



Ohio Revised Code

Section 3794.03 Areas where smoking is not regulated by this chapter.

Effective: October 3, 2023

Legislation: House Bill 33

Areas where smoking is not regulated by this chapter.

The following shall be exempt from the provisions of this chapter:

(A) Private residences, except during the hours of operation as a child care or adult care facility for compensation, during the hours of operation as a business by a person other than a person residing in the private residence, or during the hours of operation as a business, when employees of the business, who are not residents of the private residence or are not related to the owner, are present.

(B) Rooms for sleeping in hotels, motels and other lodging facilities designated as smoking rooms; provided, however, that not more than twenty per cent of sleeping rooms may be so designated.

(C) Family-owned and operated places of employment in which all employees are related to the owner, but only if the enclosed areas of the place of employment are not open to the public, are in a freestanding structure occupied solely by the place of employment, and smoke from the place of employment does not migrate into an enclosed area where smoking is prohibited under the provisions of this chapter.

(D) Any nursing home, as defined in division (A) of section 3721.10 of the Revised Code, but only to the extent necessary to comply with division (A)(18) of section 3721.13 of the Revised Code. If indoor smoking area is provided by a nursing home for residents of the nursing home, the designated indoor smoking area shall be separately enclosed and separately ventilated so that tobacco smoke does not enter, through entrances, windows, ventilation systems, or other means, any areas where smoking is otherwise prohibited under this chapter. Only residents of the nursing home may utilize the designated indoor smoking area for smoking. A nursing home may designate specific times when the indoor smoking area may be used for such purpose. No employee of a nursing home shall be required to accompany a resident into a designated indoor smoking area or perform services in such area when being used for smoking.



(E)(1) Retail tobacco stores in operation prior to December 7, 2006. The retail tobacco store shall annually file with the department of health by the thirty-first day of January an affidavit stating the percentage of its gross income during the prior calendar year that was derived from the sale of cigars, cigarettes, pipes, or other smoking devices for smoking tobacco and related smoking accessories.

(2) Any retail tobacco store that begins operation after December 7, 2006, or any existing retail tobacco store that relocates to another location after December 7, 2006, may only qualify for the exemption authorized by division (E) of this section if located in a freestanding structure occupied solely by the business and smoke from the business does not migrate into an enclosed area where smoking is prohibited under the provisions of this chapter.

(3) A change of ownership of a retail tobacco store in operation prior to December 7, 2006, does not, in itself, constitute the beginning of a new operation or the relocation of an existing operation for the purposes of division (E)(2) of this section and does not, in itself, necessitate that the retail tobacco store relocate to a freestanding structure, as described in that division, in order to retain an exemption from the provisions of this chapter.

(F) Outdoor patios. All outdoor patios shall be physically separated from an enclosed area. If windows or doors form any part of the partition between an enclosed area and the outdoor patio, the openings shall be closed to prevent the migration of smoke into the enclosed area. If windows or doors do not prevent the migration of smoke into the enclosed area, the outdoor patio shall be considered an extension of the enclosed area and subject to the prohibitions of this chapter.

(G) Private clubs as defined in division (B)(13) of section 4301.01 of the Revised Code, provided all of the following apply: the club has no employees; the club is organized as a not-for-profit entity; only members of the club are present in the club's building; no persons under the age of eighteen are present in the club's building; the club is located in a freestanding structure occupied solely by the club; smoke from the club does not migrate into an enclosed area where smoking is prohibited under the provisions of this chapter; and, if the club serves alcohol, it holds a valid D4 liquor permit.

(H) An enclosed space in a laboratory facility at an accredited college or university, when used solely and exclusively for clinical research activities by a person, organization, or other entity



conducting institutional review board-approved scientific or medical research related to the health effects of smoking or the use of tobacco products. The enclosed space shall not be open to the public and shall be designed to minimize exposure of nonsmokers to smoke. The program administrator shall annually file a notice of new research with the department of health on a form prescribed by the department.

(I) A retail vapor store, insofar as the provisions of this chapter apply to smoking via vapor products and electronic smoking devices. The provisions of this chapter apply to retail vapor stores with regard to all other forms of smoking. The retail vapor store shall annually file with the department of health by the thirty-first day of January an affidavit stating the percentage of its gross income during the prior calendar year that was derived from the sale of vapor products, electronic smoking devices, or other electronic smoking product accessories.