

## Questions for Restaurants and Bars about the Smoke-Free Workplace Law and Outdoor/Patio Smoking

The Smoke-Free Workplace Law, M.G.L. Ch. 270, §22, mandates that enclosed workplaces with one or more employees must be smoke-free. The state law's intent is to protect workers in enclosed workplaces from secondhand smoke exposure. The full text of the law and additional information (*including DPH Regulation 105.CMR 661.000*) are available at [www.mass.gov/dph/mtcp](http://www.mass.gov/dph/mtcp).

### **Can a restaurant or a bar have smoking on an outdoor patio or deck?**

Smoking is allowed in an outdoor space if the outdoor space is:

- 1) Physically separated from the enclosed workspace;
- 2) Open to the air at all times; and
- 3) Smoke does not migrate back into the workspace (*e.g. through a door or window*). Any smoke that migrates back into the workspace is considered a violation of the law.

Some municipalities may have local laws that are stricter than the state law. For more information, contact your local Board of Health or Health Department.

### **What if the outdoor space has a ceiling?**

If the outdoor space has a ceiling (*including substantial covering by an umbrella or an awning*), no more than half of the walls (*vertical boundaries*) can obstruct the flow of air into the space. If these criteria are met, smoking is permitted as long as smoke does not migrate back into the workspace.

### **What if the outdoor space has walls and no ceiling?**

If the outdoor space does not have a ceiling, but it has 2 or more walls, then no more than 2 of the walls can exceed 8 feet in height.

### **Are there any additional conditions I need to meet before constructing or renovating an outdoor space for smoking?**

If the construction requires the permission of the local building department or license authority, the local BOH must be notified in writing. Establishments should follow all local building, zoning, and liquor laws.

### **Is this the only law regarding smoking?**

The Massachusetts Smoke-Free Workplace Law does not prevent cities and towns from passing stricter laws. The majority of cities and towns also have regulations, by-laws, or ordinances on secondhand smoke. The state law permits cities and towns to pass stricter laws than the state law. If there is a difference between the state law and a local law, the stronger law prevails. For example, some cities and towns have banned smoking in all private clubs while the state law is not as strict.