

Enforcing a Smoke-Free Policy: A Lodging Establishment's Legal Rights



“In just the past five years, 100% smoke-free hotels have gone from being almost non-existent to becoming practically the national norm.... A growing number of cities and states now require hotels to be 100% smoke-free indoors, including guest rooms. Currently all hotels and motels (including guest rooms) must be smoke-free in Wisconsin, Michigan, and Nebraska.”¹

Minnesota Clean Indoor Air Act

The Minnesota Clean Indoor Air Act specifically exempts “a hotel or motel sleeping room rented to one or more guests” from the Act’s smoking prohibitions. Smoking is prohibited in all other areas of the hotel or motel, including: common areas, places of employment and meeting rooms.



The Act does not prohibit the proprietors of hotels or motels from implementing smoke-free policies. “Nothing...prohibits the proprietor or other person or entity in charge from taking more stringent measures than those under MN Statute Sections 144.414 to 144.417 to protect individuals from secondhand smoke.”² Therefore, hotel and motel proprietors can establish smoke-free policies for their entire properties, including the guest rooms.



Minnesota Statutes for Hotels, Motels, Resorts and Manufactured Homes

Minnesota state law on hotels and motels establishes civil penalties for guests who smoke in rooms designated by the hotel proprietors as non-smoking rooms. “No person shall smoke cigarettes, cigars, pipes, or other smoking material in a hotel sleeping room designated nonsmoking.”³ “A person who violates this section is guilty of a petty misdemeanor. Upon conviction, the court may require a person who violates this section to reimburse the innkeeper for actual costs incurred to restore the room to its previous condition.”⁴

The amount of damages could include the cost to clean the room, a service charge of \$30, a civil penalty of up to \$100, and reasonable attorney fees up to \$500. These penalties are established under state law. In order to use the state law to enforce the non-smoking policy, hotel and motel proprietors are required to “conspicuously” post signage noting the restriction and the possible civil penalties.⁵ Hotels are also allowed to establish their own fees, separate from state law, that can be charged against guests that violate the hotel’s no-smoking policy.

¹ Americans for Nonsmokers Rights, <http://www.no-smoke.org/learnmore.php?id=188>.

² Minn. Stat. § 144.416 (b) (2011).

³ Minn. Stat. § 327.742, subdiv. 1 (2011).

⁴ Minn. Stat § 327.742, subdiv. 2 (2011).

⁵ Minn. Stat. § 327.742, subdiv. 3 (2011).

Enforcement of Smoke-Free Policies / Tips

Questions frequently arise about how to enforce smoke-free policies for guest rooms at hotels and lodging establishments. Businesses are concerned that charges for violating the no-smoking rule may be reversed on credit cards if guests challenge these charges. Based on discussions with industry trade groups and a review of state law, here are some tips to assist with enforcement:

- ◆ **Post smoke-free signage prominently in all non-smoking rooms.**

The Minnesota statute that makes violation of no-smoking policies a petty misdemeanor requires that signage be posted that states the rule and that also states the innkeepers' right to seek reimbursement and charges for cleaning the room.

- ◆ **Have the guest initial and/or sign a form upon check-in acknowledging that charges may be applied to a credit card for damages from smoking in a non-smoking room.**

Some sample language from California: "I hereby acknowledge that smoking is not allowed in my guest room. If anyone in my party, or anyone I invite, smokes in my guest room, I hereby expressly authorize the management to charge my credit card the amount of \$xx.00 to reimburse the management for the additional cost of cleaning my room."

- ◆ **Request that the guest contact management immediately if any smoke smell or damage is evident in the room upon the guest's arrival.**

Instruct guests to contact the front desk or management if the guests notice any smoke smell, cigarette refuse or other evidence of smoking in the room when the guests arrive at the room.

- ◆ **Substantiate the cleaning costs if challenged by a credit card company or guest:**

⇒ Provide an invoice from a third-party cleaning service, such as ServiceMaster;

⇒ Provide time records for the time employees spent cleaning the room; or

⇒ Get an affidavit from hotel management confirming the cleaning hours required.



Sample Hotel Smoking Policies

- ◆ Windmill Inns & Suites - <http://www.windmillinns.com/ie40/nosmoke.htm>
- ◆ Sheraton Baltimore Hotel - <http://www.starwoodhotels.com/sheraton/property/overview/announcements.html?propertyID=197>
- ◆ Marriott - <http://www.marriott.com/marriott.mi?page=smokefree>