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A Guide to the New York State Clean Indoor Air Act

In 2017, New York State expanded Article 13-E of the Public Health Law, also known as the Clean Indoor Air Act (the Act). The Act prohibits smoking and vaping in almost all public and private indoor workplaces, including restaurants and bars, to protect workers and the public from exposure to harmful secondhand tobacco smoke and vaping aerosols. Localities may continue to adopt and enforce local laws regulating smoking and vaping; however, these regulations must be at least as strict as the Act.

Since 2003, the Act has protected millions of New Yorkers from daily exposure to deadly secondhand smoke and the illnesses it causes. The Act saves lives and money. Studies show that in the first year alone, the expansion of the Act resulted in about 3,800 fewer hospital admissions for heart attack, which saved an estimated \$56 million in health care costs.^{1,2}

What is secondhand smoke, and why it harmful?

Secondhand smoke is a mixture of the smoke from burning tobacco products such as cigarettes, cigars or pipes and the smoke exhaled by a smoker. Exposure to secondhand smoke is unsafe. Even brief exposure can be harmful. Tobacco smoke contains more than 7,000 chemicals, including about 70 that can cause cancer.³ Exposure to secondhand smoke can cause illness and death in infants, children and adults. It can cause bronchitis, pneumonia and ear infections in children and more frequent attacks in children who have asthma.^{3,4}

Secondhand smoke is a cause of Sudden Infant Death Syndrome (SIDS) and in nonsmoking adults, it causes almost 50,000 deaths from heart disease, stroke and lung cancer in the U.S. every year.³

Is it true that vaping aerosol is harmless?

No, vaping aerosol is **not** harmless.⁵ The emissions created by e-cigarettes can contain ingredients that are harmful and potentially harmful to the public's health, including nicotine, ultrafine particles, flavorings (such as diacetyl, a chemical linked to serious lung disease), volatile organic compounds (such as benzene, which is found in car exhaust) and heavy metals (such as nickel, tin and lead).⁵

Where is smoking prohibited?

The Clean Indoor Air Act prohibits smoking and vaping in the following indoor areas:

- Places of employment;
- Bars;
- Restaurants, except as stated in Article 13-E, Section 1399-q of the NYS Public Health Law;
- Enclosed indoor areas open to the public that contain a swimming pool;
- Public means of mass transportation, including subways, underground subway stations, and, when occupied by passengers, buses, vans, taxicabs and limousines;
- Ticketing, boarding and waiting areas in public transportation terminals;
- All places of employment where services are offered to children including youth centers, detention facilities, child care facilities, child day care centers, group homes for children, public institutions for children and residential treatment facilities for children and youth;
- All schools and school grounds;
- All public and private colleges, universities and other educational and vocational institutions;
- General hospitals;

- Residential health-care facilities, except separately designated smoking and vaping rooms for adult patients;
- Commercial establishments used for the purpose of carrying on or exercising any trade, profession, vocation or charitable activity;
- All indoor arenas;
- Zoos; and
- Bingo facilities.

If a business or other establishment organization is not listed in the above lists, does Act apply?

Yes. Unless specified otherwise in the Act, all businesses, establishments and organizations with employees must prohibit indoor smoking and vaping as set forth in the Act.

Where are smoking and vaping permitted?

Smoking and vaping are permitted in the following areas or businesses:

- Private homes and residences when not used for day care;
- Private automobiles;
- Hotel or motel rooms rented to one or more guests;
- Retail tobacco businesses where the primary activity is the retail sale of tobacco products and accessories, and the sale of other products is merely incidental;
- Retail electronic cigarette stores (vaping only);
- Membership associations where all duties related to the operation of the association are performed by member volunteers who are not compensated in any manner;
- Cigar bars in existence prior to January 1, 2003, where 10% or more of total annual gross income is from the sale of tobacco products; and
- Up to 25% of seating in outdoor areas of restaurants with no roof or ceiling enclosure. This area must be at least three feet away from the nonsmoking area. Both the smoking/vaping and nonsmoking areas must be clearly designated with signs.

Are there any special circumstances where indoor smoking and vaping may also be permitted?

Yes. Smoking and vaping are allowed in restaurants, bars, hotel and motel conference rooms, catering halls, convention halls and other similar establishments **ONLY** when the enclosed areas are being used for the sole purpose of inviting the public to sample tobacco products or electronic cigarettes and serving food and drink is incidental to such purpose. A business establishment may schedule no more than two days in a calendar year for these events.

Does the Act apply to private offices?

Yes. The Act prohibits smoking and vaping in all private offices and anywhere in the building.

Are workplaces required to provide a smoking or vaping break room for employees?

No. The Act prohibits employers from providing a smoking or vaping break room for employees. Businesses may not allow smoking or vaping anywhere in the building.

Should signs be posted?

Yes. "No Smoking" or "Smoking" signs, or "No Vaping" or "Vaping" signs, or a sign with the international "No Smoking" symbol, which consists of a pictorial representation of a burning cigarette enclosed in a circle with a bar across it, must be prominently posted and properly maintained by the owner, operator, manager or other person in control of an area where smoking and vaping are prohibited or permitted. Click [here](#) for downloadable smoking and no smoking signs.

Does the Act restrict smoking and vaping outside?

Yes, the Act restricts smoking and vaping in the following areas:

- Ticketing, boarding or platform areas of railroad stations operated by the Metropolitan Transportation Authority (MTA) or its subsidiaries;
- On the grounds of general hospitals and residential health care facilities or within fifteen feet of their building entrances or exits.* Note: residential health care facilities may designate a smoking or vaping area on the grounds provided they are not within thirty feet of any facility building structure;
- Within one hundred feet of entrances, exits or outdoor areas of public or private elementary or secondary schools, or licensed or registered afterschool programs during the days and hours of operation;*
- Between sunrise and sunset and when one or more persons under age twelve are present at any playground outside of New York City.

*These restrictions do not apply to smoking or vaping in a residence or within residential property lines in proximity to the outdoor areas.

What does the Act require business and establishments to do?

Business and establishments must inform customers and patrons who are smoking or vaping that smoking and vaping are not permitted indoors.

What should businesses or establishments do if customers patrons insist on smoking and vaping?

Owners, managers or staff must remind them of the Act and explain they must step outside to smoke or vape. If a customer refuses to comply with the Act, use common sense. The purpose of the Act is to protect others from the harmful effects of secondhand smoke.

Can businesses choose not to comply with the Act?

No. If a business fails to comply with the Act, an employee or member of the public may contact the local health department or district health office to file a complaint.

How is the Act enforced?

Owners, managers or operators of an area open to the public, food service establishment, bar or other business covered by the Act must make a reasonable effort to prevent smoking and vaping.

How can people file a complaint?

Employers, employees and the public may confidentially report violations of the Act. Click on the link to find the contact information for the [district office or local health department](#) where the business or establishment is located.

What is the penalty for a violation of Act?

The enforcement officer for a city or county health department or State Health Department can assess a fine of up to \$2,000 for each violation.

How can I find more information?

For more information about the Act, call (518) 402-7600 or email bcehfp@health.ny.gov. Click on the link to learn about the [New York City Smoke-Free Air Act \(SFAA\)](#).

Where can I get information on quitting?

If you smoke or vape and want to quit, talk to your health care provider. Or, contact the New York State Smokers' Quitline at 1-866-NY-QUITS (1-866-697-8487) or www.nysmokefree.com for free information, quit coaching and resources.

References:

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2. Juster, H. R., Loomis, B. R., Hinman, T. M., et al. (2007). Declines in hospital admissions for acute myocardial infarction in New York following implementation of a statewide comprehensive smoking ban. American Journal of Public Health, 97(11), 2035-2039.
3. U.S. Department of Health and Human Services. The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General. Atlanta: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2014.
4. U.S. Department of Health and Human Services. The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General. Atlanta: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2006.
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