Indiana Smoking Ban – Frequently Asked Questions (FAQs)

April 5, 2012

On March 19, 2012, Governor Mitch Daniels signed into law a bill imposing statewide restrictions on smoking in public places. Indiana is the 38th state to enact such a statewide ban. Below are answers to some frequently asked questions about the new law.

1. **When does this law go into effect?**

   The law takes effect on July 1, 2012.

2. **What locations are covered by the smoking ban?**

   The law prohibits smoking in all enclosed areas of public places and places of employment as well as within eight feet of a public entrance to a public place or place of employment. The law also prohibits smoking in vehicles owned, leased, or operated by the state if being used for a governmental function and smoking on school buses that are being used to transport children to school or school functions.

3. **Are there any exceptions to the ban?**

   Yes, the following locations are exempt from the smoking ban:

   Horse racing facilities and permanent adjacent structures owned or leased by the owner;

   Riverboats (on which gambling is authorized) and permanent adjacent structures owned or leased by the owner;

   Gaming facilities (and satellite facilities) at racetracks and permanent adjacent structures owned or leased by the owner;

   Certain businesses that allow cigar smoking and smoking with waterpipes or hookah devices;

   Private, not-for-profit clubs that provide food or alcoholic beverages only to their members and guests, subject to vote of the members. Smoking is allowed only in separate, enclosed smoking areas where individuals under the age of 18 are not allowed;

   Retail tobacco stores if tobacco sales account for at least 85% of the store’s annual gross revenues, entry by individuals under the age of 18 is prohibited, and food and beverages are not sold for consumption on the premises;
Bars or taverns that do not employ individuals under the age of 18 or allow individuals under the age of 21 (other than employees) to enter;  
Cigar manufacturing facilities that do not offer retail sales;  
Certain cigar specialty stores with separate smoking rooms. Cigarette smoking must be prohibited and individuals under the age of 18 must not be allowed in the smoking room; and  
Businesses that are in a private residence if the only employees are also residents.

4. Are there any posting or notice requirements?

Yes. Any public place where smoking is permitted must post conspicuous signs that read: “WARNING: Smoking Is Allowed In This Establishment” or other similar language. In addition, the owner or operator of a restaurant must post a prominent sign at each entrance informing the public that smoking is prohibited. Employers must inform current and prospective employees of the smoking prohibitions that apply.

5. Are there penalties for smoking in places where smoking is not allowed?

Yes. A person who smokes where prohibited commits a Class B infraction. If the person has committed at least three prior infractions, he or she commits a Class A infraction.

6. What are owners, managers, or officials required to do if someone is smoking in a location where smoking is prohibited?

An owner, manager, or official in charge of a public place is required to ask the individual to refrain from smoking and to have the individual removed from the premises if he or she does not stop smoking after being asked to refrain from smoking. An owner, manager, or official of a public place or place of employment who fails to comply with the requirements of the law commits a Class B infraction. A failure to comply is a Class A infraction if the person has committed at least three prior infractions.

7. Are there protections for employees and others who complain under this law?

Yes. An owner, manager, or official is not allowed to discharge, refuse to hire, or in any manner retaliate against an individual for reporting a violation of the law or for exercising any right or satisfying any obligation under the law.

8. What if I live or work in a county or city that has a smoking ban that is more stringent than the state law?

The state law specifically authorizes local governments to enact more restrictive ordinances, so you must follow the requirements of the more restrictive ordinance.

9. If I am a private employer, may I prohibit smoking anywhere on my property?

Yes.