



Montana's Clean Indoor Air Act: The Law

➤ **The 2005 Montana Clean Indoor Air Act eliminates smoking from enclosed public places and workplaces. The law has three purposes**

1. To protect the public health and welfare by prohibiting smoking in public places and places of employment
2. To recognize the right of nonsmokers to breathe smokefree air
3. To recognize that the need to breathe smokefree air has priority over the desire to smoke.

Enclosed public place means any public indoor area, room, or vehicle or indoor workplace including:

- Restaurants;
- Stores;
- Public school property;
- Public and private office buildings;
- Trains, buses, and other forms of public transportation;
- Health care facilities;
- Auditoriums, arenas, meeting rooms, and other assembly facilities;
- Family or group daycare homes;
- Adult foster care homes; and
- Community colleges and state university buildings, including dormitories.

➤ **Bars and Casinos May Have an Exception until October 2009:**

A temporary exception is available to bars and casinos, giving them until October 1, 2009 to go completely smokefree, provided that smoke from the bar does not infiltrate into areas where smoking is not allowed. Regardless, no one under 18 is permitted in any area of an establishment where smoking is permitted.

➤ **Local Laws Preempted until October 2009:**

Until October 1, 2009, no political subdivision (city, county or incorporated town) may enact an ordinance or regulation that is more restrictive than the 2005 Montana Clean Indoor Air Act.

➤ **Rulemaking and Enforcement**

1. The Montana Department of Public Health and Human Services (DPHHS) is responsible for establishing rules for implementing the law.
2. DPHHS, its designees, local boards of health and their designees are responsible for enforcement.

➤ **Additional Provisions**

1. The 2005 Montana Clean Indoor Air Act also includes a provision governing schools, stating that the use of any tobacco product on any public school property is not allowed (with the exception of use in connection with American Indian cultural practices).
2. Building managers or proprietors must post conspicuous entrance signs stating that smoking is not permitted within.
3. Hotels may designate as smoking rooms no more than 35% of their sleeping rooms.
4. The law does not apply to a site that is being used in connection with the practice of cultural activities by American Indians that is in accordance with the American Indian Religious Freedom Act, 42 U.S.C. 1996 and 1996a.

➤ **Penalties for Noncompliance:**

Establishment owners and managers who violate the law will receive a warning for the first offense, a written warning for the second, and are guilty of a misdemeanor after the third violation within a three-year period. The fine is \$100 for the third violation, \$200 for the fourth, and \$500 for any subsequent violations.

The Debate Is Over – *Secondhand Smoke Kills*

- Secondhand tobacco smoke causes lung cancer, heart disease, sudden infant death syndrome, low-birth-weight, asthma, bronchitis and other serious illnesses. It is responsible for annually killing at least 50,000 Americans.¹ In 2006, the U.S. Surgeon General declared that there is no scientific debate whether secondhand tobacco smoke causes serious diseases, and that the only way to protect the public is to eliminate exposure.²
- More than 80% of Montanans support smokefree public places.³
- As of September 2008, 13 states, along with Puerto Rico and the District of Columbia, have implemented laws requiring 100% smokefree workplaces, restaurants and bars.⁴

On the Economy...

- Medical costs associated with secondhand smoke are estimated to be \$5 billion nationwide. An additional \$4.6 billion in lost wages occurs.⁵
- Economic studies disprove the notion that smokefree laws hurt business.⁶

Sources:

1. *Proposed Identification of Environmental Tobacco Smoke as a Toxic Air Contaminant*, Air Resources Board, California Environmental Protection Agency, June 24, 2005
2. U.S. Department of Health and Human Services. *The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General*. 2006.
3. Montana Department of Public Health and Human Services, Montana Tobacco Use Prevention Program: *Montana Adult Tobacco Survey, 2005*, August 2006.
4. American Nonsmokers' Rights Foundation, *Overview List: How many Smokefree Laws?* July 2008. Available at: <http://www.no-smoke.org/pdf/mediaordlist.pdf>.
5. *The Economic Impacts of Smoke-Free Environments*. Smoke-Free Environments Law Project. Study conducted by the Society of Actuaries. Authored by Donald Behan, Michael Eriksen and Yijia Lin. August 2005.
6. Scollo M., et al, "Review of the quality of studies on the economic effects of smoke-free policies on the hospitality industry", *Tobacco Control* (2003); 12:13-20.
Impact of a Smoking Ban on Restaurant and Bar Revenues --- El Paso, Texas, 2002. *Morbidity & Mortality Weekly Report (MMWR)*, Centers for Disease Control and Prevention. February 27, 2004 / 53(07);150-152.

Montana Tobacco Use Prevention Program
1-866-787-5247 / infotobaccofree@mt.gov / <http://tobaccofree.mt.gov>

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