

# New York City Smoke-Free Air Act of 2002

## Important Information for New York City Business Owners and Employers

(Updated December 2006)



For the updates about complying with the law, check the Department of Health and Mental Hygiene's website at [nyc.gov/health](http://nyc.gov/health).

## What businesses are affected?

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The law, which went into effect on **March 30, 2003**, made virtually all establishments and businesses with employees smoke-free. These include:

- **All office buildings, factories, and warehouses.**
- **All private offices and previously designated “smoking lounges.”**
- **All food service establishments, restaurants, and catering halls.**
- **All bars, including bars in restaurants.**
- **Membership associations.**
- **All areas of theatres.**
- **Banks, educational and health care facilities, and child day care centers.**
- **Shopping malls and retail stores (where goods are sold or rented to the public).**
- **Sports arenas, roller and ice skating rinks, billiard parlors, bingo halls, bowling establishments, and other similar places.**
- **Public transportation facilities, reception areas, platforms and waiting rooms.**

## To comply with the law:

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- 1. Ensure your workplace smoking policy** reflects the law.
- 2. Talk with your customers and employees** about the law.
- 3. Discuss the law with employees** including what they should do to comply with the law:
  - Request any person smoking to refrain from smoking inside the workplace.
  - Refer to the law and to workplace policy when dealing with refusals to not smoke in the workplace. Remind them that the business or building owner may be assessed fines for infractions.
  - Request staff to report problems directly to the management or owner of the business, or to the building’s management.
  - Inform them that the law has a no-retaliation provision.
- 4. Post “no smoking” signs** at all entrances as required including bathrooms, stairwells on each floor, bulletin boards, and other prominent places.
- 5. Remove all ashtrays** from the premises as required.
- 6. Contact the NYC Department of Health and Mental Hygiene** for additional information, to register a complaint, and for compliance support at **311**. In addition, the Department’s website at **nyc.gov/health** will be updated with the most current information.

## Exceptions

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The New York City Smoke-Free Air Act has been modified by passage of the New York State Clean Indoor Air Act of 2003, which became effective July 24, 2003. The law voids some of the exemptions in the New York City law passed in December 2002. The few rare exceptions to the smoke-free policy that became effective July 24, 2003, are:

- Tobacco bars that *were in existence on December 31, 2001*, that have not moved or expanded since then, that sell or rent tobacco products and devices, and that derive 10% or more of their income from these sales or rentals;
- Non-profit membership associations with no employees.

*The above facilities must apply for an exemption and register with the New York City Department of Health and Mental Hygiene.*

- In any restaurant, smoking is limited to 25% of seating in a single contiguous outdoor dining area. An outdoor dining area is defined as one with no roof, overhang, or other ceiling enclosure.
- Residential and certain day treatment health care facilities may provide smoking rooms for some patients.
- Hotel rooms that specifically allow for smoking (not in public areas such as lobbies, meeting rooms, bars and restaurants).
- Retail tobacco stores devoted primarily to the sale of tobacco products; sale of other items account for less than 50% of total annual gross sales.
- Tobacco promotional events (with specific parameters).

**Under the New York City Smoke-Free Air Act of 2002, previous exceptions for owner operated bars and separate smoking rooms in bars are no longer permitted due to restrictions in the State Clean Indoor Air Act.**

**Remember: This law does not apply to private homes. For a more detailed explanation of exceptions, registration, and regulation requirements, visit the Department's website at [nyc.gov/health](http://nyc.gov/health).**

## Penalties

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Each violation will be subject to fines.

**First violation:** Civil penalties of not less than \$200 and not more than \$400.

**Second violation (*within 12 months of the first violation*):** Civil penalties of not less than \$500 and not more than \$1,000.

**Third or subsequent violation (*within 12 months of the first violation*):** Civil penalties of not less than \$1,000 and not more than \$2,000.

**The New York City Department of Health and Mental Hygiene may suspend or revoke the permit of an establishment that is found in violation of the law on three separate occasions within a 12-month period.**

## Enforcement

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The New York City Department of Health and Mental Hygiene's Bureau of Food Safety and Community Sanitation is responsible for enforcement of the law as part of its regular inspection operations. Inspections may also be performed in response to complaints. You can register complaints by calling **311**.

### About the law

Local Law 47, the New York City Smoke-Free Air Act, was signed into law on December 30, 2002. The Act makes virtually all workplaces in the City of New York smoke-free, including many places where smoking had previously been permitted. All work sites are required to develop, distribute and post their smoke-free policy, in accordance with the law, which became effective on March 30, 2003.

### Why the law is needed

Tobacco use is the leading epidemic of our time, killing more than 440,000 people nationwide each year. In 2002, approximately 1,000 New Yorkers died because of exposure to second-hand smoke. As a result of passage of the SFAA of 2002, 150,000 fewer New Yorkers are exposed to second-hand smoke. As of 2006, more than a dozen states, including New York State, have implemented comprehensive smoke free air laws banning smoking in most workplaces, including restaurants and bars.

## THE CITY OF NEW YORK DEPARTMENT OF HEALTH AND MENTAL HYGIENE

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