



Kansas Indoor Clean Air Act Goes Into Effect July 1, 2010

Insights

6.22.10

The Kansas Indoor Clean Air Act prohibits smoking in the enclosed areas of any public place or place of employment (including restaurants and bars). The only indoor places in the state where smoking is allowed are: 1) tobacco shops that derive at least 65% of their gross receipts from the sale of tobacco; 2) gaming floors of lottery gaming facilities or racetrack gaming facilities; 3) up to 20% of a hotel or motel's sleeping rooms; 4) designated indoor areas of private outdoor recreational clubs (i.e. golf clubs, hunting clubs) where minors are prohibited; 5) private homes or residences not used as a day care home; 6) designated smoking areas of adult care homes and long-term care facilities; and 7) class A and B private clubs licensed by the state of Kansas before January 1, 2009, that notify the Secretary of the Kansas Department of Health and Environment by September 28, 2010, of their intent to allow smoking.

What Must Employers Do Now?

Before July 1, 2010, employers must adopt and maintain a written smoking policy prohibiting smoking in all enclosed areas of their places of employment, without exception. This policy must then be communicated (preferably in writing) to all existing employees within one week of July 1, 2010 and to all new employees upon hiring. You must also provide a copy of the policy to any current or prospective employee upon request, and must conspicuously post the Kansas Department of Health no smoking sign, a copy of which can be found on their [website](#).

Additionally, you must ensure that any self-service cigarette vending machines on your premises comply with the Act and are located in places that prevent minors from accessing the machines. There is, of course, a prohibition against retaliation if any current or prospective employee or customer reports or complains about violations of the KICAA.

Employees and customers may smoke outside as long as the person smoking at all times remains more than 10 feet away from any door, open window, or air intake leading into the enclosed area of any public place or place of employment.

Penalties

Employers are subject to a \$100 fine for the first violation, a \$200 fine for a second violation (within a year of the first violation); and a \$500 fine for a third and all additional violations (within a year of the first violation). Each individual smoking in a prohibited space is considered a separate violation.

While this law has broad application, remember that if the local laws of your city or county are more stringent than the KICAA, then the local law applies. If the KICAA is stricter than your local laws, the KICAA governs.

For more information contact any attorney in the Kansas City office of Fisher Phillips at (816) 842-8770.

This Legal Alert provides an overview of a specific state law. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.