherwise discriminated against in violation of subsection 1 or a prospective employee who is denied employment because of a violation of subsection 1 may bring a civil action against the employer who violates the provisions of subsection 1 and obtain: (a) Any wages and benefits lost as a result of the violation; (b) An order of reinstatement without loss of position, seniority or benefits; (c) An order directing the employer to offer employment to the prospective employee; and (d) Damages equal to the amount of the lost wages and benefits. 3. The court shall award reasonable costs, including court costs and attorney's fees to the prevailing party in an action brought pursuant to this section. 4. The remedy provided for in this section is the exclusive remedy for an action brought pursuant to this section.

New Hampshire

275:37-a Discrimination on Basis of Using Tobacco Products Prohibited. No employer shall require as a condition of employment that any employee or applicant for employment abstain from using tobacco products outside the course of employment, as long as the employee complies with any workplace policy, pursuant to RSA 155:51-53 and, when applicable, RSA 155:64-77.

New Jersey

26:3D-57. Definitions relative to smoking, use of electronic smoking devices in indoor public places, workplaces. As used in this act: "Bar" means a business establishment or any portion of a nonprofit entity, which is devoted to the selling and serving of alcoholic beverages for consumption by the public, guests, patrons or members on the premises and in which the serving of food, if served at all, is only incidental to the sale or consumption of such beverages. "Cigar bar" means any bar, or area within a bar, designated specifically for the smoking of tobacco products, purchased on the premises or elsewhere; except that a cigar bar that is in an area within a bar shall be an area enclosed by solid walls or windows, a ceiling and a solid door and equipped with a ventilation system which is separately exhausted from the nonsmoking areas of the bar so that air from the smoking area is not recirculated to the nonsmoking areas and smoke is not backstreamed into the nonsmoking areas. "Cigar lounge" means any establishment, or area within an establishment, designated specifically for the smoking of tobacco products, purchased on the premises or elsewhere; except that a cigar lounge that is in an area within an establishment shall be an area enclosed by solid walls or windows, a ceiling and a solid door and equipped with a ventilation system which is separately exhausted from the nonsmoking areas of the establishment so that air from the smoking area is not recirculated to the nonsmoking areas and smoke is not backstreamed into the nonsmoking areas. "Electronic smoking device" means an electronic device that can be used to deliver nicotine or other substances to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, cigarillo, or pipe. "Indoor public place" means a structurally enclosed place of business, commerce or other service-related activity, whether publicly or privately owned or operated on a for-profit or nonprofit basis, which is generally accessible to the public, including, but not limited to: a commercial or other office building; office or building owned, leased or rented by the State or by a county or municipal government; public and nonpublic elementary or secondary school building; board of education building; theater or concert hall; public library; museum or art gallery; bar; restaurant or other establishment where the principal business is the sale of food for consumption on the premises, including the bar area of the establishment; garage or parking facility; any public conveyance operated on land or water, or in the air, and passenger waiting rooms and platform areas in any stations or terminals thereof; health care facility licensed pursuant to P.L. 1971, c. 136 (C. 26:2H-1 et seq.); patient waiting room of the office of a health care provider licensed pursuant to Title 45 of the Revised Statutes; child care center licensed pursuant to P.L. 1983, c. 492 (C. 30:5B-1 et seq.); race track facility; facility used for the holding of sporting events; ambulatory recreational facility; shopping mall or retail store; hotel, motel or other lodging establishment; apartment building lobby or other public area in an otherwise private building; or a passenger elevator in a building other than a single-family dwelling. "Person having control of an indoor public place or workplace" means the owner or operator of a commercial or other office building or other indoor public place from whom a workplace or space within the building or indoor public place is leased. "Smoking" means the burning of, inhaling from, exhaling the smoke from, or the possession of a lighted cigar, cigarette, pipe or any other matter or substance which contains tobacco or any other matter that can be smoked, or the inhaling or exhaling of smoke or vapor from an electronic smoking device. "Tobacco retail
26:3D-58. Smoking prohibited in indoor public place, workplace. a. Smoking is prohibited in an indoor public place or workplace, except as otherwise provided in this act. b. Smoking is prohibited in any area of any building of, or on the grounds of, any public or nonpublic elementary or secondary school, regardless of whether the area is an indoor public place or is outdoors.

26:3D-58.1. State psychiatric hospital, other facilities, prohibition of smoking, certain conditions. a. A State psychiatric hospital may prohibit smoking on its grounds, if it offers a smoking cessation program for both employees, and residents and patients, as applicable. b. The smoking cessation program shall be developed in consultation with the Commissioners of Health and Senior Services and Personnel, and shall be initiated one year prior to prohibiting smoking on its grounds and continue to be offered as long as smoking is prohibited. If a smoking cessation program required pursuant to this section was initiated prior to, and is in effect on, the effective date of this act, smoking may be prohibited one year from the date of initiation of the program. c. The Commissioner of Human Services may, by regulation, prohibit smoking on the grounds of other Human Services facilities, subject to the requirements of subsection b. of this section.

26:3D-61. Signage, requirements. a. The person having control of an indoor public place or workplace shall place in every public entrance to the indoor public place or workplace a sign, which shall be located so as to be clearly visible to the public and shall contain letters or a symbol which contrast in color with the sign, indicating that smoking is prohibited therein, except in such designated areas as provided pursuant to this act. The sign shall also indicate that violators are subject to a fine. The person having control of the indoor public place or workplace shall post a sign stating "Smoking Permitted" in letters at least one inch in height or marked by the international symbol for "Smoking Permitted" in those areas where smoking is permitted. b. The provisions of this section shall not be construed to prevent a lessee of the workplace, or space within the building or indoor public place, from enforcing the smoking restrictions imposed by the owner or operator of a commercial or other office building or other indoor public place.

26:3D-62. Violations; fines, penalties; enforcement. a. The person having control of an indoor public place or workplace shall order any person smoking in violation of this act to comply with the provisions of this act. A person, after being so ordered, who smokes in violation of this act is subject to a fine of not less than $250 for the first offense, $500 for the second offense and $1,000 for each subsequent offense. A penalty shall be recovered in accordance with the provisions of subsections c. and d. of this section. b. The Department of Health and Senior Services or the local board of health or the board, body or officers exercising the functions of the local board of health according to law, upon written complaint or having reason to suspect that an indoor public place or workplace covered by the provisions of this act is or may be in violation of the provisions of this act, shall, by written notification, advise the person having control of the place accordingly and order appropriate action to be taken. A person receiving that notice who fails or refuses to comply with the order is subject to a fine of not less than $250 for the first offense, $500 for the second offense and $1,000 for each subsequent offense. In addition to the penalty provided herein, the court may order immediate compliance with the provisions of this act. c. A penalty recovered under the provisions of this act shall be recovered by and in the name of the Commissioner of Health and Senior Services or by and in the name of the local board of health. When the plaintiff is the Commissioner of Health and Senior Services, the penalty recovered shall be paid by the commissioner into the treasury of the State. When the plaintiff is a local board of health, the penalty recovered shall be paid by the local board into the treasury of the municipality where the violation occurred. d. A municipal court shall have jurisdiction over proceedings to enforce and collect any penalty imposed because of a violation of this act if the violation has occurred within the territorial jurisdiction of the court. The proceedings shall be summary and in accordance with the "Penalty Enforcement Law of 1999," P.L. 1999, c. 274 (C. 2A:58-10 et seq.). Process shall be in the nature of a summons or warrant and shall issue only at the suit of the Commissioner of Health and Senior Services, or the local board of health, as the case may be, as plaintiff. e. The penalties provided in subsections a. and b. of this section shall be the only civil remedy for a violation of this act, and there shall be no private right of action against a party for failure to comply with the provisions of this act.

34:6B-1. Smoking, use of tobacco products shall not affect employment 1. No employer shall
refuse to hire or employ any person or shall discharge from employment or take any adverse action against any employee with respect to compensation, terms, conditions or other privileges of employment because that person does or does not smoke or use other tobacco products, unless the employer has a rational basis for doing so which is reasonably related to the employment, including the responsibilities of the employee or prospective employee.

4. Remedies. Any employee claiming to be aggrieved by any unlawful action of an employer pursuant to Section 3 of the Employee Privacy Act may bring a civil suit for damages in any district court of competent jurisdiction. The employee may be awarded all wages and benefits due up to and including the date of the judgment.

Any individual's legal recreational activities outside work hours, off of the employer's premises and without use of the employer's equipment or other property, if such activities are legal, provided, however, that this paragraph shall not apply to such persons whose employment is defined in paragraph six of subdivision (a) of section seventy-nine-h of the civil rights law, and provided further that this paragraph shall not apply to persons who would otherwise be prohibited from engaging in political activity pursuant to chapter 15 of title 5 and subchapter III of chapter 73 of title 5 of the USCA; b. an individual's legal use of consumable products prior to the beginning or after the conclusion of the employee's work hours, and off of the employer's premises and without use of the employer's equipment or other property; c. an individual's legal recreational activities outside work hours, off of the employer's premises and without use of the employer's equipment or other property; or d. an individual's membership in a union or any exercise of rights granted under Title 29, USCA, Chapter 7 or under article fourteen of the civil service law. 3. The provisions of subdivision two of this section shall not be deemed to protect activity which: a. creates a material conflict of interest related to the employer's trade secrets, proprietary information or other proprietary or business interest; b. with respect to employees of a state agency as defined in sections seventy-three and seventy-four of the public officers law respectively, is in knowing violation of subdivision two, three, four, five, seven, eight or twelve of section seventy-three or of section seventy-four of the public officers law, or of any executive order, policy, directive, or other rule which has been issued by the attorney general regulating outside employment or activities that could conflict with employees' performance of their official duties; c. with respect to employees
of any employer as defined in section twenty-seven-a of this chapter, is in knowing violation of a provision of a collective bargaining agreement concerning ethics, conflicts of interest, potential conflicts of interest, or the proper discharge of official duties; d. with respect to employees of any employer as defined in section twenty-seven-a of this chapter who are not subject to section seventy-three or seventy-four of the public officers law, is in knowing violation of article eighteen of the general municipal law or any local law, administrative code provision, charter provision or rule or directive of the mayor or any agency head of a city having a population of one million or more, where such law, code provision, charter provision, rule or directive concerns ethics, conflicts of interest, potential conflicts of interest, or the proper discharge of official duties and otherwise covers such employees; and e. with respect to employees other than those of any employer as defined in section twenty-seven-a of this chapter, violates a collective bargaining agreement or a certified or licensed professional's contractual obligation to devote his or her entire compensated working hours to a single employer, provided however that the provisions of this paragraph shall apply only to professionals whose compensation is at least fifty thousand dollars for the year nineteen hundred ninety-two and in subsequent years is an equivalent amount adjusted by the same percentage as the annual increase or decrease in the consumer price index. 4. Notwithstanding the provisions of subdivision three of this section, an employer shall not be in violation of this section where the employer takes action based on the belief either that: (i) the employer's actions were required by statute, regulation, ordinance or other governmental mandate, (ii) the employer's actions were permissible pursuant to an established substance abuse or alcohol program or workplace policy, professional contract or collective bargaining agreement, or (iii) the individual's actions were deemed by an employer or previous employer to be illegal or to constitute habitually poor performance, incompetency or misconduct. 5. Nothing in this section shall apply to persons who, on an individual basis, have a professional service contract with an employer and the unique nature of the services provided is such that the employer shall be permitted, as part of such professional service contract, to limit the off-duty activities which may be engaged in by such individual. 6. Nothing in this section shall prohibit an organization or employer from offering, imposing or having in effect a health, disability or life insurance policy that makes distinctions between employees for the type of coverage or the price of coverage based upon the employees' recreational activities or use of consumable products, provided that differential premium rates charged employees reflect a differential cost to the employer and that employers provide employees with a statement delineating the differential rates used by the carriers providing insurance for the employer, and provided further that such distinctions in type or price of coverage shall not be utilized to expand, limit or curtail the rights or liabilities of any party with regard to a civil cause of action. 7. a. Where a violation of this section is alleged to have occurred, the attorney general may apply in the name of the people of the state of New York for an order enjoining or restraining the commission or continuance of the alleged unlawful acts. In any such proceeding, the court may impose a civil penalty in the amount of three hundred dollars for the first violation and five hundred dollars for each subsequent violation. b. In addition to any other penalties or actions otherwise applicable pursuant to this chapter, where a violation of this section is alleged to have occurred, an aggrieved individual may commence an action for equitable relief and damages.

1399-o Pub. Health. Smoking restrictions. 1. Smoking shall not be permitted and no person shall smoke in the following indoor areas: a. places of employment; b. bars; c. food service establishments, except as provided in subdivision six of section thirteen hundred ninety-nine-q of this article; d. enclosed indoor areas open to the public containing a swimming pool; e. public means of mass transportation, including subways, underground subway stations, and when occupied by passengers, buses, vans, taxicabs and limousines; f. ticketing, boarding and waiting areas in public transportation terminals; g. youth centers and facilities for detention as defined in sections five hundred twenty-seven-a and five hundred three of the executive law; h. any facility that provides child care services as defined in section four hundred ten of the social services law, provided that such services provided in a private home are excluded from this subdivision when children enrolled in such day care are not present; i. child day care centers as defined in section three hundred ninety-nine of the social services law and child day care centers licensed by the city of New York; j. group homes for children as defined in section three hundred seventy-one of the social services law; k. public institutions for children as defined in section three hundred seventy-one of the social services law; l. residential treatment facilities for children and youth as defined in section 1.03 of the mental hygiene law; m. all public and private colleges, universities and other educational and vocational institutions, including dormitories, residence halls, and other group residential facilities that are owned or operated by such colleges, universities and other educational and vocational institutions, except that these restrictions shall not apply in any off-campus residential unit occupied by a person who is not enrolled as an undergraduate student in such college, university or other educational or vocational institution; n. general hospitals and residential health care facilities as defined in article twenty-eight of this chapter, and other health
North Carolina

143-597. Nonsmoking areas in State-controlled buildings. (a) All of the following areas may be designated as nonsmoking in buildings owned, leased, or occupied by State government: (1) Any library open to the public. (2) Any museum open to the public. (3) Any area established as a nonsmoking area, so long as at least twenty percent (20%) of the interior space of equal quality to that of the nonsmoking area shall be designated as a smoking area, unless physically impracticable. If physically impracticable, the person in charge of the facility shall provide an adequate smoking area within the facility as near as feasible to twenty percent (20%) of the interior space. (4) Any indoor space in a State-controlled building such as an auditorium, arena, or coliseum, or an appurtenant building thereof; except that a designated area for smoking shall be established in lobby areas. (5) Any educational buildings primarily involved in health care instruction and the grounds of those buildings. (6) Except as provided in G.S. 143-599(11), any facilities of the University of North Carolina and the grounds of those facilities. Each constituent institution, except for the North Carolina School of Science and Mathematics, shall make a reasonable effort to provide residential smoking rooms in residence halls in proportion to student demand for those rooms. For purposes of this subdivision, the term "facilities" includes all of the following: a. State-owned buildings allocated to and occupied by The University of North Carolina. b. State-owned buildings allocated to The University of North
As used in this section: (1) "Long term care and safety adopted under this Chapter. (b) Smoking is prohibited inside long resident's individual assessment and plan of care; and (2) Rules and standards relating to quality of highest practicable level of physical, emotional, and social well-being adopted pursuant to this Article or other provisions of law, every adult care home shall provide to each resident care, safety, and services necessary to enable the resident to attain and maintain the highest practicable level of physical, emotional, and social well-being in accordance with: (1) The resident's individual assessment and plan of care; and (2) Rules and standards relating to quality of care and safety adopted under this Chapter. (b) Smoking is prohibited inside long-term care facilities. As used in this section: (1) "Long-term care facilities" include adult care homes, nursing homes, skilled nursing facilities, facilities licensed under Chapter 122C of the General Statutes, and other

143-598. Prohibited acts related to nonsmoking areas. (a) No person shall smoke in a nonsmoking area in a State-controlled building or area pursuant to G.S. 143-597. (b) Any person who continues to smoke in a nonsmoking area described in this section following notice by the person in charge of the State-controlled building or area or their designee that smoking is not permitted shall be guilty of an infraction and punished by a fine of not more than twenty-five dollars ($25.00).

95-28.2. Discrimination against persons for lawful use of lawful products during nonworking hours prohibited. (a) As used in this section, "employer" means the State and all political subdivisions of the State, public and quasi-public corporations, boards, bureaus, commissions, councils, and private employers with three or more regularly employed employees. (b) It is an unlawful employment practice for an employer to fail or refuse to hire a prospective employee, or discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the prospective employee or the employee engages in or has engaged in the lawful use of lawful products if the activity occurs off the premises of the employer during nonworking hours and does not adversely affect the employee's job performance or the person's ability to properly fulfill the responsibilities of the position in question or the safety of other employees. (c) It is not a violation of this section for an employer to do any of the following: (1) Restrict the lawful use of lawful products by employees during nonworking hours if the restriction relates to a bona fide occupational requirement and is reasonably related to the employment activities. If the restriction reasonably relates to only a particular employee or group of employees, then the restriction may only lawfully apply to them. (2) Restrict the lawful use of lawful products by employees during nonworking hours if the restriction relates to the fundamental objectives of the organization. (3) Discharge, discipline, or take any action against an employee because of the employee's failure to comply with the requirements of the employer's substance abuse prevention program or the recommendations of substance abuse prevention counselors employed or retained by the employer. (d) This section shall not prohibit an employer from offering, imposing, or having in effect a health, disability, or life insurance policy distinguishing between employees for the type or price of coverage based on the use or nonuse of lawful products if each of the following is met: (1) Differential rates assessed employees reflect actuarially justified differences in the provision of employee benefits. (2) The employer provides written notice to employees setting forth the differential rates imposed by insurance carriers. (3) The employer contributes an equal amount to the insurance carrier on behalf of each employee of the employer. (e) An employee who is discharged or otherwise discriminated against, or a prospective employee who is denied employment in violation of this section, may bring a civil action within one year from the date of the alleged violation against the employer who violates the provisions of subsection (b) of this section and obtain any of the following: (1) Any wages or benefits lost as a result of the violation; (2) An order of reinstatement without loss of position, seniority, or benefits; or (3) An order directing the employer to offer employment to the prospective employee. (f) The court may award reasonable costs, including court costs and attorneys' fees, to the prevailing party in an action brought pursuant to this section.

131D-4.4. Adult care home minimum safety requirements; smoking prohibited inside long-term care facilities; penalty. (a) In addition to other requirements established by this Article or by rules adopted pursuant to this Article or other provisions of law, every adult care home shall provide to each resident the care, safety, and services necessary to enable the resident to attain and maintain the highest practicable level of physical, emotional, and social well-being in accordance with: (1) The resident's individual assessment and plan of care; and (2) Rules and standards relating to quality of care and safety adopted under this Chapter. (b) Smoking is prohibited inside long-term care facilities. As used in this section: (1) "Long-term care facilities" include adult care homes, nursing homes, skilled nursing facilities, facilities licensed under Chapter 122C of the General Statutes, and other
131E-114.3. Smoking prohibited inside long-term care facilities; penalty. (a) Except to the extent otherwise provided by federal law, smoking is prohibited inside long-term care facilities. As used in this section: (1) "Long-term care facilities" include adult care homes, nursing homes, skilled nursing facilities, facilities licensed under Chapter 122C of the General Statutes, and other licensed facilities that provide long-term care services. (2) "Smoking" means the use or possession of any lighted cigar, cigarette, pipe, or other lighted smoking product. (3) "Inside" means a fully enclosed area. (c) The person who owns, manages, operates, or otherwise controls a long-term care facility where smoking is prohibited under this section shall: (1) Conspicuously post signs clearly stating that smoking is prohibited inside the facility. The signs may include the international "No Smoking" symbol, which consists of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it. (2) Direct any person who is smoking inside the facility to extinguish the lighted smoking product. (3) Provide written notice to individuals upon admittance that smoking is prohibited inside the facility and obtain the signature of the individual or the individual's representative acknowledging receipt of the notice. (d) The Department may impose an administrative penalty not to exceed two hundred dollars ($200.00) for each violation on any person who owns, manages, operates, or otherwise controls the long-term care facility and fails to comply with subsection (c) of this section. A violation of this section constitutes a civil offense only and is not a crime.

130A-493. Smoking prohibited in State government buildings and State vehicles. (a) Notwithstanding Article 64 of Chapter 143 of the General Statutes pertaining to Statecontrolled buildings, smoking is prohibited inside State government buildings except as provided in subsection (b) of this section. (b) Smoking is permitted inside State government buildings that are used for medical or scientific research to the extent that smoking is an integral part of the research. Smoking permitted under this subsection shall be confined to the area where the research is being conducted. (c) The individual in charge of the State government building or the individual's designee shall post signs in conspicuous areas of the building. The signs shall state that "smoking is prohibited" and may include the international "No Smoking" symbol, which consists of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it. In addition, the individual in charge of the building or the individual's designee shall: (1) Direct a person who is smoking inside the building to extinguish the lighted smoking product. (2) In a State psychiatric hospital, provide written notice to individuals upon admittance that smoking is prohibited inside the building and obtain the signature of the individual or the individual's representative acknowledging receipt of the notice. (c1) Smoking is prohibited inside State vehicles. The individual or the individual's designee in charge of assigning the vehicle shall place one or more signs in conspicuous areas of the vehicle. The signs shall state that "smoking is prohibited" and may include the international "No Smoking" symbol, which consists of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it. If the vehicle is used for undercover law enforcement operations, a sign is not required to be placed in the vehicle as provided in this subsection. (d) Notwithstanding G.S. 130A-25, a violation of Article 23 of this Chapter shall not be punishable as a criminal violation.

North Dakota

23-12-09. Smoking in public places and places of employment - Definitions. In sections 23-12-09 through 23-12-11, unless the context or subject matter otherwise requires: 1. "Bar" means a retail alcoholic beverage establishment licensed under chapter 5-02 that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages. The term includes a bar located within a hotel, bowling center, restaurant, or other establishment that is not licensed primarily or exclusively to sell alcoholic beverages. "Business" means a sole proprietorship, partnership, association, joint venture, corporation, or other business entity, either for profit or not for profit, including retail establishments where goods or services are sold and professional corporations and
23-12-10.4. Responsibility of proprietors. The owner, operator, manager, or other person in control
of a public place or place of employment where smoking is prohibited by this Act shall: 1. Clearly and conspicuously post no smoking signs or the international no smoking symbol in that place. 2. Clearly and conspicuously post at every entrance to that place a sign stating that smoking is prohibited. 3. Clearly and conspicuously post on every vehicle that constitutes a place of employment under this Act at least one sign, visible from the vehicle's exterior, stating that smoking is prohibited. 4. Remove all ashtrays from any area where smoking is prohibited, except for ashtrays displayed for sale and not for use on the premises and ashtrays that are factory-installed in vehicles. By December 6, 2012, communicate to all existing employees and to all prospective employees upon their application for employment that smoking is prohibited in that place. For places under his or her control, direct a person who is smoking in violation of this Act to extinguish the product being smoked. If the person does not stop smoking, the owner, operator, manager, or employee shall refuse service and shall immediately ask the person to leave the premises. If the person in violation refuses to leave the premises, the owner, operator, manager, or employee shall immediately report the violation to an enforcement agency identified in this Act. The refusal of the person to stop smoking or leave the premises in response to requests made under this section by an owner, operator, manager, or employee shall not constitute a violation of the Act by the owner, operator, manager, or employee.

23-12-10. Smoking restrictions – Exceptions – Retaliation – Application 1. In order to protect the public health and welfare and to recognize the need for individuals to breathe smoke-free air, smoking is prohibited in all enclosed areas of: a. Public places; and b. Places of employment. 2. Smoking is prohibited within twenty feet of entrances, exits, operable windows, air intakes, and ventilation systems of enclosed areas in which smoking is prohibited. Owners, operators, managers, employers, or other persons who own or control a public place or place of employment may seek to rebut the presumption that twenty feet is a reasonable minimum distance by making application to the director of the local health department or district in which the public place or place of employment is located. The presumption will be rebutted if the applicant can show by clear and convincing evidence that, given the unique circumstances presented by the location of entrances, exits, windows that open, ventilation intakes, or other factors, smoke will not infiltrate or reach the entrances, exits, open windows, or ventilation intakes or enter into such public place or place of employment and, therefore, the public health and safety will be adequately protected by a lesser distance. 3. The following areas are exempt from subsections 1 and 2: a. Private residences, except those residences used when operating as a child care, adult day care or health care facility subject to licensure by the department of human services and when any child cared for under that license is present in that facility. b. Hotel and motel rooms, and other places of lodging, that are rented to guests and are designated as smoking rooms. c. Retail tobacco stores, provided that smoke from these places does not infiltrate into areas where smoking is prohibited under this section. d. Outdoor areas of places of employment, except a sports arena those listed in subsection two. e. Any area that is not commonly accessible to the public and which is part of an owner operated business having no employee other than the owner operator. f. Bars. g. Any place of public access rented or leased for private functions from which the general public and children are excluded and arrangements for the function are under the control of the function sponsor. h. Separately enclosed areas in truckstops which are accessible only to adults. 4. Smoking as part of a traditional American Indian spiritual or cultural ceremony is not prohibited. 5. No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, or other person because that person asserts or exercises any rights afforded by this section or reports or attempts to prosecute a violation of this section. An employee who works in a setting where an employer allows smoking does not waive or surrender any legal rights the employee may have against the employer or any other party. Violations of this subsection shall be a class B misdemeanor. 6. This section may not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws. 7. Before October 1, 2007, the office of management and budget shall develop and implement a uniform policy regarding smoking restrictions with respect to the outdoor areas near the public entrances of all buildings on the state capitol grounds. Notwithstanding any other provision of this chapter, an owner, operator, manager or other person in control of an establishment, facility, or outdoor area may declare that entire establishment, facility, or outdoor area as a nonsmoking place.

23-12-10.4. Responsibility of proprietors - Reimbursement of costs of compliance. 1. The owner, operator, manager, or other person in control of a public place or place of employment where smoking is prohibited by this Act shall: a. Clearly and conspicuously post no smoking signs or the international no smoking symbol in that place. b. Clearly and conspicuously post at every entrance to that place a sign stating that smoking is prohibited. c. Clearly and conspicuously post on every vehicle that constitutes a place of employment under this Act at least one sign, visible from the vehicle's exterior, stating that smoking is prohibited. d. Remove all ashtrays from any area where smoking is prohibited,
except for ashtrays displayed for sale and not for use on the premises. e. By December 6, 2012, communicate to all existing employees and to all prospective employees upon their application for employment that smoking is prohibited in that place. f. For places under his or her control, direct a person who is smoking in violation of this Act to extinguish the product being smoked. If the person does not stop smoking, the owner, operator, manager, or employee shall refuse service and shall immediately ask the person to leave the premises. If the person in violation refuses to leave the premises, the owner, operator, manager, or employee shall immediately report the violation to an enforcement agency identified in this Act. The refusal of the person to stop smoking or leave the premises in response to requests made under this section by an owner, operator, manager, or employee shall not constitute a violation of the Act by the owner, operator, manager, or employee. 2. The owner, operator, manager, or other person in control of a public place or place of employment where smoking is prohibited by this Act may request from the executive committee of the tobacco prevention and control advisory committee the signs necessary to comply with the signage requirements of subsection 1.

23-42-04. Powers and duties of the executive committee. 1. To implement the purpose of this chapter and, in addition to any other authority granted elsewhere in this chapter, to support its efforts and implement the comprehensive plan, the executive committee may employ staff and fix their compensation, accept grants, property, and gifts, enter contracts, make loans, provide grants, borrow money, lease property, provide direction to the state investment board for investment of the tobacco prevention and control fund, and take any action that any private individual, corporation, or limited liability company lawfully may do except as restricted by the provisions of this chapter. 2. Upon the request of the owner, operator, manager, or other person in control of the public place or place of employment where smoking is prohibited under section 23-12-10, the executive committee shall provide the signs necessary to be in compliance with the signage requirements of subsection 2 of section 23-12-10.4.

23-12-10.1. Responsibility of proprietors. The owner, operator, manager or other person in control of a public place or place of employment where smoking is prohibited by this Act shall: 1. Clearly and conspicuously post no smoking signs or the international no smoking symbol in that place. 2. Clearly and conspicuously post at every entrance to that place a sign stating that smoking is prohibited. 3. Clearly and conspicuously post on every vehicle that constitutes a place of employment under this Act at least one sign, visible from the vehicle’s exterior, stating that smoking is prohibited. 4. Remove all ashtrays from any area where smoking is prohibited, except for ashtrays displayed for sale and not for use on the premises. 5. By the effective date of this Act, communicate to all existing employees and to all prospective employees upon their application for employment that smoking is prohibited in that place. 6. For places under his or her control, direct a person who is smoking in violation of this Act to extinguish the product being smoked. If the person does not stop smoking, the owner, operator, manager or employee shall refuse service and shall immediately ask the person to leave the premises. If the person in violation refuses to leave the premises, the owner, operator, manager, or employee shall immediately report the violation to an enforcement agency identified in this Act. The refusal of the person to stop smoking or leave the premises in response to requests made under this section by an owner, operator, manager or employee shall not constitute a violation of the Act by the owner, operator, manager, or employee.

23-12-10.2. Complaints and enforcement – City and county ordinances and home rule charters. 1. State agencies with statutory jurisdiction over a state-owned building or office shall enforce section 23-12-10. These agencies include the fire marshal department, state department of health, department of human services, legislative council, and office of management and budget. The agencies may mutually agree as to the manner in which enforcement is to be accomplished and may adopt administrative rules to ensure compliance with section 23-12-10, including referral of violations to an appropriate law enforcement agency for enforcement pursuant to section 23-12-11. 2. A city or county ordinance, a city or county home rule charter, or an ordinance adopted under a home rule charter may not provide for less stringent provisions than those provided under sections 23-12-09 through 23-12-11. Nothing in this Act shall preempt or otherwise affect any other state or local tobacco control law that provides more stringent protection from the hazards of environmental tobacco secondhand smoke. This subsection does not preclude any city or county from enacting any ordinance containing penal language when otherwise authorized to do so by law. 3. The provisions of this Act shall be enforced by state’s attorneys who may ask the North Dakota attorney general to adopt administrative rules to ensure compliance with this Act. State and local law enforcement agencies may apply for injunctive relief to enforce provisions of this Act.
Ohio 3794.01 Definitions. As used in this chapter: (A) “Smoking” means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other lighted smoking device for burning tobacco or any other plant. “Smoking” does not include the burning of incense in a religious ceremony. (B) “Public place” means an enclosed area to which the public is invited or in which the public is permitted and that is not a private residence. (C) “Place of employment” means an enclosed area under the direct or indirect control of an employer that the employer’s employees use for work or any other purpose, including but not limited to, offices, meeting rooms, sales, production and storage areas, restrooms, stairways, hallways, warehouses, garages, and vehicles. An enclosed area as described herein is a place of employment without regard to the time of day or the presence of employees. (D) “Employee” means a person who is employed by an employer, or who contracts with an employer or third person to perform services for an employer, or who otherwise performs services for an employer for compensation or for no compensation. (E) “Employer” means the state or any individual, business, association, political subdivision, or other public or private entity, including a nonprofit entity, that

23-12-11. Penalty 1. An individual who smokes in an area in which smoking is prohibited under section 23-12-10 is guilty of an infraction punishable by a fine not exceeding fifty dollars. 2. An Except as otherwise provided in section 23-12-10(5), an owner or other person with general supervisory responsibility over a public place or place of employment who willfully fails to comply with section 23-12-10 is guilty of an infraction, subject to a fine not to exceed one hundred dollars for the first violation, to a fine not to exceed two hundred dollars for a second violation within one year, and a fine not to exceed five hundred dollars for each additional violation within one year of the preceding violation. 3. In addition to the fines established by this section, violation of this Act by a person who owns, manages, operates or otherwise controls a public place or place of employment may result in the suspension or revocation of any permit or license issued to the person for the premises on which the violation occurred. 4. Violations of this Act are declared to be a public nuisance that may be abated by restraining order, preliminary or permanent injunction or other means provided by law. 5. Each day on which a violation of this Act occurs shall be considered a separate and distinct violation.

23-12-12. Construction and severability. This Act shall be construed liberally so as to further its purposes. The provisions of this Act are declared to be severable. If any provision, clause, sentence, or paragraph of this Act, or its application to any person or circumstances, shall be held invalid, that invalidity shall not affect the other provisions of this Act that can be given without the invalid provision or applications.

SECTION 7. REPEAL. Section 23-12-10.3 of the North Dakota Century Code is repealed.

23-12-10.3. Exceptions – Medical necessity. 1. Notwithstanding the provisions of any other state or local law, a patient may smoke in a hospital licensed by the state or on the grounds of a hospital licensed by the state if the patient’s attending physician authorizes the activity based on medical policies adopted by the hospital organized medical staff. 2. Notwithstanding the provisions of any other state or local law, a resident of a licensed basic care facility or licensed nursing facility may smoke in the facility or on the grounds of the facility if approved by the board of the facility.

23-12-10. Smoking restrictions — Exceptions — Retaliation — Application. 1. In order to protect the public health and welfare and to recognize the need for individuals to breathe smoke-free air, smoking is prohibited in all enclosed areas of: a. Public places; and b. Places of employment. 2. The following areas are exempt from subsection 1: a. Private residences, except when operating as a child care facility subject to licensure by the department of human services and when any child cared for under that license is present in that facility. b. Hotel and motel rooms, and other places of lodging, that are rented to guests and are designated as smoking rooms. c. Retail tobacco stores, provided that smoke from these places does not infiltrate into areas where smoking is prohibited under this section. d. Outdoor areas of places of employment, except a sports arena. e. Any area that is not commonly accessible to the public and which is part of an owner-operated business having no employee other than the owner-operator. f. Bars. g. Any place of public access rented or leased for private functions from which the general public and children are excluded and arrangements for the function are under the control of the function sponsor. h. Separately enclosed areas in truckstops which are accessible only to adults. 3. Smoking as part of a traditional American Indian spiritual or cultural ceremony is not prohibited. 4. No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, or other person because that person asserts or exercises any rights afforded by this section or reports or attempts to prosecute a violation of this section. 5. This section may not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws. 6. Before October 1, 2007, the office of management and budget shall develop and implement a uniform policy regarding smoking restrictions with respect to the outdoor areas near the public entrances of all buildings on the state capitol grounds.
employes or contracts for or accepts the provision of services from one or more employees. (F)

“Enclosed Area” means an area with a roof or other overhead covering of any kind and walls or side
coverings of any kind, regardless of the presence of openings for ingress and egress, on all sides or on
all sides but one. (G) “Proprietor” means an employer, owner, manager, operator, liquor permit holder,
or person in charge or control of a public place or place of employment. (H) “Retail tobacco store”
means a retail establishment that derives more than eighty percent of its gross revenue from the sale of
cigars, cigarettes, pipes, or other smoking devices for burning tobacco and related smoking accessories
and in which the sale of other products is merely incidental. “Retail tobacco store” does not include a
tobacco department or section of a larger commercial establishment or of any establishment with a
liquor permit or of any restaurant. (I) “Outdoor patio” means 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.

3794.02 Smoking prohibitions. (A) No proprietor of a public place or place of employment, except
as permitted in section 3794.03 of this chapter, shall 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. (B) A proprietor
of a public place or place of employment 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. (C) 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 chapter. (D) No person shall refuse to immediately discontinue smoking in a
public place, place of employment, or establishment, facility or outdoor area declared nonsmoking
under section 3794.05 of this chapter when requested to do so by the proprietor or any employee of an
employer of the public place, place of employment or establishment, facility or outdoor area. (E) Lack
of intent to violate a provision of this chapter shall not be a defense to a violation.

3794.03 Areas where smoking is not regulated by this chapter. The following shall be exempt from
the provisions of this chapter: (A) Private residences, except during the hours of operation as a child
care or adult care facility for compensation, during the hours of operation as a business by a person
other than a person residing in the private residence, or during the hours of operation as a business,
when employees of the business, who are not residents of the private residence or are not related to the
owner, are present. (B) Rooms for sleeping in hotels, motels and other lodging facilities designated as
smoking rooms; provided, however, that not more than twenty percent of sleeping rooms may be so
designated. (C) Family-owned and operated places of employment in which all employees are related
to the owner, but only if the enclosed areas of the place of employment are not open to the public, are
in a free standing structure occupied solely by the place of employment, and smoke from the place of
employment does not migrate into an enclosed area where smoking is prohibited under the provisions
of this chapter. (D) Any nursing home, as defined in section 3721.10 of the Revised Code, but only to
the extent necessary to comply with section 3721.13 of the Revised Code. If indoor smoking area is
provided by a nursing home for residents of the nursing home, the designated indoor smoking area
shall be separately enclosed and separately ventilated so that tobacco smoke does not enter, through
entrances, windows, ventilation systems, or other means, any areas where smoking is otherwise
prohibited under this chapter. Only residents of the nursing home may utilize the designated indoor
smoking area for smoking. A nursing home may designate specific times when the indoor smoking
area may be used for such purpose. No employee of a nursing shall be required to accompany a
resident into a designated indoor smoking area or perform services in such area when being used for
smoking. (E) Retail tobacco stores as defined in section 3794.01 of this chapter in operation prior to
the effective date of this section. The retail tobacco store shall annually file with the department of
health by January thirty first an affidavit stating the percentage of its gross income during the prior
calendar year that was derived from the sale of cigars, cigarettes, pipes, or other smoking devices for
smoking tobacco and related smoking accessories. Any retail tobacco store that begins operation after
the effective date of this section or any existing retail tobacco store that relocates to another location
after the effective date of this section 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. (F) Outdoor patios as
defined in Section 3794.01 of this chapter. All outdoor patios shall be physically separated from an
enclosed area. If windows or doors form any part of the partition between an enclosed area and the
outdoor patio, the openings shall be closed to prevent the migration of smoke into the enclosed area. If
windows or doors do not prevent the migration of smoke into the enclosed area, the outdoor patio shall
be considered an extension of the enclosed area and subject to the prohibitions of this chapter. (G)
Private clubs as defined in section 4301.01 of the Revised Code, 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
3794.04 Construction; other applicable laws. 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 chapter 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 chapter shall be construed to permit smoking where it is otherwise restricted by other laws or regulations.

3794.05 Declaration of establishment as nonsmoking. Notwithstanding any other provision of this chapter, the owner, manager, operator, or other person in charge or control of an establishment, facility, or outdoor area which does not otherwise qualify as a public place or place of employment may declare such establishment, facility, or outdoor area as a nonsmoking place. Smoking shall be prohibited in any place declared nonsmoking under this section where a sign conforming to the requirements of section 3794.06 is posted.

3794.06 Posting of signs; prohibition of ashtrays; responsibilities of proprietors. In addition to the prohibitions contained in section 3794.02 of this chapter, the proprietor of a public place or place of employment shall comply with the following requirements: (A) “No Smoking” signs or the international “No Smoking” symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be conspicuously posted in every public place and place of employment where smoking is prohibited by this chapter, including at each entrance to the public place or place of employment. Signs shall be of sufficient size to be clearly legible to a person of normal vision throughout the areas they are intended to mark. All signs shall contain a telephone number for reporting violations. (B) All ashtrays and other receptacles used for disposing of smoking materials shall be removed from any area where smoking is prohibited by this chapter.

3794.07 Duties of the Department of Health. This chapter 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 section: (A) Promulgate rules in accordance with Chapter 119 of the Revised Code to implement and enforce all provisions of this chapter; (B) Promulgate rules in accordance with Chapter 119 of the Revised Code to prescribe a schedule of fines for violations of this chapter designed to foster compliance with the provisions of this chapter. The amount of a fine for a violation of 3794.02(A) and (B) shall not be less than one hundred dollars and the maximum for a violation shall be twenty five hundred dollars. The amount of a fine for a violation of 3794.02(D) shall be up to a maximum of one hundred dollars per violation. Each day of a violation shall constitute a separate violation. The schedule of fines that apply to a proprietor shall be progressive based on the number of prior violations by the proprietor. Violations which occurred more than two years prior to a subsequent violation shall not be considered if there has been no finding of a violation in the intervening time period. The fine schedule shall set forth specific factors that may be considered to decrease or waive the amount of a fine that otherwise would apply. Fines shall be doubled for intentional violations; (C) Promulgate rules in accordance with Chapter 119 of the Revised Code to prescribe a procedure for providing a proprietor or individual written notice of a report of a violation and the opportunity to present in writing any statement or evidence to contest the report, and prescribing procedures for making findings whether a proprietor or individual violated a provision of this chapter and for imposing fines for violations; (D) Establish a system for receiving reports of violations of the provisions of this chapter from any member of the public, including, but not limited to, by mail and one or more e-mail addresses and toll free telephone numbers exclusively for such purpose. A person shall not be required to disclose his or her identity in order to report a violation; (E) Inform proprietors of public places and places of employment of the requirements of this chapter and how to comply with its provisions, including, but not limited to, by providing printed and other materials and a toll free telephone number and e-mail address exclusively for such purposes; and (F) Design and implement a program to educate the public regarding the provisions of this chapter, including, but not limited to, through the establishment of an internet website and how a violation may be reported.
3794.08 Smoke free indoor air fund. There is hereby created in the state treasury the smoke free indoor air fund. All fines collected pursuant to this chapter and any grant, contribution, or other moneys received by the department of health for the purposes of this chapter shall be credited to the smoke free indoor air fund and used solely for the purposes of this chapter.

3794.09 Enforcement; penalties. (A) 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 chapter, the department of health or its designee shall investigate the report and, if it concludes that there was a violation, issue a warning letter to the proprietor or individual. (B) Upon a report of a second or subsequent violation of any provision of this chapter by a proprietor of a public place or place of employment or an individual, the department of health or its designee shall investigate the report. If the director of health or director’s designee concludes, based on all of the information before him or her, that there was a violation, he or she shall impose a civil fine upon the proprietor or individual in accordance with the schedule of fines required to be promulgated under section 3794.07 of this chapter. (C) Any proprietor or individual against whom a finding of a violation is made under this chapter may appeal the finding to the Franklin County Court of Common Pleas. Such appeal shall be governed by the provisions of section 119.12 of the Revised Code. (D) The director of health may institute an action in the court of common pleas seeking an order in equity against a proprietor or individual that has repeatedly violated the provisions of this chapter or fails to comply with its provisions.

Oklahoma

63-1-1523. Smoking in certain places prohibited — Exemptions. A. Except as specifically provided in the Smoking in Public Places and Indoor Workplaces Act, no person shall smoke in a public place, in any part of a zoo to which the public may be admitted, whether indoors or outdoors, in an indoor workplace, in any vehicle providing public transportation, at a meeting of a public body, in a nursing facility licensed pursuant to the Nursing Home Care Act, or in a child care facility licensed pursuant to the Oklahoma Child Care Facilities Licensing Act. A nursing facility licensed pursuant to the Nursing Home Care Act may designate smoking rooms for residents and their guests. Such rooms shall be fully enclosed, directly exhausted to the outside, and shall be under negative air pressure so that no smoke can escape when a door is opened and no air is recirculated to nonsmoking areas of the building. B. 1. Except as otherwise provided in paragraph 2 of this subsection, an educational facility which offers an early childhood education program or in which children in grades kindergarten through twelve are educated shall prohibit smoking, the use of sniff, chewing tobacco or any other form of tobacco product in the buildings and on the grounds of the facility by all persons including, but not limited to, full-time, part-time, and contract employees, during the hours of 7:00 a.m. to 4:00 p.m., during the school session, or when class or any program established for students is in session. 2. Career and technology centers may designate smoking areas outside of buildings, away from general traffic areas and completely out of sight of children under eighteen (18) years of age, for use by adults attending training courses, sessions, meetings or seminars. 3. An educational facility may designate smoking areas outside the buildings for the use of adults during certain activities or functions, including, but not limited to, athletic contests. C. Nothing in this section shall be construed to prohibit educational facilities from having more restrictive policies regarding smoking and the use of other tobacco products in the buildings or on the grounds of the facility. D. A private residence is not a "public place" within the meaning of the Smoking in Public Places and Indoor Workplaces Act except that areas in a private residence that are used as a licensed child care facility during hours of operation are "public places" within the meaning of the Smoking in Public Places and Indoor Workplaces Act. E. Smoking is prohibited in all vehicles owned by the State of Oklahoma and all of its agencies and instrumentalities. F. An employer not otherwise restricted from doing so may elect to provide smoking rooms where no work is performed except for cleaning and maintenance during the time the room is not in use for smoking, provided each smoking room is fully enclosed and exhausted directly to the outside, in such manner that no smoke can drift or circulate into a nonsmoking area. No exhaust from a smoking room shall be located within fifteen (15) feet of any entrance, exit or air intake. If smoking is to be permitted in any space exempted in subsection G of this section or in a smoking room pursuant to subsection H of this section, such smoking space must either occupy the entire enclosed indoor space or, if it shares the enclosed space with any nonsmoking areas, the smoking space shall be fully enclosed, exhausted directly to the outside with no air from the smoking space circulated to any nonsmoking area, and under negative air pressure so that no smoke can drift or circulate into a nonsmoking area when a door to an adjacent nonsmoking area is opened. Air from a smoking room shall not be exhausted within fifteen (15) feet of any entrance, exit or air intake. G. The Smoking in Public Places and Indoor Workplaces Act shall not prohibit smoking in: 1. Stand-alone bars, stand-alone taverns or cigar bars; 2. The room or rooms where licensed charitable bingo games are being operated, but only during the hours of operation of such games; 3. Up to twenty-five percent (25%) of the guest rooms at a hotel or other lodging establishment; 4. Retail tobacco stores predominantly
engaged in the sale of tobacco products and accessories and in which the sale of other products is merely incidental and in which no food or beverage is sold or served for consumption on the premises; 5. Workplaces where only the owner or operator of the workplace, or the immediate family of the owner or operator, performs any work in the workplace, and the workplace has only incidental public access; 6. Workplaces occupied exclusively by one or more smokers, if the workplace has only incidental public access. "Incidental public access" means that a place of business has only an occasional person, who is not an employee, present at the business to transact business or make a delivery. It does not include businesses that depend on walk-in customers for any part of their business; 7. Private offices occupied exclusively by one or more smokers; 8. Workplaces within private residences, except that smoking shall not be allowed inside any private residence that is used as a licensed child care facility during hours of operation; 9. A facility operated by a post or organization of past or present members of the Armed Forces of the United States which is exempt from taxation pursuant to Sections 501(c)(8), 501(c)(10) or 501(c)(19) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(8), 501(c)(10) or 501(c)(19), when such facility is utilized exclusively by its members and their families and for the conduct of post or organization nonprofit operations except during an event or activity which is open to the public; 10. Any outdoor seating area of a restaurant; provided, smoking shall not be allowed within fifteen (15) feet of any exterior public doorway or any air intake of a restaurant; and 11. Medical research or treatment centers, if smoking is integral to the research or treatment. H. Notwithstanding any other provision of the Smoking in Public Places and Indoor Workplaces Act, until March 1, 2006, restaurants may have designated smoking and nonsmoking areas or may be designated as being a totally nonsmoking area. Beginning March 1, 2006, restaurants shall be totally nonsmoking or may provide nonsmoking areas and designated smoking rooms. Food and beverage may be served in such designated smoking rooms which shall be in a location which is fully enclosed, directly exhausted to the outside, under negative air pressure so smoke cannot escape when a door is opened, and no air is recirculated to nonsmoking areas of the building. No exhaust from such room shall be located within twenty-five (25) feet of any entrance, exit or air intake. Such room shall be subject to verification for compliance with the provisions of this subsection by the State Department of Health.

63-1-1526.1. Administrative Fines — Nursing facilities and employees — Child care facilities. In addition to any other penalties authorized by law, the State Board of Health or the Department of Human Services, whichever is the appropriate entity, shall impose administrative fines against nursing facilities, employees of nursing facilities, or both, and child care facilities for violations of Section 1-1521 et seq. of Title 63 of the Oklahoma Statutes, in accordance with this section. If after a hearing in accordance with the Administrative Procedures Act, Section 250[75-250] et seq. of Title 75 of the Oklahoma Statutes, the appropriate entity as specified in this section shall find any person to be in violation of subsection A of Section 14 of this act, such person shall be subject to an administrative penalty of Fifty Dollars ($50.00) for the first offense within a one-year period, One Hundred Dollars ($100.00) for the second offense within a one-year period, and Two Hundred Dollars ($200.00) for a third or subsequent offense within a one-year period.

21-1247. Smoking in certain public areas, indoor workplaces, and educational facilities prohibited — Exemptions — Penalty. A. The possession of lighted tobacco in any form is a public nuisance and dangerous to public health and is hereby prohibited when such possession is in any indoor place used by or open to the public, all parts of a zoo to which the public may be admitted, whether indoors or outdoors, public transportation, or any indoor workplace, except where specifically allowed by law. As used in this section, "indoor workplace" means any indoor place of employment or employment-type service for or at the request of another individual or individuals, or any public or private entity, whether part-time or full-time and whether for compensation or not. Such services shall include, without limitation, any service performed by an owner, employee, independent contractor, agent, partner, proprietor, manager, officer, director, apprentice, trainee, associate, servant or volunteer. An indoor workplace includes work areas, employee lounges, restrooms, conference rooms, classrooms, employee cafeterias, hallways, any other spaces used or visited by employees, and all space between a floor and ceiling that is predominantly or totally enclosed by walls or windows, regardless of doors, doorways, open or closed windows, stairways, or the like. The provisions of this section shall apply to such indoor workplace at any given time, whether or not work is being performed. B. All buildings, or portions thereof, owned or operated by this state shall be designated as nonsmoking; provided, however, each building may have one designated smoking room. As used in this paragraph, "buildings" shall not include up to twenty-five percent (25%) of any hotel or motel rooms rented to guests if the rooms are properly ventilated so that smoke is not circulated to nonsmoking areas. C. All buildings, or portions thereof, owned or operated by a county or municipal government, at the discretion of the county or municipal governing body, may be designated as
entirely nonsmoking or may be designated as nonsmoking with one designated smoking room. D. All buildings, or portions thereof, owned by an educational facility as is defined in the Smoking in Public Places and Indoor Workplaces Act shall be designated as nonsmoking as provided for in Section 1-1523[63-1-1523] of Title 63 of the Oklahoma Statutes. All campuses, buildings and grounds, or portions thereof, owned or operated by an institution within The Oklahoma State System of Higher Education may be designated as tobacco free, including smoking or smokeless tobacco, by the institution upon adoption of a policy stating the tobacco restrictions for the institution and an intent to enforce the penalty for violations as set forth in subsection N of this section. E. A smoking room as provided for in subsections B and C of this section: 1. Shall not be used for the conduct of public business; 2. Shall be in a location which is fully enclosed, directly exhausted to the outside, under negative air pressure so smoke cannot escape when a door is opened, and no air is recirculated to nonsmoking areas of the building. No smoking exhaust shall be located within twenty-five (25) feet of any entrance, exit or air intake; and 3. Shall be verified for compliance with the provisions of this subsection by the Department of Central Services for state buildings, by a county entity designated by the board of county commissioners for county buildings, or by a municipal entity designated by the municipal governing body for municipal buildings. F. No smoking shall be allowed within twenty-five (25) feet of the entrance or exit of any building specified in subsection B, C or D of this section. G. The restrictions provided in this section shall not apply to stand-alone bars, stand-alone taverns and cigar bars as defined in Section 1-1522[63-1-1522] of Title 63 of the Oklahoma Statutes. H. The restrictions provided in this section shall not apply to the following: 1. The room or rooms where licensed charitable bingo games are being operated, but only during the hours of operation of such games; 2. Up to twenty-five percent (25%) of the guest rooms at a hotel or other lodging establishment; 3. Retail tobacco stores predominantly engaged in the sale of tobacco products and accessories and in which the sale of other products is merely incidental and in which no food or beverage is sold or served for consumption on the premises; 4. Workplaces where only the owner or operator of the workplace, or the immediate family of the owner or operator, performs any work in the workplace, and the workplace has only incidental public access. “Incidental public access” means that a place of business has only an occasional person, who is not an employee, present at the business to transact business or make a delivery. It does not include businesses that depend on walk-in customers for any part of their business; 5. Workplaces occupied exclusively by one or more smokers, if the workplace has only incidental public access; 6. Private offices occupied exclusively by one or more smokers; 7. Workplaces within private residences, except that smoking shall not be allowed inside any private residence that is used as a licensed child care facility during hours of operation; 8. Medical research or treatment centers, if smoking is integral to the research or treatment; 9. A facility operated by a post or organization of past or present members of the Armed Forces of the United States which is exempt from taxation pursuant to Section 501(c)(8), 501(c)(10) or 501(c)(19) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(8), 501(c)(10) or 501(c)(19), when such facility is utilized exclusively by its members and their families and for the conduct of post or organization nonprofit operations except during an event or activity which is open to the public; and 10. Any outdoor seating area of a restaurant; provided, smoking shall not be allowed within fifteen (15) feet of any exterior public doorway or any air intake of a restaurant. I. An employer not otherwise restricted from doing so may elect to provide smoking rooms where no work is performed except for cleaning and maintenance during the time the room is not in use for smoking, provided each smoking room is fully enclosed and exhausted directly to the outside in such a manner that no smoke can drift or circulate into a nonsmoking area. No exhaust from a smoking room shall be located within fifteen (15) feet of any entrance, exit or air intake. J. If smoking is to be permitted in any space exempted in subsection G or H of this section or in a smoking room pursuant to subsection I of this section, such smoking space must either occupy the entire enclosed indoor space or, if it shares the enclosed space with any nonsmoking areas, the smoking space shall be fully enclosed, exhausted directly to the outside with no air from the smoking space circulated to any nonsmoking area, and under negative air pressure so that no smoke can drift or circulate into a nonsmoking area when a door to an adjacent nonsmoking area is opened. Air from a smoking room shall not be exhausted within fifteen (15) feet of any entrance, exit or air intake. Any employer may choose a more restrictive smoking policy, including being totally smoke free. K. Notwithstanding any other provision of this section, until March 1, 2006, restaurants may have designated smoking and nonsmoking areas or may be designated as being a totally nonsmoking area. Beginning March 1, 2006, restaurants shall be totally nonsmoking or may provide nonsmoking areas and designated smoking rooms. Food and beverage may be served in such designated smoking rooms which shall be in a location which is fully enclosed, directly exhausted to the outside, under negative air pressure so smoke cannot escape when a door is opened, and no air is recirculated to nonsmoking areas of the building. No exhaust from such room shall be located within twenty-five (25) feet of any entrance, exit or air intake. Such room shall be subject to verification for compliance with the provisions of this subsection by the State Department of Health. L. The person
40-500. Nonsmoking as condition of employment. It shall be unlawful for an employer to: 1. Discharge any individual, or otherwise disadvantage any individual, with respect to compensation, terms, conditions or privileges of employment because the individual is a nonsmoker or smokes or uses tobacco products during nonworking hours; or 2. Require as a condition of employment that any employee or applicant for employment abstain from smoking or using tobacco products during nonworking hours.

40-503. Action for damages — Costs and attorney fees. A. The sole remedy for any individual claiming to be aggrieved by a violation of Section 11 of this act shall be a civil action for damages which shall include all wages and benefits deprived the individual by reason of the violation. B. The court shall award the prevailing party in such action court costs and reasonable attorney fees.

500. Use of tobacco products; Condition of employment A. It shall be unlawful for an employer to: 1. Discharge any individual, or otherwise disadvantage any individual, with respect to compensation, terms, conditions or privileges of employment because the individual is a nonsmoker or smokes or uses tobacco products during nonworking hours; or 2. Require as a condition of employment that any employee or applicant for employment abstain from smoking or using tobacco products during nonworking hours. B. Nothing in this section shall prohibit an employer from offering incentives to an employee to participate in wellness programs, including, but not limited to, smoking cessation programs, in conjunction with the employer providing the employee health insurance coverage.

659A.315 Restricting use of tobacco in nonworking hours prohibited; exceptions. (1) It is an unlawful employment practice for any employer to require, as a condition of employment, that any employee or prospective employee refrain from using lawful tobacco products during nonworking hours, except when the restriction relates to a bona fide occupational requirement. (2) Subsection (1) of this section does not apply if an applicable collective bargaining agreement prohibits off-duty use of tobacco products.

433.845. Smoking prohibited except in designated areas. (1) A person may not smoke or carry any lighted smoking instrument in a public place or place of employment except in areas designated as smoking areas pursuant to ORS 433.850. (2) A person may not smoke or carry any lighted smoking instrument within 10 feet of the following parts of public places or places of employment: (a) Entrances; (b) Exits; (c) Windows that open; and (d) Ventilation intakes that serve an enclosed area. (3) A person may not smoke or carry any lighted smoking instrument in a room during the time that jurors are required to use the room.

433.850. Smoke free place of employment required; exceptions; posting signs. (1) An employer shall provide a place of employment that is free of tobacco smoke for all employees. (2) Notwithstanding subsection (1) of this section: (a) The owner or person in charge of a hotel or motel may designate up to 25 percent of the sleeping rooms of the hotel or motel as rooms in which smoking is permitted. (b) Smoking of noncommercial tobacco products for ceremonial purposes is permitted in spaces designated for traditional ceremonies in accordance with the American Indian Religious Freedom Act, 42 U.S.C. 1996. (c) Smoking is permitted in a smoke shop. (d) Smoking is permitted in a cigar bar that generated on-site retail sales of cigars of at least $5,000 for the calendar year ending December 31, 2006. (e) A performer may smoke or carry a lighted smoking instrument that does not contain tobacco while performing in a scripted stage, motion picture or television production if: (A) The production is produced by an organization whose primary purpose is producing scripted productions; and (B) Smoking is an integral part of the production. (3) An employer, except in those places described in subsection (2) of this section, shall post signs that provide notice of the provisions of ORS 433.835 to 433.875.

433.855. Duties of Oregon Health Authority; rules; limitations; compliance checks. (1) The Oregon Health Authority, in accordance with the provisions of ORS chapter 183: (a) Shall adopt rules
necessary to implement the provisions of ORS 433.835 to 433.875 and 433.990(5); (b) Shall be responsible for compliance with such rules; and (c) May impose a civil penalty not to exceed $500 per day for each violation of a rule of the authority applicable to ORS 433.845 or 433.850, to be collected in the manner provided in ORS 441.705 to 441.745. All penalties recovered shall be paid into the State Treasury and credited to the Tobacco Use Reduction Account established under ORS 431.832. (2) In carrying out its duties under this section, the authority is not authorized to require any changes in ventilation or barriers in any public place or place of employment. However, nothing in this subsection is intended to limit the power of the authority to impose any requirements under any other provision of law. (3) In public places which the authority regularly inspects, the authority shall check for compliance with the provisions of ORS 433.835 to 433.875 and 433.990(5). In other public places and places of employment, the authority shall respond in writing or orally by telephone to complaints, notifying the proprietor or person in charge of responsibilities of the proprietor or person in charge under ORS 433.835 to 433.875 and 433.990(5). If repeated complaints are received, the authority may take appropriate action to ensure compliance. (4) When a county has received delegation of the duties and responsibilities under ORS 446.425 and 448.100, or contracted with the authority under ORS 190.110, the county shall be responsible for enforcing the provisions of ORS 433.835 to 433.875 and 433.990 (5) and shall have the same enforcement power as the authority.

433.990. Penalties. (1) Violation of ORS 433.004 or 433.008, 433.255, 433.260 or 433.715 is a Class A misdemeanor. (2) Violation of ORS 433.010 is a Class C felony. (3) Violation of ORS 433.035 is a Class C misdemeanor. (4) Violation of ORS 433.131 is a Class D violation. (5) Violation of ORS 433.850 is a Class A violation. Fines imposed against a single employer under this subsection may not exceed $4,000 in any 30-day period. (6) Violation of ORS 433.345 or 433.365 is a Class B violation. Failure to obey any lawful order of the Director of the Oregon Health Authority issued under ORS 433.350 is a Class C misdemeanor. (7) Any organizer, as defined in ORS 433.735, violating ORS 433.745 commits a specific fine violation punishable by a fine of not more than $10,000.

441.815. Smoking of tobacco in or near hospital prohibited. (1) As used in this section, "hospital" has the meaning given the term in ORS 442.015. (2) The administrator or person in charge of a hospital may not permit a person to smoke tobacco: (a) In the hospital; or (b) Within 10 feet of a doorway, open window or ventilation intake of the hospital. (3) The Director of the Oregon Health Authority may impose a civil penalty of not more than $500 per day on a person for violation of subsection (2) of this section. Civil penalties imposed against a person under this subsection may not exceed $2,000 in any 30-day period. Civil penalties imposed under this subsection shall be imposed in the manner provided by ORS 183.745. (4) The Oregon Health Authority may adopt rules necessary for the administration of this section.

Pennsylvania

35 P. S. § 637.3. Prohibition (a) General rule. — Except as set forth under subsection (b), an individual may not engage in smoking in a public place. Nothing in this act shall preclude the owner of a public or private property from prohibiting smoking on the property. (b) Exceptions. — Subsection (a) shall not apply to any of the following: (1) A private home, private residence or private vehicle unless the private home, private residence or private vehicle is being used at the time for the provision of child-care services, adult day-care services or services related to the care of children and youth in State or county custody. (2) Designated quarters: (i) Within a lodging establishment which are available for rent to guests accounting for no more than 25% of the total number of lodging units within a single lodging establishment; or (ii) within a full-service truck stop. (3) A tobacco shop. (4) A workplace of a manufacturer, importer or wholesaler of tobacco products; a manufacturer of tobacco-related products, including lighters; a tobacco leaf dealer or processor; or a tobacco storage facility. (5) Any of the following residential facilities: (i) A long-term care facility regulated under 42 CFR 483.15 (relating to quality of life). This subparagraph shall not apply if 42 CFR 483.15 is abrogated or expires. (ii) A separate enclosed room or designated smoking room in a residential adult care facility, community mental health care facility, drug and alcohol facility or other residential health care facility not covered under subparagraph (i). (iii) A designated smoking room in a facility which provides day treatment programs. (6) Subject to subsection (c)(2), a private club, except where the club is: (i) open to the public through general advertisement for a club sponsored event; or (ii) leased or used for a private event which is not club sponsored. (7) A place where a fundraiser is conducted by a nonprofit and charitable organization one time per year if all of the following apply: (i) The place is separate from other public areas during the event. (ii) Food and beverages are available to attendees. (iii) Individuals under 18 years of age are not permitted to attend. (iv) Cigars are sold, auctioned or given as gifts, and cigars are a feature of the event. (8) An exhibition hall, conference room, catering hall or similar facility used exclusively for an event to which the public is invited for the primary purpose of promoting or sampling tobacco products, subject to the following: (i) All of the following must be met: (A) Service of food and drink is incidental. (B) The sponsor or organizer gives notice in all
advertisements and other promotional materials that smoking will not be restricted. (C) At least 75% of all products displayed or distributed at the event are tobacco or tobacco-related products. (D) Notice that smoking will not be restricted is prominently posted at the entrance to the facility. (ii) A single retailer, manufacturer or distributor of tobacco may not conduct more than six days of a promotional event under this paragraph in any calendar year. (9) A cigar bar. (10) A drinking establishment. (11) Unless otherwise increased under this paragraph, 25% of the gaming floor at a licensed facility. No earlier than 90 days following the effective date of this section or the date of commencement of slot machine operations at a licensed facility, whichever is later, a licensed facility shall request a report from the Department of Revenue that analyzes the gross terminal revenue per slot machine unit in operation at the licensed facility within the 90-day period preceding the request. If the report shows that the average gross terminal revenue per slot machine unit in the designated smoking area equals or exceeds the average gross terminal revenue per slot machine unit in the designated nonsmoking area, the licensed facility may increase the designated smoking area of the gaming floor in proportion to the percentage difference in revenue. A licensed facility may request this report from the Department of Revenue on a quarterly basis and may increase the designated smoking area of the gaming floor accordingly. At no time may the designated smoking area exceed 50% of the gaming floor. The board shall have jurisdiction to verify the gross terminal revenues included in the report to ensure compliance with the requirements under this paragraph. Movement of the licensed facility from a temporary facility to a permanent facility shall not require the licensed facility to revert to the minimum percentage set forth under this paragraph. (12) A designated outdoor smoking area within the confines of a sports or recreational facility, theater or performance establishment. (c) Conditions and qualifications for exceptions. — (1) In order to be excepted under subsection (b), a drinking establishment, cigar bar or tobacco shop must submit a letter, accompanied by verifiable supporting documentation, to the department claiming an exception under subsection (b). Exception shall be based upon the establishment's books, accounts, revenues or receipts, including those reported to the Department of Revenue for sales tax purposes, from the previous year or stated projected annual revenues, which shall be verified within six months. (2) In order to qualify for the exception under subsection (b)(6), a private club must take and record a vote of its officers under the bylaws to address smoking in the private club's facilities.

637.4. Signage "Smoking" or "No Smoking" signs or the international "No Smoking" symbol, which consists of a pictorial representation of a burning cigarette in a circle with a bar across it, shall be prominently posted and properly maintained where smoking is regulated by this act by the owner, operator, manager or other person having control of the area. A "Smoking Permitted" sign shall be prominently posted and maintained at every entrance to a public place where smoking is permitted under this act.

637.6. Violations, affirmative defenses and penalties (a) Violations. — It is a violation of this act to do any of the following: (1) Fail to post a sign as required by section 4. (2) Permit smoking in a public place where smoking is prohibited. (b) Affirmative defenses. — Any of the following shall be an affirmative defense to a prosecution or imposition of an administrative penalty under this act: (1) When the violation occurred, the actual control of the public place was not exercised by the owner, operator or manager but by a lessee. (2) The owner, operator or manager made a good faith effort to prohibit smoking. (3) The owner, operator or manager asserting the affirmative defense shall do so in the form of a sworn affidavit setting forth the relevant information mentioned under paragraphs (1) and (2). (c) Commonwealth administrative penalties. — (1) If the department or a State licensing agency or a county board of health determines that a person has violated subsection (a), the person shall be subject to a penalty not to exceed $250. (2) If the department or a State licensing agency or a county board of health determines that a person has violated subsection (a) within one year of receiving a penalty under paragraph (1), the person shall be subject to a penalty not to exceed $500. (3) If the department or a State licensing agency or a county board of health determines that a person violated subsection (a) within one year of receiving a penalty under paragraph (2), the person shall be subject to a penalty not to exceed $1,000. (4) This subsection is subject to 2 Pa.C.S. Ch. 5 Subch. B (relating to practice and
ore than
mon areas, and smoking is
ourt
South Carolina
areas where smoking is permitted in Section 44
permitted as part of a legitimate theatrical performance.
However, smoking areas may be designated in foyers, lobbies, or other com
for taxicabs; and (7) arenas and auditoriums of public theaters or public performing art centers.
leased to other orga
the State or any of its political subdivisions, except those buildings or portions of buildings which are
buildings" means buildings or portions of buildings which are leased or operated under the control of
by the office of government having control over its respective area of
However, smoking policies in the State Capitol and Legislative Office Buildings must be determined
41
(c) Nothing contained in this chapter shall be construed to affect any other provisions of this title.
products outside the workplace must not be the basis of personnel action, including, but
23
20. Places where smoking prohibited. It is unlawful for a person to smoke or possess lighted
smoking material in any form in the following public indoor areas except where a smoking area is
exclusion does not apply if the offices and lounges
20, which are licensed pursuant to Chapter 13, Title 63; (3) health care facilities as
7
130, except where smoking are
24
20 shall conspicuously display signs designating
20, the owner, manager, or a
20
14. Prohibited condition of employment
(a) No employer or agent of any employer shall require, as a condition of employment, that any employee or prospective employee refrain from smoking or using tobacco products outside the course of his or her employment, or otherwise discriminate against any individual with respect to his or her compensation, terms, conditions or privileges of employment for smoking or using tobacco products outside the course of his or her employment. Provided, however, that the following employers shall be exempt from the provisions of this section: Any employer that is a nonprofit organization which as one of its primary purposes or objectives discourages the use of tobacco products by the general public. (b) In any civil action alleging a violation of this section, the court may: (1) Award up to three (3) times the actual damages to a prevailing employee or prospective employee; (2) Award court costs to a prevailing employee or prospective employee; (3) Afford injunctive relief against any employer who commits or proposes to commit a violation of this chapter. (c) Nothing contained in this chapter shall be construed to affect any other provisions of this title.
35 P. S. § 637.7. Retaliation prohibited A person may not discharge an employee, refuse to hire an applicant for employment or retaliate against an employee because the individual exercises a right to a smoke-free environment required under this act.
Rhode Island
23-20.10-14. Prohibited condition of employment — Smoking by employees outside course of employment. (a) No employer or agent of any employer shall require, as a condition of employment, that any employee or prospective employee refrain from smoking or using tobacco products outside the course of his or her employment, or otherwise discriminate against any individual with respect to his or her compensation, terms, conditions or privileges of employment for smoking or using tobacco products outside the course of his or her employment. Provided, however, that the following employers shall be exempt from the provisions of this section: Any employer that is a nonprofit organization which as one of its primary purposes or objectives discourages the use of tobacco products by the general public. (b) In any civil action alleging a violation of this section, the court may: (1) Award up to three (3) times the actual damages to a prevailing employee or prospective employee; (2) Award court costs to a prevailing employee or prospective employee; (3) Afford injunctive relief against any employer who commits or proposes to commit a violation of this chapter. (c) Nothing contained in this chapter shall be construed to affect any other provisions of this title.
South Carolina
41-1-85. Personnel action based on use of tobacco products outside of workplace prohibited. The use of tobacco products outside the workplace must not be the basis of personnel action, including, but not limited to, employment, termination, demotion, or promotion of an employee.
44-95-20. Places where smoking prohibited. It is unlawful for a person to smoke or possess lighted smoking material in any form in the following public indoor areas except where a smoking area is designated as provided for in this chapter: (1) public schools and preschools where routine or regular kindergarten, elementary, or secondary educational classes are held including libraries. Private offices and teacher lounges which are not adjacent to classrooms or libraries are excluded. However, this exclusion does not apply if the offices and lounges are included specifically in a directive by the local school board. This section does not prohibit school district boards of trustees from providing for a smoke-free campus; (2) all other indoor facilities providing children's services to the extent that smoking is prohibited in the facility by federal law and all other childcare facilities, as defined in Section 63-13-20, which are licensed pursuant to Chapter 13, Title 63; (3) health care facilities as defined in Section 44-7-130, except where smoking areas are designated in employee break areas. However, nothing in this chapter prohibits or precludes a health care facility from being smoke free; (4) government buildings, except health care facilities as provided for in this section, except that smoking may be allowed in enclosed private offices and designated areas of employee break areas. However, smoking policies in the State Capitol and Legislative Office Buildings must be determined by the office of government having control over its respective area of the buildings. "Government buildings" means buildings or portions of buildings which are leased or operated under the control of the State or any of its political subdivisions, except those buildings or portions of buildings which are leased to other organizations or corporations; (5) elevators; (6) public transportation vehicles, except for taxicabs; and (7) arenas and auditoriums of public theaters or public performing art centers. However, smoking areas may be designated in foyers, lobbies, or other common areas, and smoking is permitted as part of a legitimate theatrical performance.
44-95-30. Designation of smoking and nonsmoking areas in places where smoking permitted. In areas where smoking is permitted in Section 44-95-20, the owner, manager, or agent in charge of the premises or vehicle referenced in Section 44-95-20 shall conspicuously display signs designating smoking and nonsmoking areas alike, except that signs are not required in private offices.
### South Dakota

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>34-46-13</td>
<td>Terms used in this section and §§ 34-46-14 to 34-46-19, inclusive, mean: (1) &quot;Enclosed area,&quot; any space between a floor and a ceiling that is enclosed, exclusive of doorways, on all sides by permanent or temporary walls or windows; (2) &quot;Place of employment,&quot; any enclosed area under the control of a public or private employer; (3) &quot;Public place,&quot; any enclosed area to which the public is invited or in which the public is permitted.</td>
</tr>
<tr>
<td>34-46-14</td>
<td>No person may smoke tobacco or carry any lighted tobacco product in any public place or place of employment. A violation of this section is a petty offense.</td>
</tr>
<tr>
<td>34-46-15</td>
<td>Any person that owns, manages, operates, or otherwise controls a public place or place of employment shall inform persons violating § 34-46-14 of the provisions thereof. A violation of this section is a petty offense.</td>
</tr>
<tr>
<td>44-95-30</td>
<td>Designation of smoking and nonsmoking areas in places where smoking is permitted. In areas where smoking is permitted in Section 44-95-20, the owner, manager, or agent in charge of the premises or vehicle referenced in Section 44-95-20 shall conspicuously display signs designating smoking and nonsmoking areas alike, except that signs are not required in private offices.</td>
</tr>
</tbody>
</table>

### Tennessee

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>4-4-121</td>
<td>Smoking policies. (a) Smoking shall be prohibited in all buildings that are owned or operated by the state, except for those sleeping rooms in state park inns and cabins that are designated as smoking rooms or cabins. It is the intent of the general assembly that all buildings that are owned or operated by the state, other than sleeping rooms in state park inns and cabins designated for smoking, shall be completely smoke-free. (b) Smoking shall be prohibited in all motor vehicles that are owned, leased, or operated by the state. It is the intent of the general assembly that all motor vehicles that are owned, leased, or operated by the state shall be completely smoke-free.</td>
</tr>
<tr>
<td>39-17-1604</td>
<td>Places where smoking is prohibited. — Smoking is not permitted, and no person shall smoke, in the following places: (1) Child care centers; provided, that the prohibition of this section does not apply to the services provided in a private home. Adult staff members may be permitted to smoke in designated smoking areas to which children are not allowed access. However, written notification shall be given to the parent or legal guardian upon enrollment if the child care center has an indoor designated smoking area; (2) Any room or area in a community center while the room or area is being used for children's activities; (3) Group care homes. Adults may smoke in any fully enclosed adult staff residential quarters contained within a group care home, but not in the presence of children who reside as clients in the group care home; (4) Health care facilities, excluding nursing home facilities. Adult staff members may be permitted to smoke in designated smoking areas to which children are not allowed access and adults may be permitted to smoke outside the facility; (5) Museums (except when used after normal operating hours for private functions not attended by children). Adult staff members may be permitted to smoke while at work in designated smoking areas.</td>
</tr>
</tbody>
</table>
(1) This section shall not be used for frivolous lawsuits, and anyone trying to do so is subject to sanction as provided in subdivision (f)(2). (2) If any employee files a cause of action for retaliatory discharge for any improper purpose, such as to harass or to cause needless increase in costs to the employer, the court, upon motion or upon its own initiative, shall impose upon the employee an appropriate sanction, which may include an order to pay the other party or parties the amount of reasonable expenses incurred, including reasonable attorney's fees. (g) In any civil cause of

39-17-1807. Penalties. (a) A person who knowingly smokes in an area where smoking is prohibited by the provisions of this part shall be subject only to a civil penalty of fifty dollars ($50.00). (b) A person who owns, manages, operates or otherwise controls any public place where smoking is prohibited pursuant to the provisions of this part and who knowingly fails to comply with any provision of this part shall be subject to the following: (1) For a first violation in any twelve-month period, a written warning from the department of health or department of labor and workforce development, as appropriate; (2) For a second violation in any twelve-month period, a civil penalty of one hundred dollars ($100); and (3) For a third or subsequent violation in any twelve-month period, a civil penalty of five hundred dollars ($500). (c) Each day on which a knowing violation of this part occurs shall be considered a separate and distinct violation.

44-95-30. Designation of smoking and nonsmoking areas in places where smoking permitted. In areas where smoking is permitted in Section 44-95-20, the owner, manager, or agent in charge of the premises or vehicle referenced in Section 44-95-20 shall conspicuously display signs designating smoking and nonsmoking areas alike, except that signs are not required in private offices.

50-1-304. Discharge for refusal to participate in or remain silent about illegal activities, or for legal use of agricultural product — Damages — Frivolous lawsuits. (a) As used in this section: (1) "Employee" includes, but is not limited to: (A) A person employed by the state or any municipality, county, department, board, commission, agency, instrumentality, political subdivision or any other entity of the state; (B) A person employed by a private employer; or (C) A person who receives compensation from the federal government for services performed for the federal government, notwithstanding that the person is not a full-time employee of the federal government; (2) "Employer" includes, but is not limited to: (A) The state or any municipality, county, department, board, commission, agency, instrumentality, political subdivision or any other entity of the state; (B) A private employer; or (C) The federal government as to an employee who receives compensation from the federal government for services performed for the federal government, notwithstanding that the person is not a full-time federal employee; and (3) "Illegal activities" means activities that are in violation of the criminal or civil code of this state or the United States or any regulation intended to protect the public health, safety or welfare. (b) No employee shall be discharged or terminated solely for refusing to participate in, or for refusing to remain silent about, illegal activities. (c) (Deleted by 2009 amendment.) (d)(1) Any employee terminated in violation of subsection (b) shall have a cause of action against the employer for retaliatory discharge and any other damages to which the employee may be entitled. (2) Any employee terminated in violation of subsection (b) solely for refusing to participate in, or for refusing to remain silent about, illegal activities who prevails in a cause of action against an employer for retaliatory discharge for the actions shall be entitled to recover reasonable attorney fees and costs. (e)(1) No employee shall be discharged or terminated solely for participating or engaging in the use of an agricultural product not regulated by the alcoholic beverage commission that is not otherwise proscribed by law, if the employee participates or engages in the use in a manner that complies with all applicable employer policies regarding the use during times at which the employee is working. (2) No employee shall be discharged or terminated solely for participating or engaging in the use of the product not regulated by the alcoholic beverage commission that is not otherwise proscribed by law if the employee participates or engages in the activity during times when the employee is not working. (f)(1) This section shall not be used for frivolous lawsuits, and anyone trying to do so is subject to sanction as provided in subdivision (f)(2). (2) If any employee files a cause of action for retaliatory discharge for any improper purpose, such as to harass or to cause needless increase in costs to the employer, the court, upon motion or upon its own initiative, shall impose upon the employee an appropriate sanction, which may include an order to pay the other party or parties the amount of reasonable expenses incurred, including reasonable attorney's fees. (g) In any civil cause of
39-17-1803. Places where smoking is prohibited. (a) Smoking is prohibited in all enclosed public places within this state, including, but not limited to, the following places: (1) Aquariums, galleries, libraries, and museums; (2) Areas available to and customarily used by the general public in businesses and nonprofit entities patronized by the public, including, but not limited to, banks, laundromats, factories, professional offices, and retail service establishments; (3) Child care and adult day care facilities; (4) Convention facilities; (5) Educational facilities, both public and private; (6) Elevators; (7) Health care facilities; (8) Hotels and motels; (9) Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities; (10) Polling places; (11) Public and private transportation facilities, including trains, buses, taxicabs and airports under the authority of state or local governments, and ticket, boarding, and waiting areas of public transit depots; (12) Restaurants; (13) Restrooms, lobbies, reception areas, hallways, and other common-use areas; (14) Retail stores; (15) Rooms, chambers, places of meeting or public assembly, including school buildings, under the control of an agency, board, commission, committee or council of this state or a political subdivision of the state, to the extent the place is subject to the jurisdiction of the state; (16) Service lines; (17) Shopping malls; (18) Sports arenas, including enclosed public places in outdoor arenas; and (19) Theaters and other facilities primarily used for exhibiting motion pictures, stage dramas, lectures, musical recitals, or other similar performances. (b) This prohibition on smoking shall be communicated to all existing employees and to all prospective employees upon their application of employment.

Texas

48.01. SMOKING TOBACCO. (a) A person commits an offense if he is in possession of a burning tobacco product or smokes tobacco in a facility of a public primary or secondary school or an elevator, enclosed theater or movie house, library, museum, hospital, transit system bus, or intrastate bus, as defined by Section 541.201, Transportation Code, plane, or train which is a public place. (b) It is a defense to prosecution under this section that the conveyance or public place in which the offense takes place does not have prominently displayed a reasonably sized notice that smoking is prohibited by state law in such conveyance or public place and that an offense is punishable by a fine not to exceed $500. (c) All conveyances and public places set out in Subsection (a) of Section 48.01 shall be equipped with facilities for extinguishment of smoking materials and it shall be a defense to prosecution under this section if the conveyance or public place within which the offense takes place is not so equipped. (d) It is an exception to the application of Subsection (a) if the person is in possession of the burning tobacco product or smokes tobacco exclusively within an area designated for smoking tobacco or as a participant in an authorized theatrical performance. (e) An area designated for smoking tobacco on a transit system bus or intrastate plane or train must also include the area occupied by the operator of the transit system bus, plane, or train. (f) An offense under this section is punishable as a Class C misdemeanor.

Sec. 48.015. PROHIBITIONS RELATING TO CERTAIN CIGARETTES. (a) A person may not acquire, hold, own, possess, or transport for sale or distribution in this state or import or cause to be imported into this state for sale or distribution in this state: (1) cigarettes that do not comply with all applicable requirements imposed by or under federal law and implementing regulations; or (2) cigarettes to which stamps may not be affixed under Section 154.0415, Tax Code, other than cigarettes lawfully imported or brought into the state for personal use and cigarettes lawfully sold or intended to be sold as duty-free merchandise by a duty-free sales enterprise in accordance with 19 U.S.C. Section 1555(b), as amended. (b) A person who commits an act prohibited by Subsection (a), knowing or having reason to know that the person is doing so, is guilty of a Class A misdemeanor.

Utah

26-38-2. Definitions. As used in this chapter: (1) "E-cigarette": (a) means any electronic oral device: (i) that provides a vapor of nicotine or other substance; and (ii) which simulates smoking through its use or through inhalation of the device; and (b) includes an oral device that is: (i) composed of a heating element, battery, or electronic circuit; and (ii) marketed, manufactured, distributed, or sold as:
(A) an e-cigarette; (B) e-cig; (C) e-pipe; or (D) any other product name or descriptor, if the function of the product meets the definition of Subsection (1)(a). (2) "Place of public access" means any enclosed indoor place of business, commerce, banking, financial service, or other service-related activity, whether publicly or privately owned and whether operated for profit or not, to which persons not employed at the place of public access have general and regular access or which the public uses, including: (a) buildings, offices, shops, elevators, or restrooms; (b) means of transportation or common carrier waiting rooms; (c) restaurants, cafes, or cafeterias; (d) taverns as defined in Section 32B-1-102, or cabarets; (e) shopping malls, retail stores, grocery stores, or arcades; (f) libraries, theaters, concert halls, museums, art galleries, planetariums, historical sites, auditoriums, or arenas; (g) barber shops, hair salons, or laundromats; (h) sports or fitness facilities; (i) common areas of nursing homes, hospitals, resorts, hotels, motels, "bed and breakfast" lodging facilities, and other similar lodging facilities, including the lobbies, hallways, elevators, restaurants, cafeterias, other designated dining areas, and restrooms of any of these; (j) (i) any child care facility or program subject to licensure or certification under this title, including those operated in private homes, when any child cared for under that license is present; and (ii) any child care, other than child care as defined in Section 26-39-102, that is not subject to licensure or certification under this title, when any child cared for by the provider, other than the child of the provider, is present; (k) public or private elementary or secondary school buildings and educational facilities or the property on which those facilities are located; (l) any building owned, rented, leased, or otherwise operated by a social, fraternal, or religious organization when used solely by the organization members or their guests or families; (m) any facility rented or leased for private functions from which the general public is excluded and arrangements for the function are under the control of the function sponsor; (n) any workplace that is not a place of public access or a publicly owned building or office but has one or more employees who are not owner-operators of the business; (o) any area where the proprietor or manager of the area has posted a conspicuous sign stating "no smoking", "thank you for not smoking", or similar statement; and (p) a holder of a club license, as defined in Section 32B-1-102. (3) "Publicly owned building or office" means any enclosed indoor place or portion of a place owned, leased, or rented by any state, county, or municipal government, or by any agency supported by appropriation of, or by contracts or grants from, funds derived from the collection of federal, state, county, or municipal taxes. (4) "Smoking" means: (a) the possession of any lighted or heated tobacco product in any form; (b) inhaling, exhaling, burning, or heating a substance containing tobacco or nicotine intended for inhalation through a cigar, cigarette, pipe, or hookah; (c) except as provided in Section 26-38-2.6, using an e-cigarette; or (d) using an oral smoking device intended to circumvent the prohibition of smoking in this chapter.

26-38-8. Penalties. (1) A first violation of Section 26-38-3 is subject to a civil penalty of not more than $100. (2) Any second or subsequent violation of Section 26-38-3 is subject to a civil penalty of not less than $100 and not more than $500.

R392-510-9. Protection of Air Used for Ventilation. (1) Smoking is not permitted within 25 feet of any entrance-way, exit, open window, or air intake of a building where smoking is prohibited. (2) Ashtrays may be placed near entrances only if they have durable and easily readable signage indicating that the ashtray is provided for convenience only and the area around it is not a smoking area. The sign shall include a reference to the 25 foot prohibition. (3) An employer shall establish a policy to prohibit employee smoking within 25 feet of any entrance-way, exit, open window, or air intake of a building where smoking is prohibited.

R392-510-12. Signs and Public Announcements. Signs required in this section must be easily readable and must not be obscured in any way. The words "No Smoking" must be not less than 1.5 inches in height. If the international "No Smoking" symbol is used alone, it must be at least 4 inches in diameter. (1) In a place where smoking is prohibited entirely, the building owner, agent, or operator must conspicuously post a sign using the words, "No smoking is permitted in this establishment" or a similar statement, which shall also include the international no-smoking symbol, on all entrances or in a position clearly visible on entry into the place. (2) In a place where smoking is partially allowed, the building owner, agent, or operator must conspicuously post a sign using the words, "No smoking is permitted except in designated areas" or a similar statement, which shall also include the international no-smoking symbol, on all entrances or in a position clearly visible on entry into the place. (3) In a place where smoking is allowed in its entirety, the building owner, agent, or operator must conspicuously post a sign using the words, "This establishment is a smoking area in its entirety" or similar statement. (4) The building owner, agent, or operator must post a sign at all smoking-permitted areas provided for under Section 26-38-3(2)(a), (b), and (c). The sign must have the words, "smoking permitted" or similar wording and include the international smoking symbol. (5) The building owner,
18 V.S.A. § 1421. Smoking in the workplace; prohibition

(a) The use of lighted tobacco products is prohibited in any workplace. (b)(1) For the purposes of this subchapter, "workplace" means an enclosed structure where employees perform services for an employer or, in the case of an employer who assigns employees to departments, divisions, or similar organizational units, the enclosed portion of a structure to which the employee is assigned. (2) Except for schools, workplace does not include areas commonly open to the public or any portion of a structure that also serves as the employee's or employer's personal residence. (3) For schools, workplace includes any enclosed location where instruction or other school-sponsored functions are occurring and students are present. (c) Nothing in this section shall be construed to restrict the ability of residents of the Vermont veterans' home to use lighted tobacco products in the indoor area of the facility in which smoking is permitted.

18 V.S.A. § 1426. Enforcement

(a) An employee aggrieved by an employer's failure to comply with the provisions of this subchapter may file a complaint with the department of health. (b) In addition to any other authority provided by law, the commissioner of health or a hearing officer designated by the commissioner may, after notice and an opportunity for hearing, impose an administrative penalty of $100.00 against an employer who violates this chapter. The hearing before the commissioner shall be a contested case subject to the provisions of chapter 25 of Title 3 (Administrative Procedure Act).

18 V.S.A. § 1428. Municipal ordinances

Nothing in this subchapter shall be construed to supersede or in any manner affect a municipal smoking ordinance provided that the provisions of such ordinance are at least as protective of the rights of nonsmokers as the provisions of this subchapter.

18 V.S.A. § 1741. Definitions

As used in this chapter: (1) "Tobacco products" shall have the meaning given in 7 V.S.A. § 1001. (2) "A place of public access" means any place of business, commerce, banking, financial service, or other service-related activity, whether publicly or privately owned and whether operated for profit or not, to which the general public has access or which the general public uses, including buildings, offices, means of transportation, common carrier waiting rooms, arcades, restaurants, bars and cabarets, retail stores, grocery stores, libraries, theaters, concert halls, auditoriums, arenas, barber shops, hair salons, laundromats, shopping malls, museums, art galleries, sports and fitness facilities, planetariums, historical sites, common areas of nursing homes, hospitals, resorts, hotels and motels, including the lobbies, hallways, elevators, restaurants, restrooms, cafeterias, and buildings or facilities owned or operated by a social, fraternal, or religious club. (3) "Publicly owned buildings and offices" means enclosed indoor places or portions of such places owned, leased,
or rented by state, county, or municipal governments, or by agencies supported by appropriation of, or by contracts or grants from, funds derived from the collection of federal, state, county, or municipal taxes.

**18 V.S.A. § 1742. Restrictions on smoking in public places** The possession of lighted tobacco products in any form is prohibited in the common areas of all enclosed indoor places of public access and publicly owned buildings and offices.

**18 V.S.A. § 1746. Municipal ordinances** Nothing in this chapter shall be construed to supersede or in any manner affect a municipal smoking ordinance provided that the provisions of such ordinance are at least as protective of the rights of nonsmokers as the provisions of this chapter.

### Virginia

**15.2-2824. Prohibitions on smoking generally; penalty for violation.** A. Smoking shall be prohibited in (i) elevators, regardless of capacity, except in any open material hoist elevator not intended for use by the general public; (ii) public school buses; (iii) the interior of any public elementary, intermediate, and secondary school; (iv) hospital emergency rooms; (v) local or district health departments; (vi) polling rooms; (vii) indoor service lines and cashier lines; (viii) public restrooms in any building owned or leased by the Commonwealth or any agency thereof; (ix) the interior of a child day center licensed pursuant to § 63.2-1701 that is not also used for residential purposes; however, this prohibition shall not apply to any area of a building not utilized by a child day center, unless otherwise prohibited by this chapter; and (x) public restrooms of health care facilities.

B. No person shall smoke in any area or place specified in subsection A and any person who continues to smoke in such area or place after having been asked to refrain from smoking shall be subject to a civil penalty of not more than $25. C. Civil penalties assessed under this section shall be paid into the Virginia Health Care Fund established under § 32.1-366.

**15.2-2825. Smoking in restaurants prohibited; exceptions; posting of signs; penalty for violation.**

A. Effective December 1, 2009, smoking shall be prohibited and no person shall smoke in any restaurant in the Commonwealth or in any restroom within such restaurant, except that smoking may be permitted in: 1. Any place or operation that prepares or stores food for distribution to persons of the same business operation or of a related business operation for service to the public. Examples of such places or operations include the preparation or storage of food for catering services, pushcart operations, hotdog stands, and other mobile points of service; 2. Any outdoor area of a restaurant, with or without roof covering, at such times when such outdoor area is not enclosed in whole or in part by any screened walls, roll-up doors, windows or other seasonal or temporary enclosures; 3. Any restaurants located on the premises of any manufacturer of tobacco products; 4. Any portion of a restaurant that is used exclusively for private functions, provided such functions are limited to those portions of the restaurant that meet the requirements of subdivision 5; 5. Any portion of a restaurant that is constructed in such a manner that the area where smoking may be permitted is (i) structurally separated from the portion of the restaurant in which smoking is prohibited and to which ingress and egress is through a door and (ii) separately vented to prevent the recirculation of air from such area to the area of the restaurant where smoking is prohibited. At least one public entrance to the restaurant shall be into an area of the restaurant where smoking is prohibited. For the purposes of the preceding sentence, nothing shall be construed to require the creation of an additional public entrance in cases where the only public entrance to a restaurant in existence as of December 1, 2009, is through an outdoor area described in subdivision 2; and 6. Any private club.

B. For the purposes of this section: "Proprietor" means the owner, lessee or other person who ultimately controls the activities within the restaurant. The term "proprietor" includes corporations, associations, or partnerships as well as individuals. "Structurally separated" means a stud wall covered with drywall or other building material or other like barrier, which, when completed, extends from the floor to the ceiling, resulting in a physically separated room. Such wall or barrier may include portions that are glass or other gas-imperious building material. C. No individual who is wait staff or bus staff in a restaurant shall be required by the proprietor to work in any area of the restaurant where smoking may be permitted without the consent of such individual. Nothing in this subsection shall be interpreted to create a cause of action against such proprietor.

D. The proprietor of any restaurant shall: 1. Post signs stating "No Smoking" or containing the international "No Smoking" symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a bar across it, clearly and conspicuously in every restaurant where smoking is prohibited in accordance with this section; and 2. Remove all ashtrays and other smoking paraphernalia from any area in the restaurant where smoking is prohibited in accordance with this section. E. Any proprietor of a restaurant who fails to comply with the requirements of this section shall be subject to the civil penalty of not more than $25. F. No person shall smoke in any area of a restaurant in which smoking is prohibited as provided in this section. Any person who continues to smoke in such area after having been asked to refrain from...
As used in this chapter, the following terms have the meanings indicated unless the context clearly indicates otherwise. (1) "Smoke" or "smoking" means the carrying or smoking of any kind of lighted pipe, cigar, cigarette, or any other lighted smoking equipment. (2) "Public place" means that portion of any building or vehicle used by and open to the public, whether or not such building or vehicle is open to the general public or to any public or private assembly rooms while such rooms are being used for private functions; 2. Private work places; 3. Areas of enclosed shopping centers or malls that are external to the retail stores therein, are used by customers as a route of travel from one store to another, and consist primarily of walkways and seating arrangements; or 4. Lobby areas of hotels, motels, and other establishments open to the general public for overnight accommodation.

15.2-2826. Designation of "No-Smoking" areas; smoking prohibited in "No-Smoking" areas; penalty for violation. A. The proprietor or other person in charge of (i) an educational facility, except any public elementary, intermediate, or secondary school; (ii) a health care facility; (iii) a retail establishment of 15,000 square feet or more serving the general public, including, but not limited to, department stores, grocery stores, drug stores, clothing stores, and shoe stores; and (iv) recreational facilities shall designate reasonable no-smoking areas, considering the nature of the use and the size of the building. B. The proprietor or other person in charge of a space subject to the provisions of this section shall post signs conspicuous to public view stating "SMOKING PERMITTED" or "NO SMOKING." Any person failing to post such signs shall be subject to a civil penalty of not more than $25. C. No person shall smoke in a designated no-smoking area and any person who continues to smoke in such area after having been asked to refrain from smoking shall be subject to a civil penalty of not more than $25. D. Civil penalties assessed under this section shall be paid into the Virginia Health Care Fund established under § 32.1-366.

15.2-2831. Other ordinances not authorized. The provisions of §§ 15.2-2828, 15.2-2829, and 15.2-2830 shall not be construed to allow local regulation of smoking in: 1. Conference or meeting rooms and public or private assembly rooms while such rooms are being used for private functions; 2. Private work places; 3. Areas of enclosed shopping centers or malls that are external to the retail stores therein, are used by customers as a route of travel from one store to another, and consist primarily of walkways and seating arrangements; or 4. Lobby areas of hotels, motels, and other establishments open to the general public for overnight accommodation.

15.2-2833. Enforcement of ordinances. A. Any ordinance may provide a civil penalty of not more than $25 for violations of any provision of such ordinance. B. Any ordinance may provide that no person shall smoke in a designated no-smoking area and any person who continues to smoke in such area after being asked to refrain from smoking may be subject to a civil penalty of not more than $25. C. Any ordinance shall provide that any law enforcement officer may issue a summons regarding a violation of the ordinance. D. Any civil penalties assessed under this section shall be paid into the treasury of the locality where the offense occurred and shall be expended solely for public health purposes.

2.2-2902. Use of tobacco products by state employees. No employee of or applicant for employment with the Commonwealth shall be required, as a condition of employment, to smoke or use tobacco products on the job, or to abstain from smoking or using tobacco products outside the course of his employment, provided that this section shall not apply to those classes of employees to which § 27-40.1 or § 51.1-813 is applicable.

15.2-1504. Use of tobacco products by government employees. No employee of or applicant for employment with a locality or any political subdivision of the Commonwealth shall be required, as a condition of employment, to smoke or use tobacco products on the job, or to abstain from smoking or using tobacco products outside the course of his employment, provided that this section shall not apply to those classes of employees to which § 27-40.1 or § 51.1-813 are applicable.

18.2-511.1. Smoking in proximity to a medical oxygen source in a health care facility; penalty. Any person who smokes or uses an open flame within 25 feet of a medical oxygen source in a health care facility, as defined in § 15.2-2820, when the area is posted as an area where smoking and open flame are prohibited is guilty of a Class 2 misdemeanor.
regardless of whether the building or vehicle is owned in whole or in part by private persons or entities, the state of Washington, or other public entity, and regardless of whether a fee is charged for admission, and includes a presumptively reasonable minimum distance, as set forth in RCW 70.160.075, of twenty-five feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited. A public place does not include a private residence unless the private residence is used to provide licensed child care, foster care, adult care, or other similar social service care on the premises. Public places include, but are not limited to: Schools, elevators, public conveyances or transportation facilities, museums, concert halls, theaters, auditoriums, exhibition halls, indoor sports arenas, hospitals, nursing homes, health care facilities or clinics, enclosed shopping centers, retail stores, retail service establishments, financial institutions, educational facilities, ticket areas, public hearing facilities, state legislative chambers and immediately adjacent hallways, public restrooms, libraries, restaurants, waiting areas, lobbies, bars, taverns, bowling alleys, skating rinks, casinos, reception areas, and no less than seventy-five percent of the sleeping quarters within a hotel or motel that are rented to guests. A public place does not include a private residence. This chapter is not intended to restrict smoking in private facilities which are occasionally open to the public except upon the occasions when the facility is open to the public. (3) "Place of employment" means any area under the control of a public or private employer which employees are required to pass through during the course of employment, including, but not limited to: Entrances and exits to the places of employment, and including a presumptively reasonable minimum distance, as set forth in RCW 70.160.075, of twenty-five feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited; work areas; restrooms; conference and classrooms; break rooms and cafeterias; and other common areas. A private residence or home-based business, unless used to provide licensed child care, foster care, adult care, or other similar social service care on the premises, is not a place of employment.

70.160.030 Smoking prohibited in public places or places of employment. No person may smoke in a public place or in any place of employment.

70.160.050 Owners, lessees to post signs prohibiting smoking. Owners, or in the case of a leased or rented space the lessee or other person in charge, of a place regulated under this chapter shall prohibit smoking in public places and places of employment and shall post signs prohibiting smoking as appropriate under this chapter. Signs shall be posted conspicuously at each building entrance. In the case of retail stores and retail service establishments, signs shall be posted conspicuously at each entrance and in prominent locations throughout the place.

70.160.060 Intent of chapter as applied to certain private workplaces. This chapter is not intended to regulate smoking in a private enclosed workplace, within a public place, even though such workplace may be visited by nonsmokers, excepting places in which smoking is prohibited by the chief of the Washington state patrol, through the director of fire protection, or by other law, ordinance, or regulation.

70.160.070 Intentional violation of chapter — removing, defacing, or destroying required sign fine — notice of infraction — exceptions — violations of rcw 70.160.050 — fine — enforcer

Any person intentionally violating this chapter by smoking in a public place or place of employment, or person removing, defacing, or destroying a sign required by this chapter, is subject to a civil fine to one hundred dollars. Any person passing by or through a public place while on a public sidewalk public right-of-way has not intentionally violated this chapter. Local law enforcement agencies shall enforce this section by issuing a notice of infraction to be assessed in the same manner as traffic infractions. The provisions contained in chapter 46.63 RCW for the disposition of traffic infractions to the disposition of infractions for violation of this subsection except as follows: (a) The provisions of chapter 46.63 RCW relating to the provision of records to the department of licensing in accordance with RCW 46.20.270 are not applicable to this chapter; and (b) The provisions in chapter 46.63 RCW relating to the imposition of sanctions against a person’s driver’s license or vehicle license are not applicable chapter. The form for the notice of infraction for a violation of this subsection shall be prescribed by the supreme court. (2) When violations of RCW 70.160.050 occur, a warning shall first be given to the owner or other person in charge. Any subsequent violation is subject to a civil fine of up to one hundred dollars. Each day upon which a violation occurs or is permitted to continue constitutes a separate violation. (3) Local health departments shall enforce RCW 70.160.050 regarding the duties of owners of persons in control of public places and places of employment by either of the following actions: (a) Serving notice requiring the correction of any violation; or (b) Calling upon the city or town attorney or the county prosecutor or local health department attorney to maintain an action for an injunction to enforce.
70.160.075 Smoking prohibited within twenty-five feet of public places or places of employment — application to modify presumptively reasonable minimum distance. Smoking is prohibited within a presumptively reasonable minimum distance of twenty-five feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited so as to ensure that tobacco smoke does not enter the area through entrances, exits, open windows, or other means. Owners, operators, managers, employers, or other persons who own or control a public place or place of employment may seek to rebut the presumption that twenty-five feet is a reasonable minimum distance by making application to the director of the local health department or district in which the public place or place of employment is located. The presumption will be rebutted if the applicant can show by clear and convincing evidence that, given the unique circumstances presented by the location of entrances, exits, windows that open, ventilation intakes, or other factors, smoke will not infiltrate or reach the entrances, exits, open windows, or ventilation intakes or enter into such public place or place of employment and, therefore, the public health and safety will be adequately protected by a lesser distance.

70.160.080 Local regulations authorized. Local fire departments or fire districts and local health departments may adopt regulations as required to implement this chapter.

70.160.100 Penalty assessed under this chapter paid to jurisdiction bringing action. Any penalty assessed and recovered in an action brought under this chapter shall be paid to the city or county bringing the action.

West Virginia

21-3-19. Discrimination for use of tobacco products prohibited. (a) It shall be unlawful for any employer, whether public or private, or the agent of such employer to refuse to hire any individual or to discharge any employee or otherwise to disadvantage or penalize any employee with respect to compensation, terms, conditions or privileges of employment solely because such individual uses tobacco products off the premises of the employer during nonworking hours. (b) This section shall not apply with respect to an employer which is a nonprofit organization which, as one of its primary purposes or objectives, discourages the use of one or more tobacco products by the general public. (c) This section shall not prohibit an employer from offering, imposing or having in effect a health, disability or life insurance policy which makes distinctions between employees for type of coverage or price of coverage based upon the employee's use of tobacco products: Provided, That any differential premium rates charged to employees must reflect differential costs to the employer: Provided, however, That the employer must provide employees with a statement delineating the differential rates used by its insurance carriers. (d) Nothing in this section shall be construed to prohibit an employer from making available to smokers and other users of tobacco products, programs, free of charge or at reduced rates, which encourage the reduction or cessation of smoking or tobacco use.

Wisconsin

101.123 Smoking prohibited. (1) Definitions. In this section: (ab) "Assisted living facility" means a community-based residential facility, as defined in s. 50.01 (1g), a residential care apartment complex, as defined in s. 50.01 (1d), or an adult family home, as defined in s. 50.01 (1) (b). (abm) "Child care center" has the meaning given in s. 49.136 (1) (ad). (ac) "Correctional facility" means any of the following: 1. A state prison, as defined or named in s. 302.01, except a correctional institution under s. 301.046 (1) or 301.048 (4) (b) if the institution is the prisoner's place of residence and no one is employed there to ensure the prisoner's incarceration. 2. A juvenile detention facility, as defined in s. 938.02 (10r), or a juvenile correctional facility, as defined in s. 938.02 (10p), except a juvenile correctional facility authorized under s. 938.533 (3) (b), 938.538 (4) (b), or 938.539 (5) if the facility is a private residence in which the juvenile is placed and no one is employed there to ensure that the juvenile remains in custody. 3. A jail, as defined in s. 165.85 (2) (bg), a Huber facility under s. 303.09, a work camp under s. 303.10, a reforestation camp under s. 303.07, or a lockup facility under s. 302.30. (ae) "Educational facility" means any building used principally for educational purposes in which a school is located or a course of instruction or training program is offered that has been approved or licensed by a state agency or board. (aj) Notwithstanding s. 101.01 (5), "employment" means any trade, occupation, or process of manufacture or any method of carrying on such trade, occupation, or process of manufacture in which any person may be engaged. (ak) "Enclosed place" means a structure or area that has all of the following: 1. A roof. 2. More than 2 substantial walls. (ar) "Immediate vicinity of the state capitol" means the area directly adjacent to the state capitol building, as determined by rule of the department of administration. "Immediate vicinity of the state capitol" does not include any location that is more than six feet from the state capitol building. (b) "Inpatient health care facility" means a hospital, as defined in s. 50.33 (2), a county home established under s. 49.70, a county infirmary established under s. 49.72, a nursing home, as defined in s. 50.01 (3), a hospice, as defined in s. 50.90 (1), a Wisconsin veterans home under s. 45.50, or a treatment facility.
(bn) "Lodging establishment" means any of the following: 1. A bed and breakfast establishment, as defined in s. 254.61 (1). 2. A hotel, as defined in s. 254.61 (3). 3. A tourist rooming house, as defined in s. 254.61 (6). (d) "Person in charge" means the person, or his or her agent, who ultimately controls, governs or directs the activities aboard a public conveyance or at a location where smoking is prohibited or regulated under this section. (dj) Notwithstanding ss. 101.01 (11), "place of employment" means any enclosed place that employees normally frequent during the course of employment, including an office, a work area, an elevator, an employee lounge, a conference room, a meeting room, a classroom, a hallway, a stairway, a lobby, a common area, a vehicle, or an employee cafeteria. (dn) "Private club" means a facility used by an organization that limits its membership and is organized for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose. (e) "Public conveyance" means a mass transit vehicle as defined in s. 340.01 (28m), a school bus as defined in s. 340.01 (56), or any other device by which persons are transported, for hire, on a highway or by rail, water, air, or guidewhile within this state, but does not include such a device while providing transportation in interstate commerce. (eg) "Public place" means any enclosed place that is open to the public, regardless of whether a fee is charged or a place to which the public has lawful access or may be invited. (f) "Restaurant" means an establishment as defined in s. 254.61 (5). (g) "Retail establishment" means any store or shop in which retail sales is the principal business conducted. (gg) "Retail tobacco store" means a retail establishment that does not have a "Class B" intoxicating liquor license or a Class "B" fermented malt beverages license and that generates 75 percent or more of its gross annual income from the retail sale of tobacco products and accessories. (h) "Smoking" means burning or holding, or inhaling or exhaling smoke from, any of the following items containing tobacco: 1. A lighted cigar. 2. A lighted cigarette. 3. A lighted pipe. 4. Any other lighted smoking equipment. (hm) "Sports arena" means any stadium, pavilion, gymnasium, swimming pool, skating rink, bowling center, or other building where spectator sporting events are held. (i) "State institution" means a mental health institute, as defined in s. 51.01 (12), a center for the developmentally disabled, as defined in s. 51.01 (3), or a secure mental health facility at which persons are committed under s. 980.06. (id) "Substantial wall" means a wall with no opening or with an opening that either does not allow air in from the outside or is less than 25 percent of the wall's surface area. (im) "Tavern" means an establishment, other than a restaurant, that holds a "Class B" intoxicating liquor license or Class "B" fermented malt beverages license. (in) "Tobacco bar" means a tavern that generates 15 percent or more of its annual gross income from the sale on the tavern premises, other than from a vending machine, of cigars and tobacco for pipes. (io) "Tobacco product" means any form of tobacco prepared in a manner suitable for smoking but not including a cigarette. (ip) "Treatment facility" means a publicly or privately operated inpatient facility that provides treatment of alcoholic, drug dependent, mentally ill, or developmentally disabled persons. (j) "Type 1 juvenile correctional facility" has the meaning given in s. 938.02 (19). (2) Prohibition against smoking. (a) Except as provided in sub. (3), no person may smoke in any of the following enclosed places: 1g. The state capitol. 1m. Residence halls or dormitories owned or operated by a college or university. 1r. Child care centers. 2. Educational facilities. 3. Inpatient health care facilities. 4. Theaters. 5m. Correctional facilities. 5t. State institutions. 7. Restaurants. 7m. Taverns. 7r. Private clubs. 8. Retail establishments. 8d. Common areas of multiple-unit residential properties. 8g. Lodging establishments. 8r. State, county, city, village, or town buildings. 9. All enclosed places, other than those listed in subds. 1g. to 8r., that are places of employment or that are public places. (d) No person may smoke at any of the following outdoor locations: 1. In the immediate vicinity of the state capitol. 2. Anywhere on the premises of a child care center when children who are receiving child care services are present. 3. Anywhere on the grounds of a Type 1 juvenile correctional facility. 4. A location that is 25 feet or less from a residence hall or dormitory that is owned or operated by the Board of Regents of the University of Wisconsin System. (e) No person may smoke in any of the following: 1. A sports arena. 2. A bus shelter. 3. A public conveyance. (2m) Responsibility of persons in charge. (a) No person in charge may allow any person to smoke in violation of sub. (2) at a location that is under the control or direction of the person in charge. (b) A person in charge may not provide matches, ashtrays, or other equipment for smoking at the location where smoking is prohibited. (c) A person in charge shall make reasonable efforts to prohibit persons from smoking at a location where smoking is prohibited by doing all of the following: 1. Posting signs setting forth the prohibition and providing other appropriate notification and information concerning the prohibition. 2. Refusing to serve a person, if the person is smoking in a restaurant, tavern, or private club. 3. Asking a person who is smoking to refrain from smoking and, if the person refuses to do so, asking the person to leave the location. (d) If a person refuses to leave a location after being requested to do so as provided in par. (c) 3., the person in charge shall immediately notify an appropriate law enforcement agency of the violation. (e) A person in charge may take measures in addition to those listed in pars. (b) and (c) to prevent persons from being exposed to others who are smoking or to further ensure compliance with this section. (3) Exceptions. The prohibition against smoking in sub. (2) (a) does not apply to the following: (h) A private
A room in an assisted living facility in which 2 or more persons reside if every person who lives in that room smokes and each of those persons has made a written request to the person in charge of the assisted living facility to be placed in a room where smoking is allowed. (L) A retail tobacco store that is in existence on June 3, 2009, and in which only the smoking of cigars and pipes is allowed. (m) A tobacco bar that is in existence on June 3, 2009, and in which only the smoking of cigars and pipes is allowed. (4m) Local authority. This section does not limit the authority of any county, city, village or town to enact ordinances or of any school district to adopt policies that, complying with the purpose of this section, protect the health and comfort of the public. If a county, city, village, or town enacts an ordinance, or if a school district adopts a policy, regulating or prohibiting outside smoking in certain areas as authorized under this subsection, the ordinance may apply only to public property under the jurisdiction of the county, city, village, town, or school district. Such ordinance shall provide that the person in charge of a restaurant, tavern, private club, or retail establishment located in an area subject to the ordinance may designate an outside area that is a reasonable distance from any entrance to the restaurant, tavern, private club, or retail establishment where customers, employees, or persons associated with the restaurant, tavern, private club, or retail establishment may smoke. Such ordinance may not define the term "reasonable distance" or set any specified measured distance as being a "reasonable distance." (6) Uniform signs. The department shall, by rule, specify uniform dimensions and other characteristics of the signs required under sub. (2m). These rules may not require the use of signs that are more expensive than is necessary to accomplish their purpose. (7) Signs for state agencies. The department shall arrange with the department of administration to have signs prepared and made available to state agencies for use in state facilities that set forth the prohibition against smoking. (8) Penalties. (a) Any person who violates sub. (2) shall be subject to a forfeiture of not less than $100 nor more than $250 for each violation. (d) Except as provided in par. (dm) or (em), any person in charge who violates sub. (2m) (b) to (d) shall be subject to a forfeiture of $100 for each violation. (dm) For violations subject to the forfeiture under par. (d), if the person in charge has not previously received a warning notice for a violation of sub. (2m) (b) to (d), the law enforcement officer shall issue the person in charge a warning notice and may not issue a citation. (em) No person in charge may be required under par. (d) to forfeit more than $100 in total for all violations of sub. (2m) (b) to (d) occurring on a single day. (9) Injunction. Notwithstanding s. 165.60, state or local officials or any affected party may institute an action in any court with jurisdiction to enjoin repeated violations of this section.

**111.39 Powers and duties of department.** Except as provided under s. 111.375 (2), the department shall have the following powers and duties in carrying out this subchapter: (1) The department may receive and investigate a complaint charging discrimination, discriminatory practices, unfair honesty testing or unfair genetic testing in a particular case if the complaint is filed with the department no more than 300 days after the alleged discrimination, unfair honesty testing or unfair genetic testing occurred. The department may give publicity to its findings in the case. (2) In carrying out this subchapter the department and its duly authorized agents are empowered to hold hearings, subpoena witnesses, take testimony and make investigations in the manner provided in s. 103.005. The department or its duly authorized agents may privilege witnesses testifying before them under the provisions of this subchapter against self-incrimination. (3) The department shall dismiss a complaint if the person filing the complaint fails to respond within 20 days to any correspondence from the department concerning the complaint and if the correspondence is sent by certified mail to the last-known address of the person. (4) (a) The department shall employ such examiners as are necessary to hear and decide complaints of discrimination and to assist in the effective administration of this subchapter. The examiners may make findings and orders under this section. (b) If the department finds probable cause to believe that any discrimination has been or is being committed, that unfair honesty testing has occurred or is occurring or that unfair genetic testing has occurred or is occurring, it may endeavor to eliminate the practice by conference, conciliation or persuasion. If the department does not eliminate the discrimination, unfair honesty testing or unfair genetic testing, the department shall issue and serve a written notice of hearing, specifying the nature of the discrimination that appears to have been committed or unfair honesty testing or unfair genetic testing that has occurred, and requiring the person named, in this section called the "respondent", to answer the complaint at a hearing before an examiner. The notice shall specify a time of hearing not less than 30 days after service of the complaint, and a place of hearing within either the county of the respondent's residence or the county in which the discrimination, unfair honesty testing or unfair genetic testing appears to have occurred. The testimony at the hearing shall be recorded or taken down by a reporter appointed by the department. (c) If, after hearing, the examiner finds that the respondent has engaged in discrimination, unfair honesty testing or unfair genetic testing, the examiner shall make written findings and order such action by the respondent as will effectuate the purpose of this subchapter, with
111.322 Discriminatory actions prohibited. Subject to ss. 111.33 to 111.365, it is an act of employment discrimination to do any of the following: (1) To refuse to hire, employ, admit or license any individual, to bar or terminate from employment or labor organization membership any individual, or to discriminate against any individual in promotion, compensation or in terms, conditions or privileges of employment or labor organization membership because of any basis enumerated in s. 111.321 by an individual employed by the employer, under s. 111.322 (2m), the employer of that individual is liable for the payment. If the examiner finds a respondent violated s. 111.322 (2m), the examiner shall award compensation in lieu of reinstatement if requested by all parties and may award compensation in lieu of reinstatement if requested by any party. Compensation in lieu of reinstatement for a violation of s. 111.322 (2m) may not be less than 500 times nor more than 1,000 times the hourly wage of the person discriminated against when the violation occurred. Back pay liability may not accrue from a date more than 2 years prior to the filing of a complaint with the department. Interim earnings or amounts earnable with reasonable diligence by the person discriminated against or subjected to unfair honesty testing or unfair genetic testing shall operate to reduce back pay otherwise allowable. Amounts received by the person discriminated against or subject to the unfair honesty testing or unfair genetic testing as unemployment benefits or welfare payments shall not reduce the back pay otherwise allowable, but shall be withheld from the person discriminated against or subject to unfair honesty testing or unfair genetic testing and immediately paid to the unemployment reserve fund or, in the case of a welfare payment, to the welfare agency making the payment. (d) The department shall serve a certified copy of the findings and order on the respondent, the order to have the same force as other orders of the department and be enforced as provided in s. 103.005. Any person aggrieved by noncompliance with the order may have the order enforced specifically by suit in equity. If the examiner finds that the respondent has not engaged in discrimination, unfair honesty testing, or unfair genetic testing as alleged in the complaint, the department shall serve a certified copy of the examiner's findings on the complainant, together with an order dismissing the complaint. If the examiner finds that the respondent has engaged in discrimination, unfair honesty testing, or unfair genetic testing as alleged in the complaint, the department shall serve a certified copy of the examiner's findings on the complainant, together with a notice advising the complainant that after the completion of all administrative proceedings under this section he or she may bring an action as provided in s. 111.397 (1) (a) to recover compensatory and punitive damages as provided in s. 111.397 (2) (a) and advising the complainant of the time under s. 111.397 (1) (b) within which the action must be commenced or be barred. (5) (a) Any respondent or complainant who is dissatisfied with the findings and order of the examiner may file a written petition with the department for review by the commission of the findings and order. (b) If no petition is filed within 21 days from the date that a copy of the findings and order of the examiner is mailed to the last known address of the respondent the findings and order shall be considered final for purposes of enforcement under sub. (4) (d). If a timely petition is filed, the commission, on review, may either affirm, reverse or modify the findings or order in whole or in part, or set aside the findings and order and remand to the department for further proceedings. Such actions shall be based on a review of the evidence submitted. If the commission is satisfied that a respondent or complainant has been prejudiced because of exceptional delay in the receipt of a copy of any findings and order it may extend the time another 21 days for filing the petition with the department. (c) On motion, the commission may set aside, modify or change any decision made by the commission, at any time within 28 days from the date thereof if it discovers any mistake therein, or upon the grounds of newly discovered evidence. The commission may on its own motion, for reasons it deems sufficient, set aside any final decision of the commission within one year from the date thereof upon grounds of mistake or newly discovered evidence, and remand the case to the department for further proceedings. (d) If the commission affirms a finding that the respondent has engaged in discrimination, unfair honesty testing, or unfair genetic testing as alleged in the complaint, the commission shall serve a certified copy of the commission's decision on the complainant, together with a notice advising the complainant that after the completion of all administrative proceedings under this section he or she may bring an action as provided in s. 111.397 (1) (a) to recover compensatory and punitive damages as provided in s. 111.397 (2) (a) and advising the complainant of the time under s. 111.397 (1) (b) within which the action must be commenced or be barred. (6) If an order issued under sub. (4) is unenforceable against any labor organization in which membership is a privilege, the employer with whom the labor organization has an all-union shop agreement shall not be held accountable under this chapter when the employer is not responsible for the discrimination, the unfair honesty testing or the unfair genetic testing.
A prima facie case for a violation of sub. (2) is not in adopting a discriminatory policy, but rather the publication of it. The remaining elements are the same for both subsections. Sub. (2) is not limited to advertising for employees, it also applies to the printing of policies that affect existing employees.

The free exercise clause of the 1st Amendment and the freedom of conscience clauses in Article I, Section 18, of the Wisconsin constitution preclude employment discrimination claims under ss. 111.31 to 111.395 for employees whose positions are important and closely linked to the religious mission of a religious organization. Coulee Catholic Schools v. LIRC, 2009 WI 88, 320 Wis.2d 275, 768 N.W.2d 868, 07-2490. A prima facie case of discrimination triggers a burden of production against an employer, but unless the employer remains silent in the face of the prima facie case, the complainant continues to bear the burden of proof on the ultimate issue of discrimination. Currie v. DILHR, 210 Wis.2d 380, 565 N.W.2d 253 (Ct.App. 1997), 96-1720. A prima facie case for a violation of this section requires that the complainant: 1) was a member of a protected class; 2) was discharged; 3) was qualified for the position; and 4) was either replaced by someone not in the protected class or that others not in the protected class were treated more favorably. Knight v. LIRC, 220 Wis.2d 137, 582 N.W.2d 448 (Ct.App. 1998), 97-1606. The free exercise clause of the 1st Amendment and the freedom of conscience clauses in Article I, Section 18, of the Wisconsin constitution preclude employment discrimination claims under ss. 111.31 to 111.395 for employees whose positions are important and closely linked to the religious mission of a religious organization. Coulee Catholic Schools v. LIRC, 2009 WI 88, 320 Wis.2d 275, 768 N.W.2d 868, 07-0496. Some "Hardship": Defending a Disability Discrimination Suit Under the Wisconsin Fair Employment Act. Hansch, 89 MLR 821 (2005). Discrimination in advertising. Abramson, WBB March, 1985. Employer Liability for Employment References. Mac Kelly. Wis. Law. May 2008.

Wyoming 35-29-101. Definitions. (a) As used in this chapter:(i) "Business" means any legal entity including, but not limited to, a sole proprietorship, partnership, joint venture, corporation or other business entity whether formed for profit-making or nonprofit purposes, including retail establishments where goods or services are sold, as well as professional corporations and other entities where legal, medical, dental, engineering, architectural or other professional services are delivered;(ii) "Employee" means any person who is employed by an employer in consideration for direct or indirect monetary wages or profit, and a person who volunteers his services for a nonprofit entity; (iii) "Employer" means a person, business, partnership, association, corporation, trust, nonprofit entity or a municipal corporation that employs the services of one (1) or more individual persons;(iv) "Enclosed area" means all space between a floor and ceiling that is enclosed on all sides by solid walls or windows, exclusive of doorways, which extend from the floor to the ceiling;(v) "Health care facility" means an office or institution providing care or treatment of diseases, whether physical, mental or emotional, or other medical, physiological or psychological conditions including, but not limited to, hospitals, rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists,
physicians, dentists and all specialists within these professions. This definition shall include all
waiting rooms, hallways, private rooms, semiprivate rooms and wards within health care facilities;
(vi) "Outdoor patio" means an outdoor area, open to the air at all times, that is either:(A) Enclosed by
a roof or other overhead covering and not more than two (2) walls or other side coverings; or(B) Has
no roof or other overhead covering at all regardless of the number of walls or other side coverings.
(vii) "Performance hall" means any area or facility that is primarily used for the exhibition of any
motion picture, stage, drama, lecture, musical recital or other similar performances including, but not
limited to, concert halls and theaters;(viii) "Place of employment" means an area under the control of
an employer which is intended for occupancy by employees during the course of employment
including, but not limited to, work areas, employee lounges, restrooms, conference rooms, meeting
rooms, classrooms, employee cafeterias, waiting areas, offices, stairways and hallways. A private
residence is not a "place of employment" unless it is used as a licensed child care, licensed adult day
care, health care or preschool facility, or for any other business;(ix) "Private club" means those
organizations or entities defined as a "club" in W.S. 12-1-101(a)(iii), which are not open to the
public; (x) "Public place" means an enclosed area to which the public is invited or in which the public
is permitted including, but not limited to, banks and other financial institutions, publicly funded
buildings, public conveyances, recreational facilities, taverns, lounges, bars, educational facilities,
health care facilities, laundries, public transportation facilities, reception areas, restaurants, retail food
production and marketing establishments including grocery stores, supermarkets and stores where
food items are sold for on-premises or off-premises consumption, retail service establishments, retail
stores, shopping malls, sports arenas, theaters and waiting rooms. A private residence is not a "public
place" unless it is used as a licensed child care, licensed adult day care, health care or preschool
facility or for any other business; (xi) "Private transportation vehicle" means, but is not limited to, any
enclosed mode of public transportation, including a taxi, train, passenger bus, school bus or other
vehicle used to transport pupils, or a vehicle that is owned by, or operated by a business and is open to
the public, including tour vehicles, passenger buses or vans regularly used to transport customers. A
private vehicle not open to the public or not used for the transportation of the public during the times
of use, including a private passenger vehicle, a private charter or rental of a limousine, bus or van,
shall not be considered a public transportation vehicle; (xii) "Publicly owned youth athletic facilities"
includes, but is not limited to, facilities where youth soccer, baseball, skateboarding and any other
youth activities occur, whether the facility is enclosed or not;(xiii) "Restaurant" means an eating
establishment including, but not limited to, coffee shops, cafeterias, and public and private school
cafeterias, which gives or offers for sale food to the public, guests or employees, as well as kitchens
and catering facilities in which food is prepared on the premises and served elsewhere. The term
"restaurant" shall include any tavern, lounge or bar area within the restaurant;(xiv) "Retail sales
establishment" means an establishment engaged in the sale of goods or merchandise to the general
public for personal or household consumption and rendering services incidental to the sale of those
goods. A retail sales establishment is usually a place of business and is engaged in activity to attract
the general public to make purchases; xv) "Shopping mall" means an enclosed public walkway or hall
area that serves to connect retail sales or professional service establishments;(xvi) "Smoke" or
"smoking" means the inhaling, exhaling, burning or carrying of any lighted tobacco product, weed,
plant or other combustible product in a smoking instrument or the placement of smoking instruments
containing a lighted tobacco product, weed, plant or other combustible product in an ashtray or other
receptacle and allowing smoke to diffuse into the air. This definition does not include incense;(xvii)
"Smoking instrument" means any cigarette, cigar, pipe, pipe, hookah or water pipe, or any other smoking
device;(xvii) "Sports arena" means sports pavilions, stadiums, gymnasiums, health spas, swimming
pools, roller and ice rinks, bowling alleys and other similar places where members of the general
public assemble to engage in physical exercise, participate in athletic competition or witness sports or
other events;(xix) "Tavern, lounge or bar" means any establishment open to the public whose primary
source of revenue is from the sale of alcoholic liquor and malt beverages for consumption by guests on
the premises and in which the serving of food is only incidental to the consumption of those beverages
including, but not limited to, taverns, nightclubs, cocktail lounges and cabarets;(xx) "Youth" means
any person who has not attained eighteen (18) years of age.

35-29-102. Application of chapter to government owned facilities. All enclosed areas, including
buildings and vehicles owned, leased or operated by the state of Wyoming or any city, town, county or
other governmental entity, shall be subject to the provisions of this chapter.

35-29-103. Prohibition of smoking in public places. (a) Smoking is prohibited in all enclosed areas of
public places within this state including, but not limited to, the following: (i) Galleries, libraries and
museums; (ii) Areas available to and customarily used by the general public in businesses and for-
profit or nonprofit entities patronized by the public including, but not limited to, professional offices,
35-29-104. Prohibition of smoking in places of employment. (a) Smoking is prohibited in all enclosed areas within places of employment including, but not limited to, common work areas, auditoriums, classrooms, conference and meeting rooms, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, public transportation vehicles and all other enclosed facilities. (b) Employers affected by this chapter shall communicate the provisions of this chapter to all existing employees on July 1, 2007, and to all prospective employees on their application for employment.

35-29-105. Distance to be observed from all entryways where smoking is prohibited. In order to prevent secondhand smoke from entering a public place or place of employment where smoking is prohibited, every person who is smoking shall smoke a distance of at least ten (10) feet from all public entranceways, passageways, operable windows or ventilation systems of any enclosed area where smoking is prohibited. Any person who fails to comply with this provision after an oral request to cease smoking by the owner, operator, manager or other person having control of the smoke-free establishment or enclosed area shall be in violation of the provisions of this chapter.

35-29-106. Declaration of establishment as nonsmoking. Notwithstanding any other provision of this chapter, an owner, operator, manager or other person in control of an establishment, facility or outdoor area may declare that entire establishment, facility or outdoor area as a nonsmoking place.

35-29-107. Where smoking is not regulated. (a) Notwithstanding any other provision of this chapter to the contrary, the following areas shall be exempt from the provisions of W.S. 35-29-103 and 35-29-104: (i) Private residences, except when used as a licensed child care, licensed adult day care, preschool or health care facilities or for any other business; (ii) Hotel and motel rooms that are rented to guests and are designated as smoking rooms; (iii) Outdoor places of employment, except those areas where smoking is restricted under W.S. 35-29-105; (iv) Private offices, provided that the private office is not open to the public, the public is not invited, and the office is not intended for occupancy by employees during the course of their employment; (v) Outside patios. The opening of any sliding or folding windows or doors or other windows or doors from any part of the border to an outdoor patio shall be closed to prevent the migration of smoke into the enclosed area. If sliding or folding windows or doors or other windows or doors do not prevent the migration of smoke into the enclosed building area, the outdoor patio shall be considered an extension of the enclosed area and subject to the prohibitions of this chapter; (vi) Private or business vehicles, except those used for public transportation; (vii) Retail tobacco shops, consisting of any enclosed indoor workplace dedicated to or predominantly for the retail sale of tobacco products, and accessories for such products, in which the sale of other products or services is incidental.

35-29-108. Nonretaliation. No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment or customer because that employee, applicant or customer exercises any rights afforded by this chapter or reports or attempts to prosecute a violation of this chapter.

35-29-109. Violations and penalties. (a) A person who violates the provisions of this chapter by smoking in a prohibited area is guilty of a misdemeanor punishable by a fine of not more than: (i) Fifty dollars ($50.00) for a first violation; (ii) Two hundred fifty dollars ($250.00) for a second violation committed within a twenty-four (24) month period; (iii) Seven hundred fifty dollars ($750.00) for a third or subsequent violation committed within a twenty-four (24) month period. (b) Failure of the owner, manager, operator or employee of an establishment to orally inform a person who smokes in an area where smoking is prohibited by the provisions of this chapter shall not constitute a defense to a violation under subsection (a) of this section. (c) A person who owns, manages, operates or otherwise
controls a public place or place of employment and who knowingly fails to comply with the provisions of this chapter is guilty of a misdemeanor punishable by a fine of not more than: (i) Fifty dollars ($50.00) for a first violation; (ii) Two hundred fifty dollars ($250.00) for a second violation committed within a twenty-four (24) month period; (iii) Seven hundred fifty dollars ($750.00) for a third or subsequent violation committed within a twenty four (24) month period. (d) For purposes of subsection (c) of this section, each day of continued violation shall be deemed a separate offense.

35-29-110. Applicability. (a) This chapter shall constitute a statewide prohibition on smoking in public places and places of employment and shall supersede any conflicting local ordinance, provided: (i) Any county, by unanimous vote of its board of county commissioners, may opt out of the provisions of this chapter for a period of two (2) years. The decision to opt out of the provisions of this chapter may be extended thereafter for additional periods of two (2) years each by unanimous vote of the board of county commissioners; (ii) Nothing in this chapter shall prevent a city, town or county from imposing additional restrictions upon smoking in public places or places of employment, or imposing greater penalties for violations than those provided in this chapter. Section 2. This act is effective July 1, 2007.