



Smoke-Free Ontario Act 2005

How the Act Affects: Employers and Employees

The Basics

- The Smoke-Free Ontario Act comes into force on May 31, 2006.
- The act prohibits smoking in enclosed workplaces and enclosed public places in Ontario in order to protect workers and the public from the hazards of second-hand smoke.

Enclosed Workplaces

The act seeks to protect employees from exposure to second-hand smoke in an enclosed workplace. An enclosed workplace means the inside of a building, structure or vehicle that an employee works in or frequents during the course of their employment (whether or not they are acting in the course of their employment at the time), and includes common areas such as washrooms, lobbies and parking garages. Examples of an enclosed workplace include the inside of a trailer office on a construction site, the inside of a loading dock, or the inside of a delivery truck. The ban on smoking in an enclosed workplace is in effect at all times, even during off-hours when people are not working.

Other Places - Designated Smoking Rooms, Smoking Shelters, Cafeterias, Patios

Designated Smoking Rooms (DSRs), which were permissible in some instances under local municipal bylaws, are now prohibited.

An employer may choose to accommodate employees who smoke by providing a smoking shelter outdoors. An employer who provides an outdoor smoking shelter must ensure that the structure consists of no more than two walls and a roof.

Cafeterias in a workplace are treated the same as a restaurant in which food or drink are served, sold or offered for consumption. As such, they must comply with the smoking prohibitions related to outdoor patios that are part of or adjacent to the cafeteria or eating area, and the employer requirements listed below.

Smoking is prohibited if an outdoor patio has a roof, even where the roof partially covers the patio. A roof includes an awning, tarp, canvas sheeting or other permanent or temporary covering that is capable of excluding rain or impeding airflow, or both. A stand-alone umbrella covering a single table would not be considered a roof. However, if umbrellas are used in such a way so as to serve as a roof, an inspector may view it as such and act accordingly.

Responsibilities of Employers

Every employer must:

- Ensure that employees are aware that smoking is prohibited in enclosed workplaces.
- Remove ashtrays and any object that serves as one.
- Ensure that no one smokes in the workplace.
- Ensure a person who does not comply does not remain in the enclosed workplace.
- Post *No Smoking* signs at all entrances, exits, washrooms and other appropriate locations in order to ensure that everyone knows that smoking is prohibited. For information on acquiring required signage, please contact your local public health unit.

Employees

An employee is:

- A person who performs any work for, or supplies any services to, an employer.
- A person who receives any instruction or training in the business or profession of an employer.

Protection for Employees

- An employer may not *dismiss, threaten to dismiss, discipline, suspend, penalize, intimidate or coerce* an employee who obeys or seeks compliance with the act.
- If an employee experiences any of the above-noted actions by his or her employer, the employee may direct complaints to the Ontario Labour Relations Board.

For more information about filing a complaint, please call the Ministry of Labour:

- 877-339-3335 (Toll-free in Ontario only)
- 416-326-7500 in Toronto

Or visit the Ministry of Labour website at www.labour.gov.on.ca/english/hs/faq/faq_3.html

Enforcement

Local public health units will carry out inspections and investigate complaints in workplaces in order to enforce the act.

Penalties

Any individual convicted of an offence under the section of the act for the protection of employees could be subject to a maximum fine of \$4,000. Any corporation convicted of an offence under this section of the Act could be subject to a maximum fine of \$10,000.

With respect to a contravention of an employer obligation and a contravention of the general prohibition against smoking, an individual could be subject to a maximum fine of \$5,000, while there is no maximum fine for a corporation.

This fact sheet is intended as a quick reference only. For more information, please contact your local public health unit at:

<http://www.smokefreeeast.ca/contact.php>

You may also obtain information by calling toll-free:

- **INFOline** 1-866-396-1760
- **TTY** 1-800-387-5559

Hours of operation: Monday to Friday, 8:30am - 5:00pm

For more information on the Smoke-Free Ontario Act, please visit the Ontario Ministry of Health Promotion website:

http://www.mhp.gov.on.ca/english/health/smoke_free/legislation.asp.