

Frequently asked questions about clean indoor air regulations:



Who will be responsible for enforcing the clean indoor air regulation? If the regulation is adopted by a local board of health the authority to gain compliance of the regulation will fall within the jurisdiction of the local health department. The county health officer and inspector (sanitarian) have broad authority to investigate and ensure compliance of public health rules and regulations in any areas that may affect the public health. Law enforcement agencies will not be involved with the enforcement.

Will the health department inspector come into my business and issue a ticket to the business owner for non compliance? No...Although your local health inspector(s) or sanitarians have the authority to investigate the compliance of public health laws, they do not have the authority to issue citations or tickets. Like with other public health rules, the inspector will normally conduct an inspection and document and record observed violations. The inspector will work with the business owner to ensure they fully understand what is required of them to come into full compliance. Depending on the type of violation, the inspector may provide a reasonable time frame to correct the violation(s) and return for another inspection to ensure corrections have been made. After repeated failing inspections or blatant violations, the county health officer and/or Sanitarian reserve the right to seek assistance from the magistrate or circuit court to gain compliance in order to protect the public health.

What if someone calls and tells the health department someone is smoking in an office building or other place? Will the inspector respond right away and issue a warning? As with other complaints received by the health department, the ultimate responsibility of compliance falls within the owners and operators responsibility. The sanitarian will conduct an investigation via phone or in person. The responsibility of compliance rests with the owner or operator of the building or business, not the customers or employees. It is the responsibility of the employer to make sure employees and customers are aware of the regulation. If the inspector finds a violation(s) he or she will provide a time frame to correct the violations.

Am I required to post the stickers provided by the health department? No...you can use your own or the ones provided by the health department. Most regulations require the posting of the international red symbol for no-smoking on all entrances.

What if people continue to light up inside of my business? Although this question is often asked prior to the implementation of a smoke-free regulation, it rarely happens. Most people will adhere to the requirements posted on doors. The posting of smoke-free signage at all entrances is the most important component of a clean indoor air regulation and is often the number one common violation noted by inspectors. Do a quick self check of your facility and ensure that you have made a reasonable attempt to adequately inform the public by posting smoke-free signage on all doors, employee break rooms and restrooms. However, if you do encounter such a situation, a business owner would treat this as any other violation of your store rules, like no shoes, no shirt, and no service. If a person refuses put shoes on, or extinguish a cigarette, or leave the facility, you can call your local law enforcement agency and report them for trespassing.

As a business owner am I responsible for people smoking outside my doorways or entrances? Many newer regulations have "distance rules" which prohibit the creation of an outside smoking area within a specific distance outside of doorways and fresh air intakes. This is to ensure that people do not have to walk through smoke to gain access into a facility and to ensure smoke does not seep back into smoke-free buildings. This does not prohibit people from walking down the streets while smoking and only regulates where the owner of an establishment can designate an outside smoking area if they have control of such an area. It is an attempt to deter the gathering of employees or visitors from outside of doorways. As a business owner, you are not required to furnish areas to accommodate smokers inside or outside. However, if you choose, you can set up benches and cigarette disposal in areas that are not within the designated distance requirements.

What if my boss or another employee refuses to stop smoking in areas that have been prohibited by a regulation? Normally a business owner or employer will want the opportunity to correct a problem before it becomes a larger issue. If you are unable to resolve the problem or fear retaliation for complaining, you can file a compliant through your local health department. As with other public health issues, your local health department has in place a means for any citizen to file an anonymous compliant. Complaints are strictly confidential. However, providing a name and contact number for the inspector to follow up and obtain all the necessary information can expedite the compliant process.

Since my business is private, or a private club, do I have to comply with the new regulations? Probably yes... In accordance to the West Virginia State Supreme Court and other courts across the US, any business that offers goods or services to the public, whether invited or not can be subject to public health laws and regulations to ensure the health and safety of the general public and workers. Such other rules may be adherence with the Fire safety rules, plumbing codes, and food safety requirements.

For more specific questions about clean indoor air regulations, please contact the Smoke-Free Initiative of WV toll free 1.866.401.5489 or your local health department.