

# Massachusetts Smoke-Free Workplace Law and Questions About Multi-Unit Businesses

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).

## What does the law mean?

- 1.) No smoking in common areas such as hallways, stairways, elevators, bathrooms etc.
- 2.) No smoking in businesses with more than 1 employee.
- 3.) No smoking in any business, even if there is only 1 employee, if the public enters the premises.
  - a. The definition of public includes customers and individuals such as delivery men or cleaning services. If anyone enters the business other than the sole employee smoking is not allowed.

## Where is smoking permitted?

In general smoking is only permitted outdoors provided smoke does not migrate back in to the building. If the smoke migrates back in through a door or window this is considered a violation of the law. Smoking is also permitted in businesses that have only 1 employee and the public does not enter the business.

## What can building owners do?

Building owners have the right to declare their entire building smoke free. Going smoke free may even reduce their costs like insurance or repairs.

## What if there is a business that is allowed to smoke in my building?

- 1.) Document the problem.
  - a. Keep a log of days when secondhand smoke is a problem in your apartment.
  - b. Keep a log of communications with your landlord.
  - c. Record any and all health effects of the secondhand smoke.
  - d. Get documentation from your doctor for any existing conditions such as asthma, heart disease, allergies or others which may be aggravated by exposure to secondhand smoke.
  - e. Examine your lease or get your employer to do so.
- 2.) Have your employer speak with the smokers about the problem.
  - a. Be sure to cite health concerns and be specific about when and where the smoke is a problem.
  - b. If your neighbors do not respond, put your concerns into writing and put them on notice.
- 3.) Speak with your landlord about the problem.
  - a. Notify them of the problem, along with a copy of your lease with appropriate lease terms highlighted which may be violated by the smoke.
  - b. Remind them of the potential liability for failing to take reasonable steps to alleviate the problem.
  - c. Ask for reasonable repairs to be made to reduce secondhand smoke such as:
    - i. Fill in openings in floors and walls using tape, foam, or caulk;
    - ii. Install pads and seals around electrical outlets and switches;
    - iii. Waterproof doors and windows with weathering stripping;
    - iv. Install fans and increase outside air.
    - v. Encourage them to voluntarily institute smoke-free rules.
- 4.) Contact your local Board of Health.

While the smoke free workplace law may not apply to the situation it could fall under your town's nuisance regulations.

## What if people continue to smoke in the building in areas where smoking is not allowed?

This is a violation of the state law and you have the right to complain. Contact the Massachusetts Tobacco Control Program's complaint line at either 1-800-992-1895 or at <http://www.mass.gov/dph/mtcp/home.htm>. From there the complaint will be forwarded to your local board of health.