CHAPTER 95

Clean Indoor Air Act

**SECTION 44‑95‑10.** Short title.

This chapter may be cited as the Clean Indoor Air Act of 1990.

HISTORY: 1990 Act No. 503, Section 1.

**SECTION 44‑95‑20.** Places where smoking is prohibited.

It is unlawful for a person to smoke or possess lighted smoking material in any form in the following public indoor areas except where a smoking area is designated as provided for in this chapter:

(1) public schools and preschools;

(2) all other indoor facilities providing children's services to the extent that smoking is prohibited in the facility by federal law and all other childcare facilities, as defined in Section 63‑13‑20, which are licensed pursuant to Chapter 13, Title 63;

(3) health care facilities as defined in Section 44‑7‑130, except where smoking areas are designated in employee break areas. However, nothing in this chapter prohibits or precludes a health care facility from being smoke free;

(4) government buildings, except health care facilities as provided for in this section, except that smoking may be allowed in enclosed private offices and designated areas of employee break areas. However, smoking policies in the State Capitol and Legislative Office Buildings must be determined by the office of government having control over its respective area of the buildings. "Government buildings" means buildings or portions of buildings which are leased or operated under the control of the State or any of its political subdivisions, except those buildings or portions of buildings which are leased to other organizations or corporations;

(5) elevators;

(6) public transportation vehicles, except for taxicabs;

(7) arenas and auditoriums of public theaters or public performing art centers. However, smoking areas may be designated in foyers, lobbies, or other common areas, and smoking is permitted as part of a legitimate theatrical performance; and

(8) buildings, or portions of buildings, and the outside areas immediately contiguous to these buildings owned, leased, operated, or maintained by a public institution of higher learning, as defined in Section 59‑103‑5, that the governing board of the institution has designated as nonsmoking.

HISTORY: 1990 Act No. 503, Section 2; 1994 Act No. 289, Section 1; 1996 Act No. 445, Section 1; 2012 Act No. 188, Section 1, eff June 7, 2012; 2019 Act No. 25 (H.3420), Section 4, eff April 26, 2019.

Effect of Amendment

2019 Act No. 25, Section 4, rewrote (1), eliminating the exclusion for private offices and teacher lounges.

**SECTION 44‑95‑30.** Designation of smoking and nonsmoking areas in places where smoking permitted.

In areas where smoking is permitted in Section 44‑95‑20, the owner, manager, or agent in charge of the premises or vehicle referenced in Section 44‑95‑20 shall conspicuously display signs designating smoking and nonsmoking areas alike, except that signs are not required in private offices.

HISTORY: 1990 Act No. 503, Section 3.

**SECTION 44‑95‑40.** Separation of smoking and nonsmoking areas; barriers; ventilation.

In complying with Section 44‑95‑30, the owner, manager, or agent in charge of the premises shall make every reasonable effort to prevent designated smoking areas from impinging upon designated smoke‑free areas by the use of existing physical barriers and ventilation systems.

HISTORY: 1990 Act No. 503, Section 4.

**SECTION 44‑95‑45.** Preemption.

(A) Political subdivisions of this State may not enact any laws, ordinances, or rules pertaining to ingredients, flavors, or licensing, beyond a general business license, related to the sale of the following products:

(1) cigarettes, as defined in Section 12‑21‑620;

(2) electronic smoking devices, e‑liquid, vapor products, or tobacco products, each as defined in Section 16‑17‑501; or

(3) any other product containing nicotine that can be ingested into the body by chewing, smoking, absorbing, dissolving, inhaling, or by any means.

(B) Nothing in this section shall be construed to interfere with a political subdivision's authority to determine its own public‑use policies relating to any of the products referenced in this section.

HISTORY: 2023 Act No. 38 (H.3681), Section 2, eff May 16, 2023.

Editor's Note

2023 Act No. 38, Sections 1, 3 to 4, and 13, provide as follows:

"SECTION 1. This act may be cited as the 'Omnibus Tobacco Enforcement Act of 2023'."

"SECTION 3. Laws, ordinances, or rules enacted by political subdivisions of this State prior to December 31, 2020, pertaining to ingredients, flavors, or licensing, related to the sale of cigarettes, electronic smoking devices, e‑liquid, vapor products, tobacco products, or any other products containing nicotine that can be ingested into the body by chewing, smoking, absorbing, dissolving, inhaling, or by any means, and municipal code amendments to said laws, ordinances, or rules, are exempt from the preemption imposed by this act. Nothing in this act shall be construed to interfere with a political subdivision's authority to determine its own public‑use policies relating to any of the products referenced in this act.

"SECTION 4. Nothing in this act shall be construed to interfere with a political subdivision's authority under Chapter 29, Title 6, including, without limitation, with respect to land use regulation, land development regulation, zoning, or permitting."

"SECTION 13. This act takes effect ninety days after approval by the Governor except SECTION 2, SECTION 3, and SECTION 4 which take effect upon approval by the Governor."

**SECTION 44‑95‑50.** Penalty for violation of smoking restrictions.

A person who violates Section 44‑95‑20, 44‑95‑30 or 44‑95‑40 of this chapter is guilty of a misdemeanor and, upon conviction, must be fined not less than ten dollars nor more than twenty‑five dollars.

HISTORY: 1990 Act No. 503, Section 5.

**SECTION 44‑95‑60.** Mandatory nicotine or tobacco testing prohibited.

No person in this State is authorized to require any other person to submit to any form of testing to determine whether or not the person has nicotine or other tobacco residue in his body.

HISTORY: 1990 Act No. 503, Section 6.