



A guide for business owners and managers

SmokeFreeNM.com



SMOKE FREE NEW MEXICO

Improving the state of our health.

In the 2007 Legislative Session, New Mexico lawmakers passed the Dee Johnson Clean Indoor Air Act to protect the health of both the public and employees by reducing their exposure to secondhand smoke. The law creates a safer and healthier environment for employees, families and people statewide to enjoy New Mexico's restaurants, bars and other indoor establishments.

This law, which took effect on June 15, 2007, prohibits smoking in indoor public places and workplaces including stores, offices, bars, restaurants and other workplaces. This guide is intended to help you understand this new, important law and give you the information you need to comply with the law as a smokefree business.

What places in New Mexico are required to be smoke free under the Dee Johnson Clean Indoor Air Act?

All public places and places of employment are required to be smokefree. This includes all restaurants, bars, other workplaces (retail/office space, etc.) and indoor public places. It also includes buses, taxicabs and other means of public transportation and at least 75 percent of all hotel/motel guest rooms.

The only exemptions to the ordinance are as follows:

- Retail tobacco stores (as long as smoke from the store does not infiltrate smokefree areas)
- Private homes when not being used commercially to provide child care, adult care or health care
- Cigar bars (meeting strict revenue criteria for cigar sales as of 12/31/07)
- State-licensed gaming facilities, casinos and bingo parlors
- Designated outdoor smoking areas (patios, etc.) as long as a reasonable distance is maintained from building entrances that complies with the requirements of the law
- Private clubs qualified as federal 501(c) non-profits (e.g., fraternal organizations)
- Sole proprietors or businesses not commonly open to the public with fewer than 2 employees as long as the business is not a restaurant or bar

- Enclosed areas within restaurants or bars or hotel/motel meeting rooms ONLY WHEN THEY ARE USED FOR PRIVATE FUNCTIONS and ONLY if smoke from those areas does not infiltrate into other areas where smoking is prohibited
- Limousines for private hire
- Tobacco manufacturing facilities
- Sites being used in connection with the practice of American Indian cultural activities in accordance with the American Indian Religious Freedom Act

The law also includes these stipulations:

- No smoking is allowed within a reasonable distance of all entrances of a business. Business owners must enforce a buffer of non-smoking outside the entrances to the business so that persons do not have to walk through smoke to gain entrance to the building. Smoke also must not enter the building through doors, windows, ventilation systems or other means. When people are smoking outside of your business, you should not be able to still smell smoke in the door threshold or through windows. If you can, then you will need to place the smoking area farther from that door or window.
- Every public place where smoking is prohibited must post signs clearly stating that smoking is not allowed.
- A written smoking policy is required and must be posted. This can be as simple as posting signs that

state clearly that no smoking is allowed anywhere indoors or near entrances, or a more detailed policy that includes specific information on designated outdoor smoking areas, reporting and dealing with violations, smoking cessation services, etc.

- A non-retaliation clause must be included in a smoking policy so that employees, applicants or customers may not be retaliated against for exercising their rights under the law.

Important things to remember:

- Local laws that are stronger than the state law will take precedence over the state law. If your local law is more restrictive than the Dee Johnson Clean Indoor Air Act, then the local law is the one that will be enforced in your community.
- All ashtrays and other smoking paraphernalia should be removed from smokefree areas.
- Fines for violations are as follows: up to \$100 for the first violation, up to \$200 for the second violation and up to \$500 for the third and subsequent violations within a 12-month period.
- It is the responsibility of all businesses in New Mexico to keep their customers safe from secondhand smoke by enforcing this law. Business owners and managers are not subject to penalties as long as they comply with the requirements of the law, including posting signs and informing the person smoking that smoking is not allowed in their establishment.

Who will enforce the law?

- Local fire, police, and sheriff's departments are named as enforcing agencies by the Dee Johnson Clean Indoor Air Act. Local communities that have their own local laws may have additional enforcement agencies designated to enforce those local laws.
- The enforcement agency may inspect for compliance as part of other routine mandated inspections.

Who will be helped by this law?

- Everyone. This law has gone into effect to protect the people who live and work in New Mexico as well as the people who visit here.

Why will it help?

- Secondhand smoke is known to cause cancer, heart disease and lung disease in smokers and non-smokers. Non-smokers who are exposed to secondhand smoke at work increase their risk of developing heart disease by 25-30 percent and lung cancer by 20-30 percent. Restaurant and bar workers may have as much as a 50 percent higher risk of getting lung cancer.
- Children exposed to secondhand smoke are more likely to suffer from serious and costly illnesses including pneumonia, bronchitis, asthma and middle-ear infections.
- People with asthma, allergies and respiratory problems are at risk of experiencing immediate reactions when exposed to cigarette smoke in public.

What can I do to make the transition to this new law easier?

Posting clear signage and educating employees about the implications of the law will make the transition to a smokefree New Mexico easier for everyone. Inform your employees of the law's requirements. Having a written policy for your business is required, and you can find a sample "model policy" by visiting SmokeFreeNM.com.

The information provided in this brochure is not intended to be legal advice. Please consult state statutes or contact an attorney for more information about the Dee Johnson Clean Indoor Air Act (24-16-1 NMSA 1978). A complete copy of the law is available at SmokeFreeNM.com.



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