

## Michigan Smoke Free Law Frequently Asked Questions

(For updated FAQ's, [click here.](#))

### **Bars, Restaurants, and Other Food Service Establishments**

#### **What is a food service establishment?**

A food service establishment is defined in section 1107(n) of the food law of 2000, 200 PA 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.

#### **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.

#### **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 Act No. 92 of 2000 as amended.

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

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

### **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.

**In Muskegon County, the Muskegon County Clean Indoor Air Regulation applies to businesses not licensed as a food service establishment and prohibits smoking within 30 feet of any entrances, windows, and ventilation systems.**

### **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. 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.