



Colorado Clean Indoor Air Act

By Anne Wallace

The harmful effects of secondhand smoke and emissions from tobacco, marijuana, and electronic smoking devices continue to be an issue in Colorado. Since 1992, the U.S. Environmental Protection Agency has classified secondhand tobacco smoke as a known cause of cancer.¹ The Centers for Disease Control and Prevention reports that secondhand smoke has immediate harmful effects on the heart and blood vessels that lead to heart disease, and causes respiratory issues in children.² According to the National Institutes of Health, secondhand smoke from marijuana contains the same chemicals found in tobacco smoke that negatively affect the vascular system.³ In 2016, a U.S. Surgeon General report concluded that the vapor released from electronic smoking devices contains nicotine and other chemicals, and secondhand inhalation may cause harm to the lungs or produce an allergic reaction.⁴

In an effort to reduce the risk of smoke-related health problems in Colorado, the General Assembly passed the Colorado Clean Indoor Air Act (act) in 2006, which prohibits smoking in indoor areas throughout the state.⁵ The act was amended in 2013 and 2019 to prohibit marijuana smoking and the use of electronic smoking devices respectively. This *issue brief* discusses the definition of smoking under the act and lists the facilities affected by the smoking ban, as well as those that are specifically exempted from it. It also describes the penalties for noncompliance with the act and includes information on smoking bans in other states.

Definition of Smoking

The act defines smoking as inhaling, exhaling, burning or carrying any lighted or heated cigar, cigarette, pipe, or any other product intended for inhalation, including marijuana. In 2019, the act was amended to include the use of electronic smoking devices (ESDs) in the definition of smoking. An ESD is any product that contains or delivers nicotine or any other substance meant for human consumption that is used to inhale vapor from the product.

Covered Entities

The act prohibits smoking tobacco and marijuana or using ESDs in most indoor areas throughout the state, including:

- public meeting places;
- elevators;
- government-owned or -operated means of mass transportation, such as buses and trains;
- taxis and limousines;
- grocery stores;
- gymnasiums;
- courtrooms and jury rooms;
- child day care facilities;
- health care facilities;
- any place of employment that is not an exempted facility (see the next section for exemptions);
- food service establishments and bars;
- limited gaming facilities and any other facilities in which gaming, gambling activity, or games of chance are conducted;

¹U.S. Environmental Protection Agency. *Respiratory Health Effects of Passive Smoking: Lung Cancer and Other Disorders*. December 1992.

²Centers for Disease Control and Prevention. *Health Effect of Secondhand Smoke*. https://www.cdc.gov/tobacco/data_statistics/fact_sheets/secondhand_smoke/health_effects/index.htm. February 2020.

³National Institutes of Health. *Marijuana Research Report*. <https://www.drugabuse.gov/publications/research-reports/marijuana/what-are-effects-secondhand-exposure-to-marijuana-smoke>. July 2020.

⁴U.S. Department of Health and Human Services. *E-Cigarette Use Among Youth and Young Adults*. 2016.

⁵Part 2 of Article 14 of Title 25, C.R.S.

- indoor sports arenas;
- public buildings;
- bowling alleys and billiard or pool halls;
- auditoriums and theaters;
- museums;
- libraries;
- schools and other vocational and educational buildings;
- airports;
- hotel and motel rooms;
- assisted living facilities;
- restrooms, lobbies, hallways, and other common areas in public and private buildings, including residential units; and
- common areas of retirement facilities, publicly owned housing facilities, and nursing homes.

Smoking is also prohibited in the entryway of all buildings listed above. In 2019, the smoke-free radius was increased from at least 15 feet to at least 25 feet from the entryway, except where existing local regulations permit a smaller radius.

Smoking Ban Exemptions

The following facilities or areas are exempt from the statewide smoking ban:

- private residences and private automobiles, except those used for child day care;
- limousines under private hire;
- any retail tobacco business;
- a cigar-tobacco bar;
- the outdoor area of any business;
- a private, nonresidential building on a farm or ranch that has annual gross income of less than \$500,000; and
- a licensed marijuana hospitality business, if authorized by a local government (this exemption applies only to smoking marijuana).

Any employee of an establishment that is exempted from the ban or not specifically included in the ban, who requests a smoke- and emission-free work environment, must be accommodated with such an area by the employer. The owner or manager of any

business exempted by the act or not specifically included may choose to prohibit smoking completely or to provide designated smoking and nonsmoking areas. Under the act, local governments may also impose regulations on smoking in public, as long as they are not less stringent than in state law.

Penalties

It is unlawful for the owner, manager, or operator of a facility subject to the smoking ban to permit smoking within the establishment. Likewise, it is unlawful for individuals to smoke in buildings or structures that are subject to the ban. A violation of the smoking ban is a class 2 petty offense, punishable by a fine that is no more than \$200 for the first violation within a calendar year. A second violation within a calendar year is punishable by a fine not to exceed \$300. Each additional violation beyond the second offense is punishable by a fine not to exceed \$500. Each day of continuing violation is considered a separate offense. Violations can be reported to local law enforcement.

Smoking Bans in Other States

As of March 2020, 27 other states and the District of Columbia have banned smoking in most public spaces, including workplaces, restaurants, and bars. These states include: Arizona, California, Connecticut, Delaware, Hawaii, Illinois, Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, New Jersey, New Mexico, New York, North Dakota, Ohio, Oregon, Rhode Island, South Dakota, Utah, Vermont, Washington, and Wisconsin.⁶ In addition, Florida, Indiana, Louisiana, and Nevada have banned smoking in workplaces and restaurants, but not in bars.⁷

As of August 2020, fifteen other states and the District of Columbia have included ESDs in their smoking bans in workplaces, restaurants, and bars. These states are California, Delaware, Florida, Hawaii, Massachusetts, Minnesota, New Jersey, New Mexico, New York, North Dakota, Oregon, Rhode Island, South Dakota, Utah, and Vermont.⁸

⁶American Lung Association. *Smokefree Air Laws*. March 10, 2020. <https://www.lung.org/policy-advocacy/tobacco/smokefree-environments/smokefree-air-laws>.

⁷American Nonsmoker's Rights Foundation. *Summary of 100% Smokefree State Laws*. August 15, 2020. <https://no-smoke.org/wp-content/uploads/pdf/SummaryUSPopList.pdf>.

⁸American Nonsmoker's Rights Foundation. *States and Municipalities with Laws Regulating Use of Electronic Cigarettes*. August 15, 2020. <http://no-smoke.org/wp-content/uploads/pdf/ecigslaws.pdf>.