



[NO SMOKING]

NEW MICHIGAN LAW BANS PUFFING IN THE WORKPLACE

After a sometimes fiery 10-year legislative debate, Michigan will finally ban smoking while inside at work. The new law goes into effect May 1, 2010, affecting all worksites with the exception of casinos, cigar bars, tobacco stores, home offices, and vehicles. Employers should prepare now to adopt policies and implement the ban.

WHO IS COVERED?

The law affects all Michigan public and private employers and pertains to any enclosed indoor area where at least one employee works.

WHAT TYPE OF SMOKING IS BANNED?

Smoking is defined as burning a lighted cigar, cigarette, pipe, or other matter or substance that contains a tobacco product. The law does not appear to restrict chewing tobacco.

IS THE ENTIRE WORKPLACE SMOKE-FREE?

As passed, the law does not permit smoking anywhere in an indoor workplace—even dedicated indoor smoking rooms are prohibited.

WHAT ARE EMPLOYERS REQUIRED TO DO?

Employers don't have to report smoking violations to the police or other governmental authority. But, under the law, they're responsible for making reasonable efforts to prohibit smoking in the workplace. Specifically, employers are required to:

- Clearly post no smoking signs or the internationally recognized no smoking symbol at the entrance to and throughout any building or work area covered by the ban
- Remove all ash trays or other smoking paraphernalia from work areas
- Inform employees, vendors, customers, or visitors that smoking is prohibited by law and subject to penalties
- Ask any employee or individual smoking in violation of the law to stop, and request that they leave the work area if they refuse

IS A NO SMOKING POLICY RECOMMENDED?

There's no obligation for employers to adopt a written policy—such a requirement was considered by the Legislature and ultimately rejected. Nonetheless, employers should consider a carefully crafted policy to:

- Explain the smoking ban and the civil fines that may be imposed for violators
- Provide notice that employees who smoke in violation of the law will be subject to discipline, up to and including discharge



Given the obligation to confront employees smoking in violation of the law, employers should also consider training supervisors on effective ways to handle such situations.

WHAT ARE THE PENALTIES FOR VIOLATING THE NEW LAW?

While there are no direct penalties authorized against an employer whose

employees smoke in violation of the law (providing employers meet their obligations as stated earlier), both community and local health departments are authorized to seek enforcement; and they can pursue relief within 60 days.

Individuals who smoke in violation of the law are subject to a \$100 fine for the first incident and fines up to \$500 for subsequent violations.

Employers may not take retaliatory personnel action against any employee who seeks to enforce his or her rights under the new law. Thus, the law implies that employees are protected for bringing complaints to the employer's attention when coworkers smoke on the job.

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