

SMOKING DISTANCE PROVISION FAQS

Enforcement of smoking distance provisions can become confusing and may seem complicated; however, enforcing a smoking distance provision can be done with the same steps outlined in the Montana Clean Indoor Air Act since smoking distance provisions are often an amendment to the local CIAA protocol.

Q: What is the recommended smoking distance?

A: While the concentration of outdoor tobacco smoke depends on several factors such as density of smokers and wind conditions, [research shows](#) that outdoor tobacco smoke is detectable between 23 and 29.5 feet away from the source. Although a tobacco-free campus is ideal, the recommended smoking distance is at least 30 feet from any doors, windows, and ventilation systems.

Q: How are smoking distance provisions enforced?

A: If a locality adopts a smokefree or tobacco-free policy, the policy shall specify the compliance and enforcement protocol. Enforcement will likely follow the same steps outlined in the Montana Clean Indoor Air Act (MCIAA) since the smoking distance provision is an amendment to the local CIAA protocol. That said, localities have the ability to establish alternative enforcement strategies.

Per the MCIAA compliance and enforcement protocol, after confirming the violation is actionable, an educational letter is sent to the business. Upon a second actionable violation, a warning letter is sent. A third actionable violation results in a reprimand letter. All subsequent actionable violations should be reported to the county attorney for prosecution and fining.

Where ever smoking is prohibited by the state, locality, or business, signs must be posted. The signs inform public members that smoking is prohibited. Smoking distance provisions are best enforced when the business owner is responsible for ensuring compliance. If a public member is smoking in smokefree area, the business shall first inform the public member of the policy and compel compliance. If there is an issue with an individual who insists on smoking in the smokefree area despite the business' efforts to get the individual to move the set distance away, it is suggested that local law enforcement is brought into the matter.

Q: What responsibility do business owners have regarding smoking distance provisions and the Montana Clean Indoor Air Act?

A: Smoking distance provisions are best enforced when the business owner is responsible for ensuring compliance. Where ever smoking is prohibited by the state, locality, or business, signs must be posted. When it comes to local or state smoking distance provisions, the business owner is responsible to do what they can to curb smoking and enforce the smoking distance using proper, conspicuous signage, removing ashtrays, and consistently reminding employees and customers not to smoke in that area.

Q: If someone is smoking on a public sidewalk but within the smoking distance placed by the city or county, would the smoker or the business owner be charged with the violation?

A: Although Montana Code Annotated allows for individuals to be cited in violation of the Montana Clean Indoor Air Act, it can be difficult to do so. The Clean Air Reporting System (CARS) is only used to file complaints against businesses. If there is an issue with an individual who insists on smoking near a business' doorway despite the business' efforts to get the individual to move the set distance away, it is suggested that local law enforcement is brought into the matter.

Q: In cities where businesses are very close together, where are smokers expected to go? They will likely be within the smoking distance of at least one building.

A: The intention of smokefree laws is to protect people from secondhand smoke exposure. By increasing the number of smokefree spaces, communities provide clean air to residents and visitors. Also, there is no constitutional right to smoke. An individual who smokes does not have the right to do so and it is not the responsibility of the county, city, or business to provide a place for smoking to occur. Further, it is legal to enact or amend smokefree policies, like smoking distance provisions, which protect the public health.

Q: What can be done if a business fails to enforce its smoking distance provision when there isn't a state or local smoking distance policy in place?

A: When a business owner implements a smoking distance provision but fails to enforce it, it is recommended to discuss the complaints with the business owner. Perhaps the business owner is unaware of the policy violations and alerting them will result in improved enforcement. If the business has a policy but no signage, they can get [free signs from the MTUPP online store](#). Signs often allow the policy to be self-enforcing.

If a business owner refuses to enforce the smoking distance provision and there are no local or state laws requiring him/her to enforce the policy, consider talking to your local decision makers and educate on the importance of a city-wide or county-wide smoking distance provision.

In the case of secondhand smoke exposure in the workplace, please contact your supervisor and explain the secondhand smoke exposure. In most cases, an employer will resolve the issue after being alerted to the problem. However, if you have alerted your employer of the secondhand smoke exposure and nothing has been done to resolve the issue, please feel free to contact the Montana Tobacco Use Prevention Program at (406) 444-7408, or by emailing infotobaccofree@mt.gov.