CHAPTER 95

Clean Indoor Air Act

**SECTION 44‑95‑10.** Short title.

This chapter may be cited as the Clean Indoor Air Act of 1990.

HISTORY: 1990 Act No. 503, Section 1.

**SECTION 44‑95‑20.** Places where smoking is prohibited.

It is unlawful for a person to smoke or possess lighted smoking material in any form in the following public indoor areas except where a smoking area is designated as provided for in this chapter:

(1) public schools and preschools where routine or regular kindergarten, elementary, or secondary educational classes are held including libraries. Private offices and teacher lounges which are not adjacent to classrooms or libraries are excluded. However, this exclusion does not apply if the offices and lounges are included specifically in a directive by the local school board. This section does not prohibit school district boards of trustees from providing for a smoke‑free campus;

(2) all other indoor facilities providing children's services to the extent that smoking is prohibited in the facility by federal law and all other childcare facilities, as defined in Section 63‑13‑20, which are licensed pursuant to Chapter 13, Title 63;

(3) health care facilities as defined in Section 44‑7‑130, except where smoking areas are designated in employee break areas. However, nothing in this chapter prohibits or precludes a health care facility from being smoke free;

(4) government buildings, except health care facilities as provided for in this section, except that smoking may be allowed in enclosed private offices and designated areas of employee break areas. However, smoking policies in the State Capitol and Legislative Office Buildings must be determined by the office of government having control over its respective area of the buildings. "Government buildings" means buildings or portions of buildings which are leased or operated under the control of the State or any of its political subdivisions, except those buildings or portions of buildings which are leased to other organizations or corporations;

(5) elevators;

(6) public transportation vehicles, except for taxicabs;

(7) arenas and auditoriums of public theaters or public performing art centers. However, smoking areas may be designated in foyers, lobbies, or other common areas, and smoking is permitted as part of a legitimate theatrical performance; and

(8) buildings, or portions of buildings, and the outside areas immediately contiguous to these buildings owned, leased, operated, or maintained by a public institution of higher learning, as defined in Section 59‑103‑5, that the governing board of the institution has designated as nonsmoking.

HISTORY: 1990 Act No. 503, Section 2; 1994 Act No. 289, Section 1; 1996 Act No. 445, Section 1; 2012 Act No. 188, Section 1, eff June 7, 2012.

Code Commissioner's Note

At the direction of the Code Commissioner, in item (2) "childcare facility" was substituted for "child day care facilities" and the reference to Section 20‑7‑2700 was changed to Section 63‑13‑20 and the reference to Subarticle 11, Article 13, Chapter 7, of Title 20 to Chapter 13, Title 63.

Effect of Amendment

The 2012 amendment inserted "; and" at the end of subsection (7) and added subsection (8).

**SECTION 44‑95‑30.** Designation of smoking and nonsmoking areas in places where smoking permitted.

In areas where smoking is permitted in Section 44‑95‑20, the owner, manager, or agent in charge of the premises or vehicle referenced in Section 44‑95‑20 shall conspicuously display signs designating smoking and nonsmoking areas alike, except that signs are not required in private offices.

HISTORY: 1990 Act No. 503, Section 3.

**SECTION 44‑95‑40.** Separation of smoking and nonsmoking areas; barriers; ventilation.

In complying with Section 44‑95‑30, the owner, manager, or agent in charge of the premises shall make every reasonable effort to prevent designated smoking areas from impinging upon designated smoke‑free areas by the use of existing physical barriers and ventilation systems.

HISTORY: 1990 Act No. 503, Section 4.

**SECTION 44‑95‑50.** Penalty for violation of smoking restrictions.

A person who violates Section 44‑95‑20, 44‑95‑30 or 44‑95‑40 of this chapter is guilty of a misdemeanor and, upon conviction, must be fined not less than ten dollars nor more than twenty‑five dollars.

HISTORY: 1990 Act No. 503, Section 5.

**SECTION 44‑95‑60.** Mandatory nicotine or tobacco testing prohibited.

No person in this State is authorized to require any other person to submit to any form of testing to determine whether or not the person has nicotine or other tobacco residue in his body.

HISTORY: 1990 Act No. 503, Section 6.