

Kenton County Smoke Free Law: Frequently Asked Questions for Businesses

When does the smoke-free law take effect?

Ordinance 451.15 prohibiting smoking in most public buildings, establishments in public buildings and places of employment takes effect April 15, 2011.

What businesses must prohibit indoor smoking?

Most public buildings and workplaces in Kenton County must now prohibit smoking. The new law prohibits smoking in any building or place of employment where the public is invited or permitted, such as: offices, factories, churches, restaurants, bingo halls, bowling alleys and stores. The new law does not apply to private homes unless used as a licensed child care, adult day care or health care facility. Hotels and motels may permit smoking in private rooms; however, common areas, such as lobbies and elevators, must be smoke-free.

What businesses are exempted from the law?

Private clubs are exempt from the ordinance if they meet all of the following requirements:

- The building or establishment is used exclusively for club purposes at all times
- The club is not operated for monetary gain
- The organization is governed by a board of directors or similar body chosen by the members at an annual meeting
- The group has established bylaws and/or a constitution to govern its activities
- The club has an exemption from paying federal income tax under 26 U.S.C. Section 501

The exemption does not apply to private clubs when being used for a function to which the public is invited.

Drinking establishments are exempt from the ordinance if they meet the following requirements:

1. No one under 18 is admitted or employed at the establishment **and** it is licensed to operate under KRS Chapter 241 to 244 **OR**
2. **After 4 p.m.**, no one under 18 is admitted or employed at the establishment **and** it is licensed to operate under KRS Chapter 241 to 244, and **prior to 4 p.m.** it is smoke-free and meets all ordinance requirements. (split-shift operation) **OR**
3. It is an enclosed area within an establishment that:
 - Is licensed under KRS Chapter 241 to 244
 - It is a physically connected or directly adjacent enclosed area which is separate from the rest of the establishment
 - Has a separate air system
 - Has a separate entrance
 - Denies access to any person under the age of 18 and does not employ anyone under 18

How does a business qualify for exempted status?

Establishments meeting the requirements for the exemptions can contact the Health Department to request an application for exempted status by visiting <http://www.nkyhealth.org> or calling 859.341.4151.

Who will enforce the law?

The Northern Kentucky Health Department will investigate complaints as they are received. Although most smoke-free laws are self-enforcing, occasionally compliance with the law becomes an issue. If so, enforcement shall be by notice of violation or citation. Peace officers may also issue a citation for violations committed in their presence.

Who can be issued a notice of violation or cited for violating the law?

Individual offenders as well as the building owner, manager, employee or person in control of a building or establishment can be issued notices of violation or cited for violating the law.



What happens when a complaint is filed?

The Northern Kentucky Health Department will log the information received, investigate the complaint and take action as deemed appropriate. Enforcement action will be taken when violations are verified.

What are the penalties for violating this law?

Individuals will be fined \$100 per offense. Businesses will receive:

1. A warning for the first offense
2. A \$250 fine for the third offense within one year
3. A \$250 fine for each subsequent offense within one year.

Do businesses have to post “No Smoking” signs?

Yes, all businesses covered by the ordinance are required to post “No Smoking” signs on all public entrances or in a position clearly visible on entry in to a public building or establishment. Signs meeting the requirement of the ordinance must say “No Smoking” in letters 1 inch high and/or use a 3 inch pictorial image of the international no smoking symbol. Sample smoking signs are available on the Northern Kentucky Health Department’s Web site, <http://www.nkyhealth.org>.

Facilities meeting the requirements for exemption under the law must prominently post and maintain a “Smoking Permitted” sign at every entrance.

Businesses that do not post the appropriate signs can be issued notices of violation cited under the law.

Does the law apply to covered patios or areas covered by canopies?

The term “building” does not include outdoor open air patio areas. The law defines a building as any structure enclosed from the weather, whether or not doors are open, which is closed in overhead by a roof or other covering of any material, whether permanent or temporary, and has more than 50 percent of its perimeter closed in by walls or other coverings of any material, whether permanent or temporary.

Does the law prohibit smoking in public parks or other outdoor areas?

No, outdoor spaces are not covered by this law.

Does the law allow smoking in rooms with independently ventilated, enclosed smoking areas?

Smoking in a separate area is only permitted if a business meets the requirements for drinking establishments **and** has been issued an exemption.

Are businesses required to remove ashtrays from inside buildings?

Yes, all businesses covered under the law need to remove all ashtrays from any area where smoking is prohibited. Any permanent structure that functioned as an ashtray needs to be disabled or altered to prevent its use as an ashtray. Businesses that do not remove ashtrays can be issued notices of violation or cited.

What should I do about an employee who refuses to stop smoking inside the building?

Take the same actions you would normally take if the employee violated other work rules.

What should I do if a customer, vendor or visitor is smoking in my establishment?

You or your staff should remind your customers politely of the law and explain that they must step outside to smoke. Train your staff about what to say to customers. For example:

- “The law no longer allows smoking inside here. I’m sorry, but you’ll have to step outside to smoke.”
- “The new smoke-free law prohibits smoking indoors. Thank you for your cooperation.”
- “We are under a smoke-free law now. I need to ask you to put out your cigarette.”

If customers refuse to comply, use common sense. If necessary, use your normal protocol for removing a disruptive customer from your premises. You may contact local law enforcement to report the customer.

How do I report a violation of the law?

Contact the Northern Kentucky Health Department: 859.392.0101 or <http://www.nkyhealth.org>.

What resources are available for those who want to quit smoking?

For resources to quit smoking contact the Northern Kentucky Health Department at 859.341.4264 or visit <http://www.nkyhealth.org> for a complete list.

What if I have questions regarding my building or business?

Specific questions can be addressed by calling the Health Department at 859.341.4151 between 8 a.m. and 5 p.m., Monday-Friday. Questions can also be submitted via the Web at: <http://www.nkyhealth.org>