

Preparing Your Workplace for Michigan's Upcoming Smoking Ban

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Smoking will become significantly restricted across Michigan on May 1, and there are steps employers must take not only to ensure compliance but to provide a defense to violations.

The ban applies to all "public places," which is broadly defined to include not only most indoor areas owned by state or local government agencies, but also any place of employment where one or more persons is employed by a public or private employer.

The law provides limited exceptions for tobacco specialty retail stores, casinos and cigar bars already in existence. However, casinos must still comply with the act in non-gaming areas, including restaurant areas and adjacent hotel rooms.

The law requires the owner, operator or person having control of a public place (i.e., private places of employment), a food service establishment or casino to make a reasonable effort to prohibit individuals from smoking in their facilities, including:

- "Clearly and conspicuously post 'no smoking' signs or the international 'no smoking' symbol at the entrances to and in every building or other area where smoking is prohibited."
- "Remove all ashtrays and other smoking paraphernalia from anywhere smoking is prohibited."
- "Inform individuals smoking is in violation of this act, and that they are in violation of state law and subject to penalties."
- "If applicable, refuse to serve an individual smoking in violation of this act."
- "Ask an individual smoking in violation of this act to refrain from smoking and, if the individual continues to smoke...ask him or her to leave."

The law provides a \$100 fine for the first violation and up to \$500 for subsequent violations. It also permits individuals who have used the facility within 60 days before the violation to bring a civil action seeking injunctive relief. In addition, food service establishments risk the additional penalty of an order of the local health department to cease food service operations until compliance is achieved.

It is important to take all of the above steps since they may provide a good faith defense to violations. If you have any questions about Michigan's smoking ban or you believe your business may qualify for one of the limited exemptions, please contact the author, Claudia D. Orr or your Plunkett Cooney attorney.

PREPARING YOUR WORKPLACE FOR MICHIGAN'S UPCOMING SMOKING BAN Cont.

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