

Michigan Smoke Free Law Frequently Asked Questions

Bars, Restaurants, and Other Food Service Establishments

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What is a food service establishment?

A food service establishment is defined in section 1107(n) of the food law of 2000, 2000 P.A. 92, MCL 289.1107 as: a fixed or mobile restaurant, a coffee shop, a cafeteria, short order café, luncheonette, grill, tearoom, sandwich shop, soda fountain, tavern, bar, cocktail lounge, nightclub, drive-in, industrial feeding establishment, private organization serving the public, rental hall, catering kitchen, delicatessen, theater, commissary, food concession, or similar place in which food or drink is prepared for direct consumption through service on the premises or elsewhere, and any other eating or drinking establishment or operation where food is served or provided for the public.

Where is smoking prohibited in a restaurant?

Smoking is not allowed in any indoor area as well as outdoor areas such as patios or rooftops where patrons are intended to receive service or consume food, beverages, or both.

Can food and/or beverages be consumed around horseshoe pits, shuffle board courts, etc.?

Each situation must be evaluated using the criteria listed above: ... Smoking is not allowed in any ... outdoor areas such as patios or rooftops where patrons are intended to receive service or consume food, beverages, or both.

Your local health department food inspector will assist your facility in evaluating if this area is a smoke free part of your food service establishment.

Where are restaurant guests or employees permitted to smoke?

Smoking may be allowed in outdoor areas where food, beverages, or both are not intended to be served or consumed.

What do food service establishment operators need to do to comply with this law?

Food service establishment operators shall prohibit smoking in areas where it is not permitted. Compliance is determined by the following:

- Clearly and conspicuously post “no smoking” signs or the international “no smoking” symbol at each entrance and in other areas where smoking is prohibited under this act. These other areas may include outdoor areas such as patios or rooftops where patrons are intended to receive service or consume food, beverages, or both.
- Removing ashtrays and other smoking paraphernalia from anywhere where smoking is prohibited. “Smoking paraphernalia” means any equipment, apparatus, or furnishing that is used in or necessary for the activity of smoking.
- Informing individuals smoking in violation of this act that they are in violation of state law and are subject to penalties.

- Refusing service to an individual smoking in violation of this act.
- Asking an individual smoking in violation of this act to refrain from smoking and, if the individual continues to smoke in violation of this act, ask him or her to leave.

How should I respond if someone is smoking in my establishment?

You should politely ask the individual to stop smoking and inform them that they are in violation of the Smoke Free Law and they are subject to penalties. If the individual continues to smoke, you should refuse service to that individual and ask him or her to leave. It is recommended that you communicate this incident with your staff and log it into any tracking mechanism your establishment may have to document your actions.

How far do people have to be from my bar/restaurant to smoke?

There is no specific distance requirement that people are required to be from a food service establishment to be able to smoke. However it is recommended that smoking not be allowed at entrances or other areas that may allow smoke to infiltrate the establishment. There may be local regulations that require a particular distance smokers can be from businesses that are not licensed as food service establishments.

How does the local regulation/ordinance affect smoking in my establishment?

Currently, local smoking ordinances and regulations do not apply to food service establishments.

Where does signage need to be placed?

“No Smoking” signs or the international “no smoking” symbol must be clearly and conspicuously posted at all entrances (front, side and/or rear). Additionally, signs must be posted at other areas where smoking is prohibited which may include patios, rooftops, outdoor tables and other areas where foods and/or beverages are intended to be served and/or consumed.

For mobile food units and special transitory food units, this is typically at the entrance and/or food preparation areas of the unit. **A no smoking sign template can be found on the MDCH website at:**

http://www.michigan.gov/mdch/0,1607,7-132-2940_2955_2973_55026---,00.html

A licensee at a temporary food event may wish to simply print copies of this sign for use at the event.

Due to the varied nature of temporary food establishments, the local health departments will work with the individual vendors and festival coordinators to determine non smoking areas.

Who will provide the signage?

It is the responsibility of the food establishment to comply with the provisions of this law. **A limited number of signs were printed in a joint effort between MDCH and MDA. These signs may be obtained at your local health department.**

How does the smoke free law apply to bingo halls and private clubs?

Bingo halls are not exempt from the smoke free law. Any establishment that serves food or beverages – which requires a license from the state – cannot allow smoking, even if it only serves once a week or once a year. If clubs don’t serve food or beverages, but employ at least one person, they must be smoke free.

Is smoking prohibited on golf courses?

Smoking will be prohibited in food service establishments, which includes the patio or deck area where patrons are intended to receive service or consume food, beverages, or both.

Smoking will also be prohibited in concession areas on the course and in the concession golf cart where food and/or beverages are sold on the course.

Part 126 will exclude smoking in any enclosed area/building.

Are beer tents exempt from the smoke free air bill?

A temporary food service establishment with no food preparation serving only bottled beer, beer from a keg, or bottled/boxed wine into single service glasses would be exempt from licensure. As long as the tent was not enclosed, smoking would be permitted.

My establishment only has a liquor license; does the smoke free law still apply to me?

Yes, your establishment is still considered a food service establishment under the Food Law, 2000 P.A. 92, as amended.

TOBACCO SALES:**Is the sale of tobacco products allowed in a food service establishment?**

If a food service establishment is licensed to sell tobacco products, they may continue to do so. It is up to the person in charge of the establishment to assure that no smoking is taking place in the food service establishment.

Are vending machines allowed in a tobacco specialty retail stores?

Most vending machine locations are licensed as food service establishments, and tobacco specialty retail stores may not be considered a food service establishment location. Thus, the only vending machines allowed would be vending machines **exempted from licensure** as defined under the Food Law (Act No. 92 of 2000, as amended) 289.1111 (l) (i) as "A device that dispenses only bottled or canned soft drinks; other packaged non-perishable foods or beverages; or bulk ball gum, nuts, and panned candies."