

# It's the Law!

Breathe easy, you're in  
**Maine.**

**Every employer must establish a written policy governing smoking in the workplace that, at a minimum, complies with current Maine law.** The Maine Smoking Act of 1985 applies to all enclosed areas of business facilities in Maine where employees perform work and for which the employer is responsible. The process of developing the policy may be negotiated through the collective bargaining process in some workplaces. Copies of the law and the rules that enforce the law are in this kit for you to review.

## Employers are responsible for:

- writing a policy that, at least, meets the requirements of current Maine law.
- posting the policy where all employees can see it.
- providing a copy to any employee who requests it.
- supervising the effective implementation of the policy.

**Remember that this law is in place to protect your employees from exposure to secondhand smoke,** a deadly substance known to cause immediate adverse effects that can cause heart disease and lung cancer. Many workers in Maine are still exposed to this deadly substance every day.

## Smoking is banned in ALL:

- enclosed areas where work is performed, as well as in all rest rooms, meeting rooms, lunch rooms, and private offices.
- employer-owned or -leased vehicles used by employees, and in employee-owned vehicles used in the course of work whenever other employees or another person is in the vehicle for work-related reasons.
- residential facilities licensed by DHHS when an employee is physically present to perform work there.

**Employers in Maine may only allow smoking outdoors, at least 20 feet from entrances, windows, vents, and doorways.** Smoking can never be allowed in any location that will allow smoke to circulate back into the building.

**Employers may exceed state law and are not limited to the law's requirements.** For example, given the new availability of smokeless tobacco, you may want to consider a tobacco-free policy for health reasons; or perhaps you would like to include outdoor areas of your property to reduce fire risk or for other safety reasons.

**Maine employers may not refuse to hire tobacco users.** Employers may not require, as a condition of employment, that employees or prospective employees not use tobacco when they are not at work. Employers may not discriminate against employees who use tobacco outside of employment.

# It's about the smoke, not the smoker!

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Employers in Maine may **not** require that employees or prospective employees refrain from tobacco use when not at work, and employers may not discriminate against employees who use tobacco outside of employment.

Employers can support tobacco users who may want to quit. Many employee health insurance plans include tobacco treatment as a benefit. Employers can also refer tobacco users who wish to cease their tobacco use to the **free, confidential Maine Tobacco HelpLine at 1-800-207-1230.**

Research shows that up to 70% of Maine's smokers would like to quit. Addiction to tobacco products is a true addiction, and while not all smokers and tobacco users want to quit, many do and will appreciate your assistance in accessing services that can help.

Additional information can be found at the website for the State of Maine's tobacco prevention, treatment, and control program known as the Partnership For A Tobacco-Free Maine at [www.tobaccofreemaine.org](http://www.tobaccofreemaine.org).

# Enforcing the policy and addressing violations.

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By posting your written smoking/tobacco-use policy, by providing copies to any employee who requests it, and by supervising the policy as required by Maine law, you have taken a big step in creating a healthier workplace for all.

## **Your policy and what happens when the policy is violated:**

Your policy must spell out the consequences for those who violate the policy. Violations should be handled promptly. It is important that your policy follows your standard disciplinary policy. Spelling out the “chain of command” is important. Communication can be a big help. Posting signs will help all employees follow the policy.

## **Reporting a violation:**

Employees can report violations directly to supervisors and/or to workplace management.

Any employee, building owner, or member of the public may also report violations directly to the Maine Center for Disease Control and Prevention, the Office of the Attorney General, or local law enforcement officials. When presented with evidence of a violation, the Office of the Attorney General and local District Attorneys can file complaints in District Court seeking fines from \$100-1,500. The Attorney General can also ask the District or Superior Court to compel compliance with the law. Reports of violations are also forwarded to other licensing and certifying agencies for possible administrative action.

## **How to make a complaint online:**

Forms are available online at [www.tobaccofreemaine.org](http://www.tobaccofreemaine.org). Complaints can be filed anonymously, however, by submitting your name and contact information, more effective enforcement can result.

It is unlawful for any employer to discharge, discipline, or discriminate against any employee that has assisted in the enforcement of the Workplace Smoking Act or the rules related to it.

***“The scientific evidence indicates that there is no risk-free level of exposure to secondhand smoke.”***

– The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General. Atlanta, GA: U.S.DHHS CDC Office on Smoking or Health 2006.

# Creating a policy for your workplace.

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Your policy can save you money while making your workplace a healthier one.

Bringing together a small group that includes employees, management and tobacco users can help you to create a policy that will fit your workplace and meet Maine law. Larger workplaces may want to include someone from human resources, union reps, top administration, maintenance staff, security staff, and others.

## **Review and discuss:**

- the sample smoke-free or tobacco-free policies.
- the Maine workplace smoking law and rules.
- the serious harm caused by secondhand smoke and tobacco use.
- the places where smoking and/or tobacco use cannot be allowed.
- if smoking and tobacco use will be allowed outdoors and where.
- the legal issues you may need to address if your workplace includes unions.

## **Develop a plan:**

- for supporting tobacco users who may want to quit tobacco.
- for communicating your policy to all employees.
- for addressing violations and how this process will work.
- to make sure that your policy is not anti-smoker or anti-tobacco user.

## **Create a first draft and:**

- circulate the first draft and ask for feedback.
- incorporate feedback.
- rewrite the first draft, if necessary.

## **Create a final draft and:**

- circulate it within the group as a final draft.
- set the effective date and sign off.
- make plenty of copies.
- make a plan to communicate the policy.
- make a note on the company calendar for annual review.

## **Post the policy, give a copy to all employees, and:**

- place clear signs to show where smoking and/or tobacco use is prohibited.
- keep copies on hand to give to visitors, vendors and contractors.
- if your insurance plan provides help for those who want to quit smoking or other tobacco use, inform all employees of this option and how to access it.
- post the number (1-800-207-1230) for the free Maine Tobacco HelpLine.

Begin by selecting one of the three sample policies in this kit to use as the basis for your policy. Then, use this checklist as you write and implement your policy.

Finally, be sure that you let all employees know that violations of the law can also be reported online at [www.tobaccofreemaine.org](http://www.tobaccofreemaine.org).

# Why tobacco-free, not smoke-free?

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## **Purpose of a tobacco-free policy.**

By including all tobacco products in your policy, you demonstrate to your employees and to your community that your workplace actively supports wellness and tobacco-free living.

Such a policy also shows you understand that smokeless tobacco products are not a safe substitute for cigarette smoking and you are aware of the fact that such products:

- can contain as many as 28 cancer-causing chemicals.
- can deliver 3-4 times the amount of nicotine delivered by a single cigarette.
- can be as addictive, or even more addictive, than cigarettes or cigars.

## **The tobacco industry is marketing new smokeless, and spit-less products.**

These new products are specifically for use in areas that are smoke-free. While spit tobacco use in the workplace raises distasteful disposal and maintenance issues, the newer spitless products can also pose serious health risks.

## **Tailoring your policy to your workplace.**

Employers in Maine can legally ban the use of all tobacco products, including cigarettes, cigars, smokeless tobacco products, and any new tobacco products of any and all types, on the entire property that is under their management. The tobacco-free policy can even include a ban on the use of all tobacco products within personal vehicles while the vehicles are on the employer's property.

## **Remember that tobacco use has a significant impact on health.**

In the U.S., 443,000 deaths each year are due to smoking (CDC, Office on Smoking and Health; 2000-2004). "Smoking kills more people than alcohol, AIDS, car accidents, illegal drugs, murders, and suicides, combined. And thousands more die because they use spit tobacco." (CDC, *Tobacco Use: Targeting the nation's Leading Killer: At A Glance. 2010*, available at <http://www.cdc.gov/nccdphp/publications/aag/osh.htm>)

# This Smoke-Free Workplace Policy is rated as GOOD.



## This sample policy complies with Maine’s Workplace Smoking Act of 1985.

(Insert workplace name here) is dedicated to providing a healthy and productive work environment. As required by law (22 M.R.S.A. § 1580-A), it will be our policy to provide a smoke-free workplace, effective (insert date). This policy applies to all employees, clients, contractors, and visitors. The Workplace Smoking Act of 1985 applies to all enclosed areas of business facilities in Maine where employees perform work and for which the employer is responsible.

“The scientific evidence indicates that there is no risk-free level of exposure to secondhand smoke.” *The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General*. Atlanta GA: U.S. DHHS CDC Office on Smoking and Health 2006.

This policy is being posted and copies are being made available to anyone who requests one. The policy will be supervised by the management of (insert workplace name here) in accordance with Maine State law.

Effective (insert date), smoking of tobacco products is banned in:

- all enclosed areas where work is performed, as well as in all rest rooms, all meeting rooms, all lunch rooms and all private offices.
- all employer-owned and all employer-leased vehicles used by employees.
- all employee-owned vehicles used in the course of work whenever other employees or another person is in the vehicle for work-related reasons.

Smoking of tobacco products is only allowed outdoors. Smoking can only occur in outdoor locations that are at least 20 feet from any workplace entryway, vent, window, or doorway. Smoking is never allowed in any location that allows smoke to circulate back into the building (22 M.S.R.A. § 1580-A).

No Smoking signs will be posted at all building entrances and throughout the building. In addition, this policy will be included in training manuals and new employee orientation.

This workplace understands that tobacco is a legal product, and further recognizes that as an employer, this workplace may not require that employees or prospective employees refrain from tobacco use when not at work, and will not discriminate against employees who use tobacco outside of employment.

The success of this policy will depend on the courtesy and cooperation of both tobacco smokers and nonsmokers. Each of us is responsible for following and helping enforce the policy. Problems should be brought to the attention of the appropriate supervisor. Violations of this policy will be handled through the established disciplinary procedures.

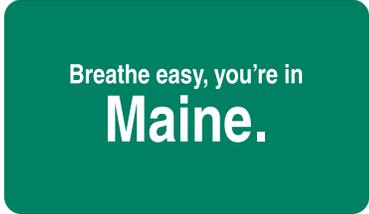
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Company Representative

Date



# This Smoke-Free Workplace Policy is rated as BETTER.



**This sample policy 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.**

(Insert workplace name here) is dedicated to providing a healthy and productive work environment. As required by law (22 M.R.S.A. § 1580-A), it will be our policy to provide a smoke-free workplace, effective (insert date). This policy applies to all employees, clients, contractors, and visitors. The Workplace Smoking Act of 1985 applies to all enclosed areas of business facilities in Maine where employees perform work and for which the employer is responsible. This policy also bans tobacco smoking in all outdoor areas of the workplace property at all times, 365 days per year, 24 hours a day.

“The scientific evidence indicates that there is no risk-free level of exposure to secondhand smoke.” *The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General*. Atlanta GA: U.S. DHHS CDC Office on Smoking and Health 2006.

This policy is being posted and copies are being made available to anyone who requests one. The policy will be supervised by the management of (insert workplace name here) in accordance with Maine State law.

Effective (insert date), smoking of tobacco products is banned in:

- all enclosed areas where work is performed, as well as in all rest rooms, all meeting rooms, all lunch rooms and all private offices.
- all outdoor locations, including outdoor eating areas, parking lots and within vehicles including personal vehicles whenever the vehicles are parked on company property.
- all employer-owned and all employer-leased vehicles used by employees at all times.
- all employee-owned vehicles used in the course of work whenever other employees or another person is in the vehicle for work-related reasons at all times.

No Smoking signs will be posted at the entrance to all workplace properties, at all building entrances, and throughout all buildings that comprise the workplace. In addition, this policy will be included in training manuals and new employee orientation.

This workplace understands that tobacco is a legal product, and further recognizes that as an employer, this workplace may not require that employees or prospective employees refrain from tobacco use when not at work, and will not discriminate against employees who use tobacco outside of employment.

The success of this policy will depend on the courtesy and cooperation of both tobacco smokers and nonsmokers. Everyone is responsible for following and helping to enforce the policy. Problems should be brought to the attention of the appropriate supervisor. Violations of this policy will be handled through the established disciplinary procedures.

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Company Representative

Date



# This Tobacco-Free Workplace Policy is rated as BEST.

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**This sample policy 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, 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 vehicles while on the property.**

(Insert workplace name here) is dedicated to providing a healthy and productive work environment. As required by law (22 M.R.S.A. § 1580-A), it will be our policy to provide a smoke-free workplace, effective (insert date). This policy applies to all employees, clients, contractors, and visitors. The Workplace Smoking Act of 1985 applies to all enclosed areas of business facilities in Maine where employees perform work and for which the employer is responsible. This policy also bans tobacco smoking in all outdoor areas of the workplace property at all times, 365 days per year, 24 hours a day.

"The scientific evidence indicates that there is no risk-free level of exposure to secondhand smoke." *The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General*. Atlanta GA: U.S. DHHS CDC Office on Smoking and Health 2006.

Since the use of tobacco products is the single greatest cause of premature death and disability in the United States, and in Maine, this policy exceeds the requirements of Maine State law by banning the use of any and all tobacco products, at all times, and in all locations that comprise this workplace.

The management of (insert workplace name here) is dedicated to promoting health and wellness, and recognizes that tobacco is an extremely addictive substance. This workplace will provide education on the impact of tobacco use with the purpose of raising awareness of the effects of tobacco use. This workplace will promote the use of all available resources, including the Maine Tobacco HelpLine (1-800-207-1230) to assist those tobacco users who wish to cease their use of such products.

This policy will be posted and copies will be made available to anyone who requests one. The policy will be supervised by the management of (insert workplace name here) in accordance with Maine State law.

Effective (insert date), the use of all tobacco products is banned in:

- all enclosed areas where work is performed, as well as in all rest rooms, all meeting rooms, all lunch rooms and all private offices.
- all outdoor locations, including outdoor eating areas, parking lots, and within vehicles—including personal vehicles whenever the vehicles are parked on company property.
- all employer-owned and all employer-leased vehicles used by employees at all times.
- all employee-owned vehicles used in the course of work whenever other employees or another person is in the vehicle for work-related reasons at all times.

Signs detailing the requirements of this policy will be posted at the entrance to all workplace property, at all building entrances, and throughout all buildings that comprise the workplace. In addition, this policy will be included in training manuals and new employee orientation.

This workplace understands that tobacco is a legal product, and further recognizes that as an employer, this workplace may not require that employees or prospective employees refrain from tobacco use when not at work, and will not discriminate against employees who use tobacco outside of employment.

The success of this policy will depend on the courtesy and cooperation of both tobacco users and nonusers. Everyone is responsible for following and helping to enforce the policy. Problems should be brought to the attention of the appropriate supervisor. Violations of this policy will be handled through the established disciplinary procedures.

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Company Representative

Date