

No-Smoking Policies Due to Wayne County Employees by May 25, 2005

May 17, 2005

Wayne County employers have until May 25 to communicate in writing their no-smoking policy to employees, reports the law firm of Miller Canfield. This is in light of a ban passed on workplace smoking in March 2005 covering all Wayne County employers that have an enclosed place of employment and at least one employee.

The smoking ban does not apply to bars, restaurants, bingo halls, tobacco specialty stores, casinos, racetracks, or the city of Detroit, which is currently considering its own workplace smoking ban.

"According to the Clean Indoor Air Regulation, Wayne County employers must notify employees of their smoking policy at least three weeks before the regulation goes into effect, and must provide a written copy upon an employee's request," said labor and employment attorney Charles T. Oxender. "By June 15, the policy must be adopted and implemented."

The smoking policy must contain, at a minimum, the following language: Smoking is prohibited in all enclosed areas within this worksite without exception. This includes common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, employer owned or leased vehicles, and all other enclosed facilities.

Oxender also notes these new rules, which will be enforced by the Wayne County Health Department.

- Employers are required to post no-smoking signs in a noticeable area in every building where smoking is prohibited, and remove all ashtrays and smoking paraphernalia from such areas.
- Outdoor smoking is prohibited within six feet of building entrances, windows and ventilation systems.
- An indoor 'designated smoking room' with negative air pressure ventilation systems will most likely be deemed acceptable under the regulation, provided that it protects non-smokers from the effects of second-hand smoke. Employers may submit requests for inspection to the Wayne County Health Department to ensure compliance.
- Employers are prohibited from discharging, refusing to hire or retaliating against any employee, applicant for employment or customer for exercising their rights to a smoke-free environment.

"The regulation is intended to be enforced against individuals who violate the smoking restrictions," said Oxender. "Employers, however, will be subject to employee and citizen complaints if they are in violation of the regulation, which would presumably invite an inspection and possible action by the Wayne County Health Department."

Employees who refuse to stop smoking upon request are required to leave the workplace and will be subject to \$100 or \$500 fines. The regulation does not contain an exception for unionized employers.

The 340-attorney law firm of Miller, Canfield, Paddock and Stone, P.L.C. was established in Detroit in 1852 and has offices in Ann Arbor, Detroit, Grand Rapids, Howell, Kalamazoo, Lansing, Monroe, and Troy, Michigan. Other offices are located in New York City, Pensacola, Florida, Washington, D.C., Windsor, Ontario, and in Gdynia, Katowice, and Warsaw, Poland.