

Freedom to Breathe Act of 2007

The Freedom to Breathe Act of 2007 expanded the prohibition of smoking provided in the Minnesota Clean Indoor Air Act (MCIAA) ([Minn. Stat. §§ 144.411 to 144.417](#)). It was signed into law May 16, 2007, and became effective October 1, 2007. This act was enacted to provide protection from secondhand smoke, particularly for employees in their workplaces. Additionally, this legislation was enacted to avoid the state from having a patchwork of varying indoor smoking regulations in cities and counties. However, local governments are still free to adopt and enforce more stringent regulations of secondhand smoke exposure and to regulate smoking in outdoor areas.

The Freedom to Breathe Act expanded the prohibition of smoking

The MCIAA prohibited smoking in public places and at public meetings, but permitted smoking in certain designated smoking areas. It also completely prohibited smoking in all nonresidential health care facilities, day care premises, and public schools.

The Freedom to Breathe Act further prohibited smoking in public places and at public meetings, and banned “designated smoking areas.” The act also prohibited smoking in places of employment and in public transportation.

Smoking is prohibited in places of employment

Places of employment are indoor areas where two or more persons perform any type of service under any type of contractual relationship, including places where persons provide volunteer services. Vehicles and private residences used for work purposes during hours of operation are included in the definition.

Places of employment include the following:

- Banquet facilities
- Bars and other food or liquor establishments
- Bowling establishments
- Elevators and hallways
- Employee cafeterias
- Factories
- Libraries
- Lounges
- Museums
- Offices
- Restaurants
- Restrooms
- Retail stores and other commercial establishments
- Theaters
- Vehicles used for work purposes during the hours of operation if more than one person is present
- Warehouses

Under the Freedom to Breathe Act, an “indoor area” is defined as the space between a floor and a ceiling that is bounded by walls, doorways, or windows, covering more than 50 percent of the perimeter of the area. Temporary physical barriers, such as retractable dividers or garage doors, are considered walls, but certain window screens are not.

Smoking is prohibited in public transportation

Public transportation includes all public means of transportation, including the following:

- Buses
- Enclosed bus and transit stops
- Limousines and other for-hire vehicles
- Light and commuter rail transit
- Taxis
- Ticketing, boarding, and waiting areas of public transportation terminals

Smoking is prohibited in private residences used as places of employment

Generally, the Freedom to Breathe Act does not prohibit smoking in private residences, unless it is being used as a place of employment ([Minn. Stat. § 144.4167](#), subd. 3).

- When homeowners use an area of their private residence exclusively and regularly as a principal place of business and have one or more on-site employees, then smoking is prohibited in that area during hours of operation.
- Similarly, when homeowners use an area of their home exclusively and regularly to meet with patients, clients, or customers, then smoking is prohibited in that area of the home during hours of operation.
- With regard to in-home day care, if the day care provider permits smoking in the home outside of the hours of operation, the day care provider must disclose this to the parents or guardians of the children. This disclosure must include orally informing the parents or guardians and posting a written notice.

Entities studied the impact on lawful gambling

The act directed the Gambling Control Board to study the impact of the statewide smoking ban on lawful gambling. The Gambling Control Board reported the results of its study on March 28, 2008. This study reported that the impact in the first three months of implementation of the statewide ban was a factor in decreased lawful gambling receipts.

The act expanded eligibility for the dislocated worker program

The Freedom to Breathe Act expanded eligibility for the dislocated worker program between October 1, 2007, and October 1, 2009, for employees of bars, restaurants, and lawful gambling organizations, who became unemployed as a result of the statewide smoking ban.

The dislocated worker program ([Minn. Stat. § 116L.17](#)) provides free services to individuals who have lost their jobs through no fault of their own. The program helps people to find new employment through a variety of services, such as career planning and counseling, job search and placement services, and job-related training.

For more information: Contact legislative analyst Emily Cleveland at 651-296-5808. Also see the House Research publication [Minnesota Clean Indoor Air Act](#), July 2007.

The Research Department of the Minnesota House of Representatives is a nonpartisan office providing legislative, legal, and information services to the entire House.