

What should I do if customers insist on smoking?

You or your staff should remind them of the smoke-free law. Smoking in prohibited areas is against the law. If the person insists on smoking, you should report the violation to your police department or sheriff.

Are private businesses required to be smoke-free?

Yes, unless the business falls under an exemption.

Is a bar inside a restaurant required to be smoke-free?

Yes, unless the bar is in a separately enclosed area.

Can folding walls be used to enclose the bar in a business?

In order to allow smoking, a bar must be enclosed on all sides by solid walls or windows (exclusive of doorways) which extend from floor to ceiling.

If a business has both a bar and a restaurant license, are they required to be smoke-free?

A restaurant must be smoke-free, or can only allow smoking in a separately enclosed bar area. A stand-alone bar, where only people 21 and older are allowed, may allow smoking.

How can complaints be filed?

Violations that occur in public places or private businesses should be reported to local law enforcement. Violations that occur in state-owned offices or buildings should be reported to the agency with jurisdiction.

How can I find more information?

For more information about North Dakota's smoke-free law, contact:

**North Dakota Department of Health
Division of Tobacco Prevention and Control
600 E Boulevard Avenue, Dept. 301
Bismarck, N.D. 58505-0200
Phone: 800.280.5512 or 701.328.3138
Website: www.ndtobaccoprevention.net**

Where can North Dakotans get help to quit using tobacco?

Smokers or spit-tobacco users who want to quit can call the North Dakota Tobacco Quitline toll-free at 1.866.388.QUIT (7848).



The information provided in this brochure does not represent a legal interpretation and is provided as guidance in understanding North Dakota's smoke-free law.

A Guide To North Dakota's Smoke-Free Law

NDCC 23-12-09

Effective August 1, 2005



*Clearing the Air of
Secondhand Smoke:
Protecting the Health
of North Dakotans*



NORTH DAKOTA
DEPARTMENT OF HEALTH

North Dakota's smoke-free law

On August 1, 2005, North Dakota's smoke-free law goes into effect. The law reflects the state's commitment to protect the health of its citizens and recognizes the right of individuals to breathe smoke-free air. The law prohibits smoking in all enclosed areas of public places and places of employment, with some exceptions.

Cities and counties may adopt laws regulating smoking. However, these regulations must be at least as strict as the state smoke-free law.

What is secondhand smoke?

Secondhand smoke is the smoke that is inhaled from the burning end of other people's cigarettes, pipes or cigars, and also includes the smoke exhaled from smokers that other people must breathe. The U.S. Environmental Protection Agency reports that secondhand smoke contains 4,000 substances, 43 of which are known to cause cancer in humans or animals.

The National Cancer Institute reports that secondhand smoke causes more than 35,000 deaths from heart disease and 3,000 lung cancer deaths in the U.S. annually.

The U.S. Centers for Disease Control and Prevention states that employees exposed to secondhand smoke are 34 percent more likely to get lung cancer.

Where is smoking prohibited?

With some exceptions, smoking is not allowed in all enclosed areas of:

- Public places.
- Places of employment.
- Any other places already restricted by other smoke-free laws.

Where is smoking permitted?

Smoking is permitted only in:

- Bars.
- Private residences, except when the residence is operating as a child-care facility and children are present.
- Hotel and motel rooms, and other places of lodging, that are rented to guests and designated as smoking rooms.
- Retail tobacco stores, provided that smoke from these places does not infiltrate areas where smoking is prohibited.
- Outdoor areas of places of employment, except sports arenas.
- An area that is not commonly accessible to the public and which is part of a business where the owner-operator is the only employee.
- A public room rented for private functions from which the general public and children are excluded.
- A traditional American Indian spiritual or cultural ceremony.
- Hospitals licensed by the state – Patients may smoke in the facility or on the grounds if their attending physician authorizes smoking as a medical necessity.

- Licensed nursing homes or basic care facilities – Residents may smoke in the facility or on the grounds if approved by the board of the facility.
- Separately enclosed areas in truckstops that are accessible only to adults.

To view the full text of the law, visit:

www.ndtobaccoprevention.net.

What is the penalty for breaking the law?

- A person who smokes in an area in which smoking is prohibited is guilty of an infraction. An infraction is punishable by a fine of up to \$500.
- An owner or other person with supervisory responsibility who willfully does not comply with the law may be fined up to:
 - ◆ \$100 for the first violation.
 - ◆ \$200 for a second violation within one year.
 - ◆ \$500 for each additional violation within one year of the preceding violation.

Should signs be posted?

You are not required to post "No Smoking" signs. However, by posting signs you may help to increase compliance with the law in your establishment.

Should a smoking break room be provided for employees?

No, the law does not allow businesses to have a smoking room.