

## Clean Indoor Air Act of 2008 Frequently Asked Questions

### **What is the law's purpose?**

The purpose of the Nebraska Clean Indoor Air Act is to protect the public health and welfare by prohibiting smoking in public places and places of employment. LB395, which amends the Nebraska Clean Indoor Air Act, requires every indoor workplace in the state to be smoke-free.

### **What does the law cover?**

The Act eliminates smoking in enclosed indoor areas including restaurants, bars, keno establishments, horse racing venues and other workplaces (retail/office space, manufacturing, etc.) as well as indoor public places.

### **When does it go into effect?**

The law goes into effect June 1, 2009. Businesses may choose to create smoke-free workplaces voluntarily at any point prior to that time, and they may create smoke-free outdoor areas for patrons at any time.

### **Are there any exceptions to the law?**

The only exceptions are:

- Up to 20 percent of hotel rooms.
- Tobacco-only retailers defined as a "store that sells only tobacco and products directly related to tobacco. Products directly related to tobacco do not include alcohol, coffee, soft drinks, candy, groceries or gasoline."
- Facilities researching the health effects of smoking.
- Private residences, except when a residence is being used as a licensed child care program.

### **What is an "indoor area"?**

Indoor area is defined as "an area enclosed by a floor, a ceiling and walls on all sides that are continuous and solid except for closeable entry and exit doors and windows and in which less than twenty percent of the total wall area is permanently open to the outdoors. For walls in excess of eight feet in height, only the first eight feet shall be used in determining such percentage."

### **What are the penalties for breaking the law?**

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 (maximum \$100 fine) for the first offense and Class IV misdemeanor (minimum \$100, maximum \$500) for the second and any subsequent offenses. Charges can be dismissed upon successful completion of a smoking cessation program. A proprietor that fails, neglects or refuses to perform a duty under the Act is guilty of a class V misdemeanor for the first offense and Class IV misdemeanor for the second and subsequent offenses.



**What about outdoor environments?**

Outdoor environments are not specifically covered by the Nebraska Clean Indoor Air Act of 2008. Businesses may voluntarily choose to create smoke-free outdoor areas, however.

**What about local smoke-free air laws?**

Local laws addressing smoke-free environments that are stronger than the state law remain in force. Local communities continue to have the authority to enforce and pass laws regarding smoke-free environments that are stronger than state law.

**Does the Act restrict businesses or communities from designating non-smoking areas outdoors?**

No.

**Are businesses required to provide an outdoor smoking area?**

No. Whether or not businesses provide an outdoor smoking area is an individual decision.

**Is there a distance requirement away from doors where smokers can smoke outside?**

No.

**Is smoking allowed in private offices or break rooms?**

No.

**Can people smoke in a business when it is NOT open to the public such as after hours, on weekends or on holidays?**

No. Smoking is prohibited at all times in businesses that are not exceptions to the law. The only exceptions to the law are:

- Up to 20 percent of hotel rooms.
- Tobacco-only retailers defined as a “store that sells only tobacco and products directly related to tobacco. Products directly related to tobacco do not include alcohol, coffee, soft drinks, candy, groceries or gasoline.”
- Facilities researching the health effects of smoking.
- Private residences, except when a residence is being used as a licensed child care program.

**Is smoking allowed in private clubs?**

No.

**What resources are available to help employees quit smoking?**

The Nebraska Tobacco Quitline is sponsored by the Nebraska Department of Health and Human Services' Tobacco Free Nebraska program. The toll-free Quitline, 1-800-784-8669 (1-800-QUIT-NOW), gives Nebraska residents access to counseling and support services. Calls to the Quitline are free. There are also local tobacco cessation programs available across the state which may be helpful. For a list of known programs, visit: <http://www.dhhs.ne.gov/tfn/ces/tfnquit.htm>.

*This information is not intended to be legal advice. Please consult state statutes or contact an attorney for more information about the Nebraska Clean Indoor Air Act.*

Southeast District Health Department  
Toll Free: 877-777-0424  
Website: [www.sedhd.org](http://www.sedhd.org)



September 2008