

State Smoking Restrictions

Updated October 2004

**** IMPORTANT NOTE:** The state information provided below is compiled from a number of reporting services as of **October 1, 2004**. However, no warranty of accuracy is given, particularly since state laws can change frequently. The National Restaurant Association urges you to consult with the relevant state enforcement agency, your legal counsel, and/or your local human resources expert before acting on an important matter related to smoking restrictions. The information below is provided with the understanding that the National Restaurant Association is not engaged in rendering legal or professional services. It is also important to note that cities, counties and localities within each state may have more stringent restrictions.

**** Nationwide, more than 1,700 cities and 10 states have enacted comprehensive clean indoor air legislation**

(According to the American Nonsmokers' Rights Foundation in Berkeley, Calif.)

Alaska: Restaurants

Smoking is restricted to designated areas in food service establishments with a seating capacity of at least 50 persons. (1990)

Alabama: Restaurants

Restaurants are allowed to set up smoking areas and are not required to put up any physical barriers. The bill states that "existing physical barriers and ventilation systems shall be used to minimize the toxic effect of smoke (the bill states that the smoking areas be no more than 25% of the total square footage unless clientele dictate otherwise). If any restaurant is deemed by its owner as being too small to have designated smoking are, it shall be left up to the discretion of the owner if the facility will be a "smoking" or a "nonsmoking" facility. Areas designated as smoking or non-smoking must prominently display "No Smoking" or "Smoking Permitted" signs, but specific size is not stated. Smoking is permitted in bars and lounges. (2003)

Arkansas: Restaurants

None at the state level.

Arizona: Restaurants

None at the state level.

California: Restaurants

Smoking is prohibited in all enclosed places of employment, except for in a non-work area where no one is required to enter as part of his or her work responsibilities. (1996)

Colorado: Restaurants

None at the state level.

Connecticut: Restaurants

Smoking is banned in all restaurants, however smoking shall be allowed in taverns, cafes and bowling alleys until April 1, 2004, and the ban shall not apply to private clubs. (2003)

Delaware: Restaurants

Smoking is prohibited in all restaurants, bars and casino properties. (2002)

District of Columbia: Restaurants

Restaurants seating over 50 persons shall designate at least 25% of total seating capacity as a non-smoking area. (1987)

Florida: Restaurants

Smoking is prohibited in the indoor portions of restaurants. (2003)

Georgia: Restaurants

None at the state level.

Hawaii: Restaurants

Retail eating establishments with a seating capacity of 51 patrons or more and the dining area of cruise ships shall provide nonsmoking areas proportionate to the preference of the customers and so located as to obtain the maximum effect of existing physical barriers and ventilation systems to minimize the toxic effect of smoke in adjacent nonsmoking areas. Violators may be fined up to 20 dollars. (1993)

Iowa: Restaurants

Smoking is restricted to designated areas in restaurants seating more than 50 people. (1990)

Idaho: Restaurants

As of July 1, 2004 Idaho prohibits Smoking in all enclosed places of employment. (2004)

Illinois: Restaurants

Smoking is restricted to designated areas in restaurants. The appropriate signs shall be posted. Violators are guilty of a petty offense. A unit of local government in this state shall not have the power and authority, after October 1, 1989, to regulate smoking in public places. (1989)

Indiana: Restaurants

None at the state level.

Kansas: Restaurants

Smoking is restricted to designated areas in restaurants. (1987)

Kentucky: Restaurants

None at the state level.

Louisiana: Restaurants

Local governments have the power to regulate smoking, but restaurants that serve liquor, bars, gambling operations, tobacco vendors and hotel rooms are exempt from any smoking ban (2003). Restaurants must still conform to local ordinances passed before a statewide moratorium was put into place from 1993 to 2003.

Massachusetts: Restaurants

As of July 5, 2004 this state enforces a state wide ban of smoking in public places. (2004) State law states that smoking is allowed with the following restrictions: space is separate, not enclosed, and does not allow smoke to migrate into the workplace. Local municipalities can impose other restrictions.

Maryland: Restaurants

Restaurants that do not possess an alcoholic beverage license may have a separate enclosed smoking room not to exceed 40% of the total area of the restaurant. Restaurants that do possess an alcoholic beverage license may designate the bar or bar area, a separate enclosed room not exceeding 40% of the total restaurant, or a combination of a bar or bar area and a separate enclosed room not exceeding 40% of the total area of the restaurant including the bar or bar area, as a smoking area. A separate enclosed room in which smoking is permitted is not required to have a specially modified ventilation system for the room. Smoking is permitted in any location that possesses an alcoholic beverage license for consumption on the premises and is generally recognized as a bar or tavern or club. (1995)

Maine: Restaurants

Smoking is prohibited in restaurants and Class A restaurants and lounges. Smoking is allowed in other lounges and taverns. (1999) **Maine banned smoking in all lounges effective 1/1/04.**

Michigan: Restaurants

Food service establishments seating 50 or more persons that are not owned or operated by a private club must reserve a minimum of 50% of all seating for a non-smoking section. All food service establishments seating fewer than 50 people, including establishments owned and operated by a private club, must reserve a minimum of 25% of the seating for a non-smoking section. Public areas in restaurants must be smoke-free. These areas include, but are not limited to, restrooms, coatrooms, and entrances. Public areas do not include lobbies, waiting rooms, hallways, or lounges. This law also applies to food service establishments or food court areas in enclosed shopping malls. Compliance with this section shall be used by local health departments as criteria to determine whether to deny, suspend, limit, or revoke a license. (1993)

Minnesota: Restaurants

Smoking is restricted to designated areas in restaurants. (1992)

Missouri: Restaurants

Restaurant owners shall provide an area of sufficient size to accommodate usual and customary demand for non-smoking areas by customers. This shall not be cause to exceed the 30% space limitation for a smoking area. Bars and Taverns, bowling alleys, billiard parlors, and restaurants have exemptions only when fewer than 50 seats and with easily seen signs stating "Non Smoking Areas are unavailable". (2002)

Mississippi: Restaurants

None at the state level.

Montana: Restaurants

The proprietor or manager of a restaurant must designate smoking and non-smoking areas with easily readable signs. (1991) If the operator has an all beverage license (as opposed to just a beer/wine license), the operator may allow smoking.

North Carolina: Restaurants

None at the state level. * There is a statute that says local jurisdiction can adopt a non-smoking requirement but cannot call for over 50 percent non-smoking in restaurants.

North Dakota: Restaurants

Smoking is restricted to designated areas in buildings or enclosed structures that seat 50 or more persons and are available to the public including restaurants, food service establishments, dining rooms, cafes, cafeterias or other rooms used primarily for the service of food -- regardless of whether the establishments serve alcoholic beverages. The proprietor of a food service establishment may temporarily, during the course of daily business, expand the

designated smoking area beyond 50% of the total available area if the smoking area becomes fully occupied and additional space is needed. (1993)

Nebraska: Restaurants

Smoking is restricted to designated areas in restaurants. Bars and restaurants having a serving area of less than 1,200 square feet may be designated as a smoking area in their entirety. (1979)

New Hampshire: Restaurants

Smoking is restricted to effectively segregated smoking areas in restaurants seating 50 or more people. Definition of "effectively segregated smoking areas" in restaurants means all the following conditions have been met: (a) Procedures for accurately and fairly determining preference have been followed; (b) The size and location of no-smoking and smoking-permitted areas are designed, designated, or juxtaposed so that smoke does not cause harm or unreasonably intrude into the area occupied by persons who are not smoking; (c) A contiguous portion of the enclosed public place, including any seating arrangements, measures a minimum of 200 square feet, and at least one of the following 2 contingencies exist: (1) There is a continuous, physical barrier such as a wall, partition or furnishing at least 56 inches in height to separate the no-smoking area from a smoking-permitted area. The barrier may contain doors or portals for exit and entry; or (2) There is a space of at least 4 feet in width to separate the smoking-permitted and no-smoking areas. This space may be either an unoccupied area or a section of seating area representing a buffer zone in which smoking is not permitted, but which itself is not part of the no-smoking designated area; and (d) In buildings where existing ventilation systems are in place, areas designated as smoking areas are located, where reasonably possible, proximate to exhaust vents. (2000)

New Jersey: Restaurants

Restaurants are encouraged to establish non-smoking areas, and must post signs at every public entrance indicating whether or not they maintain a non-smoking section. Any person who smokes in a nonsmoking area or a proprietor who fails to comply with this law after receiving notification of a violation, is subject to a fine not to exceed \$25. (1985)

New Mexico: Restaurants

None at the state level.

Nevada: Restaurants

Restaurants seating 50 or more people are required to maintain a flexible nonsmoking area and offer each patron the opportunity to be seated in a smoking or nonsmoking area. (1999) An agency, board, commission or political subdivision of this state shall not impose more stringent restrictions on the smoking, use, sale, distribution, marketing, display, or promotion of tobacco products than those provided by this law. (1993)

New York: Public Places / Restaurants

The law bans smoking in almost all-indoor work areas - **Smoking is prohibited in all indoor food service establishments** (Defined as any area, including outdoor areas devoted to the sale of food for on-premise consumption). Smoking will be permitted in outdoor areas of food service establishments if: There is no roof or ceiling enclosure on the area; No more than 25% of the entire outdoor area is for smoking; The smoking area is at least three feet away from the non-smoking area; The area must be clearly designated with written signage. Smoking is banned in bars (Defined as any area, including outdoor areas, devoted to the sale of alcoholic beverages for on-premise consumption where the service of food is incidental). There are no conditions allowing smoking in outdoor areas of bars. (2003)

Ohio: Restaurants

None at the state level.

Oklahoma: Restaurants

A restaurant with a seating capacity of fifty or more persons may have designated smoking and nonsmoking areas or may be designated as being a totally smoking area or a totally nonsmoking area. **Beginning March 1, 2006, all restaurants must either go smoke free or smoking areas must be enclosed and separately-ventilated.** (2003)

Oregon: Restaurants

Smoking is prohibited in restaurants unless they are posted off-limits to minors or areas of restaurants are posted as off-limits to minors under rules adopted by the Oregon Liquor Control Commission. A local county, district, municipality, port or political subdivision of this state may not prohibit smoking in any areas listed in this section unless the local government prohibition was passed before July 1, 2001. (2001)

Pennsylvania: Restaurants

Restaurants with seating capacities of 75 or more shall provide smoking and non-smoking areas reasonably calculated to address the needs of their clientele. The size of the smoking area may be increased or decreased by the proprietor or person in charge, according to need. Restaurants with fewer than 75 seats shall either provide a non-smoking section or post a notice at each entrance stating that there is no smoking policy. (1988)

Rhode Island: Restaurants

Eating facilities seating 50 or more persons are required to have separate seating arrangements for smokers and non-smokers. (1993) **During the 2004 session legislation was enacted to impose a complete ban on smoking in all public places effective March 1, 2005.**

South Carolina: Restaurants

None at the state level.

South Dakota: Restaurants

Smoking is prohibited. Restaurants licensed to sell alcohol are excluded. (2002)

Tennessee: Restaurants

None at the state level

Texas: Restaurants

None at the state level

Utah: Restaurants

Smoking is prohibited in restaurants, cafes, and cafeterias. This law shall be enforced by the state Department of Health and local health departments. Violators may be fined up to \$100 for a first violation and \$100-\$500 for subsequent violations. This law supersedes any ordinance enacted by a governing body of a political subdivision that restricts smoking and that is not essentially identical to the provisions of this chapter. (1994)

Vermont: Restaurants

Smoking is banned entirely in restaurants. (1993)

Virginia: Restaurants

Any restaurant having a seating capacity of fifty or more persons shall have a designated no-smoking area sufficient to meet customer demand. In determining the extent of the no-smoking area, the following shall not be included as seating capacity: (i) seats in any bar or lounge area of a restaurant and (ii) seats in any separate room or section of a restaurant which is used exclusively for private functions. The proprietor shall post signs conspicuous to public view stating "Smoking Permitted" or "No Smoking," and in restaurants, signs conspicuous to ordinary public view at or near each public entrance stating "No-Smoking Section Available." Any person failing to post such signs may be subject to a civil penalty of not more than \$25. No person shall smoke in a designated no-smoking area and any person who continues to smoke in such area after having been asked to refrain from smoking may be subject to a civil penalty of not more than \$25. Ordinances adopted after January 1, 1990, shall not contain provisions or standards which exceed those established in this chapter. (1996)

Washington: Restaurants

Managers of restaurants who choose to provide smoking areas shall designate an adequate amount of seating to meet the demands of restaurant patrons who wish to smoke. (1985) Restaurants were exempted from the Clean Air Act passed in 1985 (that prohibits smoking in all places of work) to allow those businesses such as restaurants, taverns, bowling alleys and casinos (non-native American) to permit smoking in designated areas, and restaurants can have their entire establishment declared 100% smoking, but must sign this accordingly at the entrance of the restaurant.

Wisconsin: Restaurants

Smoking is restricted to designated areas in restaurants, unless the restaurant's liquor sales account for more than 50% of the receipts, or the seating capacity is less than 50 persons. (1992)

West Virginia: Restaurants

The state Supreme Court has ruled that local health boards have the power to ban smoking in most indoor public settings. No laws at the state level.

Wyoming: Restaurants

None at the state level.