



## THE COLORADO CLEAN INDOOR AIR ACT

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Concern over the detrimental effects of secondhand tobacco smoke on nonsmokers has grown in recent years. The U.S. Environmental Protection Agency classified secondhand tobacco smoke as a known cause of cancer in humans in a December 1992 report. In an effort to reduce the risk of tobacco smoke-related health problems in Colorado, the General Assembly passed the Colorado Clean Indoor Air Act (“act”) in 2006, which prohibits tobacco smoking in indoor areas throughout the state.<sup>1</sup> As of March 31, 2016, 25 other states have also banned tobacco smoking in restaurants, bars, and workplaces.<sup>2</sup>

In 2013, Senate Bill 13-283 amended the act to prohibit marijuana smoking as well. According to the American Lung Association, secondhand smoke from marijuana contains many of the same cancer-causing chemicals as secondhand tobacco smoke.

This *issue brief* discusses the definition of smoking under the act. It also lists the organizations, businesses, and structures affected by the smoking ban, as well as those that are specifically exempted from it. Finally, it explains the offenses established under the act and the penalties for committing those offenses.

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<sup>1</sup>Part 2 of Article 14 of Title 25, C.R.S.

<sup>2</sup>Arizona, 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, Wisconsin.

### Definition of Smoking

The act defines smoking as the burning of a lighted cigarette, cigar, pipe, or any other matter or substance that contains tobacco or marijuana. The definition does not include the use of e-cigarettes, also known as vaporizers or electronic smoking devices. E-cigarettes are devices that use battery power to convert varying concentrations of liquid nicotine (or marijuana products) into vapor that can be inhaled.

### Covered Entities

The act prohibits smoking tobacco and marijuana in the following indoor areas throughout the state:

- public meeting places;
- elevators;
- government-owned or operated means of mass transportation, such as buses and trains;
- taxis and limousines;
- grocery stores;
- gymnasiums;
- jury waiting and deliberation rooms;
- courtrooms;
- child day care facilities;
- health care facilities;
- any place of employment that is not exempted (see the next section for exemptions);
- food service establishments;
- bars;

- limited gaming facilities and any other facilities in which gaming or gambling activity is conducted;
  - indoor sports arenas;
  - common areas such as restrooms, lobbies, and hallways in:
    - all public and private residential buildings,
    - hotels and motels, including 75 percent of the sleeping quarters, and
    - retirement facilities, nursing homes, and publicly owned housing facilities;
  - bowling alleys;
  - public buildings;
  - billiard or pool halls;
  - facilities in which games of chance are conducted;
  - auditoriums;
  - theaters;
  - museums;
  - libraries;
  - public and nonpublic schools; and
  - the entryways of all previously listed buildings and facilities.
- a private, nonresidential building on a farm or ranch that has annual gross income of less than \$500,000; or
  - areas of assisted living facilities that are designated for smoking for residents, are fully enclosed and ventilated, and to which access is restricted to the residents or their guests.

Any employee of an establishment that is exempted from the ban or not specifically included in the ban, who requests a smoke-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.

### **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.

### **Exemptions**

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

- private residences and private automobiles, except those used in the course of child day care;
- limousines under private hire;
- a hotel or motel room rented to one or more guests (must be no more than 25 percent of the total guest rooms in the hotel or motel);
- any retail tobacco business;
- a cigar-tobacco bar;
- designated smoking areas of Denver International Airport;
- the outdoor area of any business;
- a place of employment that employs three or fewer individuals and is not open to the public;