

Tobacco

Maine: Definitions, Laws, Policies

Definitions:

- **Tobacco Product:**
 - any product that is made from or derived from tobacco, or that contains nicotine, that is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled or ingested by any other means, including, but not limited to, a cigarette, a cigar, a hookah, pipe tobacco, chewing tobacco, snuff or snus.
 - also includes electronic smoking device and any component or accessory used in the consumption of a tobacco product, such as **filters, rolling papers, pipes and liquids** used in electronic smoking devices, *whether or not they contain nicotine*.
 - does not include drugs, devices or combination products authorized for sale by the United States Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.
- **Public place** is any place not open to the sky into which the public is invited or allowed.
- **Enclosed area** means a space between a floor and a ceiling that is demarcated on all sides by walls, windows, shutters, doors or passageways if it extends from the floor to within 4 feet of the ceiling or from the ceiling to within 4 feet of the floor.
- **Smoking** includes carrying or having in one's possession a lighted or heated cigarette, cigar, or pipe or a lighted or heated tobacco or plant product intended for human consumption through inhalation whether natural or synthetic in any manner or in any form. "Smoking" includes the use of an electronic smoking device.

Smoking is prohibited in public places

- **Smoking** is prohibited in all **enclosed areas of public places, outdoor eating areas** as provided in section 1550, and all **rest rooms made available to the public**.
- **Public place** is any place not open to the sky into which the public is invited or allowed.
 - Examples: Airports, Banks, Convenience stores, Eating establishments, Dental offices, Grocery stores, Healthcare facilities, Health & Fitness Centers, Hospitals, Indoor sport arenas, Laundromats, Libraries, Office building lobbies, Pharmacies, Post office, Private and Public educational facilities, Retail Stores, Salon and Spas, Taxi vehicles, Vehicle sales, repair and maintenance, Veterinary offices.

Posting Signs:

- <http://www.mainelegislature.org/legis/statutes/22/title22sec1543.html>
- Signs must be posted conspicuously in buildings and outdoors where smoking is regulated.
- Designated smoking areas must have signs that read "Smoking Permitted" with letters at least one inch in height.
- Places where smoking is prohibited must have signs that read "No Smoking" with letters at least **one inch in height** or the international symbol for no smoking.

Workplace Smoking Act of 1985:

- This law shall be known as the "Workplace Smoking Act of 1985."

- **Business Facility:** a structurally enclosed location or portion thereof, including vehicles used in the course of work **and outdoor areas under the control of an employer** at which employees perform services for their employer.
- **Purpose:** To protect the employer and employees from the detrimental effects of environmental tobacco smoke.
 1. Each employer shall establish a written policy that prohibits smoking in all structurally enclosed location or portion thereof, **including vehicles used in the course of work and outdoor areas under the control of an employer** at which employees perform services for their employer.
 2. Smoking shall only be permitted outside in a **Designated Smoking Area**.
 3. The employer shall post and supervise the implementation of the written policy.
 4. The employer shall provide a copy of this policy to any employee upon request.

Designated Smoking Area (DSA):

- An employer may designate an area outdoors for smoking provided that is a minimum 20 feet from windows, entryways, vents, doorways or other openings **and it is not in a location that will allow circulation of environmental tobacco smoke into the enclosed areas of the business facility, or a public place, in any way**, e.g., through the ventilation system, open windows, and open doors, or any outdoor area where smoking is prohibited by law.
- A DSA is not required. **An employer may adopt a 100% smoke-free to 100% tobacco-free policy**
- An area for smoking outdoors may be constructed to protect employees from the weather as long as it is not an “enclosed area.”

Workplace Sample Policies:

- **Good:** Complies with Maine’s Workplace Smoking Act of 1985.
- **Better:** Complies with Maine’s Workplace Smoking Act of 1985 and exceeds Maine law by its inclusion of a ban on tobacco smoking on the entire property, including within personal vehicles.
- **Best:** Complies with Maine’s Workplace Smoking Act of 1985. This policy exceeds Maine law by its inclusion of a ban on the use of all tobacco products, including cigarettes, cigars, smokeless tobacco products, electronic smoking devices, and any new tobacco products of any and all types on the entire property under the control of the management of this worksite, including within personal vehicle while on the property.
- **Sample Template:** http://breatheasymaine.org/wp-content/uploads/sites/2/2014/08/General-smoke-tobacco-free-policy-language_2015.pdf

