

Working Toward a Smoke-Free Arizona: What Employers Need to Know

As you've probably heard, the Smoke-Free Arizona Act (the "Act") goes into effect on May 1, 2007, and beginning then, all places of employment (with a few exceptions) must be "smoke-free". The Department of Health Services has now issued its interpretive regulations, and it's time for businesses to start making the final preparations to ensure their compliance with the Act.

Let's Start with the Basics

Under the Act, smoking is prohibited in most indoor public places and places of employment. Individuals also may not smoke within a "reasonable distance" from entrances, open windows, or ventilation systems.

But, as with most laws, there are exemptions to this general rule. Although the Act covers private residences if they are used as a licensed child care, adult day care, or health care facility, most private residences are not subject to the Act's requirements. The Act also provides limited exemptions for certain public places and places of employment—namely, retail tobacco stores, outdoor patios, veterans and fraternal clubs (when not open to the public), hotel rooms designated as smoking rooms (if no more than 50% of the rooms rented are so designated), and theatrical or film productions if smoking is part of the performance.

The Act also imposes responsibilities for both proprietors of the places where smoking is prohibited and the individuals who patronize them.

What Is a "Reasonable Distance"?

On April 5, the Department of Health Services provided proprietors with a definition of "reasonable distance," announcing that smoking must be prohibited at least 20 feet from entrances, windows and ventilation systems. We'll call that area the "buffer zone." Proprietors must ensure that smoke won't enter the 20-foot radius of the buffer zone, even if the smoke enters the zone by drifting from an outdoor area or through an entrance, open window, or ventilation system.

The Penalty for Violating the Act

Businesses need to be serious about complying with the law, because the Act also imposes fines on businesses and their patrons who violate the law. Businesses face fines of \$100 to \$500 for each violation and can be fined up to \$5,000. The Department will make the final decision regarding the amount of the fine, and may consider whether there have been previous citations and what efforts have been taken to comply with the Act. Individuals who smoke where it is prohibited can be fined from \$50 to \$300.

So What Should Our Business Do?

Even if you haven't started getting ready for the May 1 deadline, there's no reason to worry. There are a few straightforward steps that you need to take to be ready when the Act goes into effect.

- Start identifying the areas where smoking will be prohibited at your place of business—including the 20-foot "buffer zone."
- Remove ashtrays from those areas where smoking is prohibited.
- If you plan to allow smoking on an outdoor patio or other exempt area, start taking steps to ensure that smoke won't drift into any areas where smoking is prohibited. If your outdoor patio has a doorway leading into the building that

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can be accessed from outside the patio, such as from a street, sidewalk, or parking lot, you must also have another entrance that people may use that does not expose them to the smoking area. You must also inform people that the doorway is not an entrance and is for use by outdoor patio patrons.

- Post “no smoking” signs on the areas where smoking is now prohibited. These signs must be at least 4 x 6 inches big and must contain specific information (identification of the “no smoking” area, the telephone number and website address for making complaints, and a citation to the statute—A.R.S. § 36-601.01).
- Explain the requirements of the Act to your employees, prospective employees, and customers. Your obligations under the Act include informing customers and employees who are smoking in violation of the Act that they are violating the statute (A.R.S. § 36-601.01). You’ll also need to request that the person stop smoking immediately. If they don’t, you should consider contacting the local law enforcement.

Of course, these are just the basic guidelines—you can always impose more restrictive rules regarding smoking, including prohibiting smoking on outdoor patios.

The Arizona Department of Health Services has primary responsibility for enforcement of the Act, which it plans to do in partnership with County agencies. But now that you have the facts, your transition to a “Smoke-Free Arizona” should be a smooth and relatively easy one. ■

Want More Details on the Act?

To get more information on the Smoke-Free Arizona Act, order free “no smoking” signs for your business, and get a checklist of things to do before May 1, visit www.SmokeFreeArizona.org or call:

1.877.AZ.STOPS

1.877.297.8677