

**RS 40:1300.251**

PART LXIII. LOUISIANA SMOKEFREE AIR ACT  
SUBPART A. GENERAL PROVISIONS

§1300.251. Short title

This Part shall be known and may be cited as the "Louisiana Smokefree Air Act."  
Acts 2006, No. 815, §1, eff. Jan. 1, 2007.

**RS 40:1300.252**

## §1300.252. Purpose

The legislature finds and determines that it is in the best interest of the people of this state to protect nonsmokers from involuntary exposure to secondhand smoke. The legislature further finds and determines that a balance should be struck between the health concerns of nonconsumers of tobacco products and the need to minimize unwarranted governmental intrusion into and regulation of private spheres of conduct and choice with respect to the use or nonuse of tobacco products in certain designated public areas and in private places. Therefore, the legislature hereby declares that the purpose of this Part is to preserve and improve the health, comfort, and environment of the people of this state by limiting exposure to tobacco smoke.

Acts 2006, No. 815, §1, eff. Jan. 1, 2007; Acts 2014, No. 546, §1, eff. Jan. 1, 2015.

**RS 40:1300.253**

## §1300.253. Definitions

For the purposes of this Part, the following terms shall have the following meanings unless the context clearly indicates otherwise:

(1) "Bar" means a business that holds a Class A-General retail permit and the primary purpose of such business is to serve alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including but not limited to, taverns, nightclubs, cocktail lounges, and cabarets.

(2) "Business" means any corporation, sole proprietorship, partnership, limited partnership, professional corporation, enterprise, franchise, association, trust, joint venture, or other entity.

(3) "Department" means the Department of Health and Hospitals.

(4) "Employer" means an individual or a business that employs one or more individuals.

(5) "Enclosed area" means all space between a floor and ceiling that is enclosed on all sides by solid walls or windows, exclusive of doorways, which extend from the floor to the ceiling.

(6) "Local governing authority" means a municipal or parish governing authority.

(7) "Place of employment" means an area under the control of an employer that employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways, and vehicles. A private residence is not a place of employment unless it is used as a licensed child care, adult day care, or health care facility.

(8) "Public building" means any building owned or operated by any of the following:

(a) The state, including the legislative, executive, and judicial branches of state government.

(b) Any parish, city, or town, or instrumentality thereof, or any other political subdivision of the state, special district, authority, commission, or agency.

(c) Any other separate corporate instrumentality or entity of state or local government.

(9) "Public place" means an enclosed area to which the public is invited or in which the public is permitted which is not a public building, including but not limited to banks, educational facilities, health care facilities, hotel and motel lobbies, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports arenas, theaters, and waiting rooms.

(10) "Restaurant" means an eating establishment, including but not limited to, coffee shops, cafeterias, sandwich stands, and school cafeterias, which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term "restaurant" shall include a bar located within a restaurant.

(11) "Retail tobacco business" means a business utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is incidental.

(12) "School" means any elementary or secondary school building, the campus of any school, any buildings on the campus, and all school buses.

(13) "Secondhand smoke" means smoke emitted from lighted, smoldering, or burning tobacco when the smoker is not inhaling, smoke emitted at the mouthpiece during puff drawing, and smoke exhaled by the smoker.

(14) "Smoking" means inhaling, exhaling, burning, carrying, or possessing any lighted tobacco product, including cigarettes, cigars, pipe tobacco, and any other lighted combustible plant material.

Acts 2006, No. 815, §1, eff. Jan. 1, 2007.

**RS 40:1300.256**

## SUBPART B. PROHIBITIONS AND EXEMPTIONS

## §1300.256. General smoking prohibitions; exemptions

A. Except as permitted by Subsection B of this Section, no person shall:

- (1) Smoke in any public building.
- (2) Smoke in any school.
- (3) Smoke in any public place and in any enclosed area within a place of employment.
- (4) Smoke in any outdoor area proximate to a state office building where smoking is prohibited pursuant to the provisions of R.S. 40:1263.
- (5) As an employer, knowingly permit smoking in any enclosed area within a place of employment.

B. Nothing in this Part shall prohibit smoking in any of the following places:

- (1) Private homes, private residences, and private automobiles; except that this Subsection shall not apply if any such home, residence, or vehicle is being used for child care or day care or if a private vehicle is being used for the public transportation of children or as part of health care or day care transportation in which case smoking is prohibited.
- (2) Limousines under private hire.
- (3) A hotel or motel room designated as a smoking room and rented to a guest; provided that a maximum of fifty percent of the hotel rooms, at the discretion of the hotel owner or general manager, available for rent to guests in a hotel or motel may be designated as smoking rooms.
- (4) Any retail tobacco business.
- (5) Any bar.
- (6) The outdoor area of places of employment; except that the owner or manager of such business may post signs prohibiting smoking in any such outdoor area, which shall have the effect of making that outdoor area an area in which smoking is prohibited under the provisions of this Part.
- (7) Private and semiprivate rooms or apartments in assisted living residences, and other long-term care facilities that are occupied by one or more persons, who are all smokers and who have requested in writing to be placed in a room where smoking is permitted; provided that smoke from such rooms or apartments does not infiltrate into areas where smoking is prohibited under the provisions of this Part.
- (8) Designated smoking areas in which gaming operations are permitted to occur upon a riverboat, at the official gaming establishment, at a facility licensed for the operation of electronic video draw poker devices, at an eligible facility licensed for the operation of slot machines, by a licensed charitable organization, or at a pari-mutuel wagering facility or off-track wagering facility which is licensed for operation and regulated under the provisions of Chapters 4 and 11 of Title 4 and Chapters 4, 5, 6, and 7 of Title 27 of the Louisiana Revised Statutes of 1950, or any other gaming operations authorized by law, except that smoking shall be prohibited in all restaurants, including snack bars and any other type of eating area whether or not such area is separated from the gaming area, that are located within the facilities where gaming operations are conducted regardless of any type of license issued relevant to the operation of the restaurant.
- (9) All workplaces of any manufacturer, importer, wholesaler or distributor of tobacco products, of any tobacco leaf dealer or processor, and all tobacco storage facilities.
- (10) Convention facilities during the time such facilities are being used for professional meetings and trade shows which are not open to the public that are produced or organized by tobacco businesses or convenience store associations where tobacco products are displayed and

limited to the location of such meetings or shows and during the time such facilities are used by a carnival organization, traditionally known as a krewe or a courir de Mardi Gras for the purpose of the conduct of a Mardi Gras ball and limited to the location of such ball.

(11) Designated and well-ventilated smoking rooms in nursing homes which permit smoking, provided that the designated smoking room is not the reception area, lobby, waiting room, dining room, or any other room or area defined as a public place under the provisions of this Part.

(12) A hotel or motel room operated by a casino or gaming operation which is rented to a guest.

(13) An outdoor patio, whether or not food is served.

(14) Any state, local, or private correctional facility prior to August 15, 2009. After August 15, 2009, smoking shall be prohibited in any state, local, or private correctional facility.

C. An individual, person, entity, or business subject to the smoking prohibitions of this Section shall not discriminate or retaliate in any manner against a person for making a complaint regarding a violation of this Section or for furnishing information concerning a violation to an enforcement authority.

D. Nothing in this Part shall be construed to restrict the power of any parish, city, town, or village to adopt and enforce additional local laws, ordinances, or regulations that comply with at least the minimum applicable standards to establish smokefree public places as set forth in this Part.

Acts 2006, No. 815, §1, eff. Jan. 1, 2007; Acts 2008, No. 490, §1; Acts 2014, No. 546, §1, eff. Jan. 1, 2015.

**RS 40:1300.261**

## SUBPART C. PENALTIES AND RULES AND REGULATIONS

## §1300.261. Notice of prohibition of smoking

A. "No smoking" signs or the international "No smoking" symbol consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it shall be clearly and conspicuously posted by the owner, operator, manager, or other person in control in every public building, public place, and place of employment where smoking is prohibited by this Part.

B. The owner, operator, manager, or other person in control shall remove all ashtrays from any area where smoking is prohibited by this Part.

C. The Department of Health and Hospitals may treat a violation of this Section as a deficiency to be assessed against any licensee or facility over which it has statutory jurisdiction.

Acts 2006, No. 815, §1, eff. Jan. 1, 2007.

**RS 40:1300.262**

## §1300.262. Enforcement; penalties

A.(1) Any violation of any prohibition in R.S. 40:1300.256(A) may be cited by any law enforcement officer by the issuance of a citation and summons to appear before a court of proper jurisdiction.

(2) Such citations shall be in a form such that there shall be retained in each book of citations a receipt and each shall have a copy to be deposited by the law enforcement officer with a court having jurisdiction over the alleged offense.

(3) Upon the deposit of the copy, the court shall notify the alleged violator of the time and place of his hearing or of his opportunity to plead guilty by the payment of his specified fine. Failure to appear, unless the fine is paid, may be punished within the discretion of the court as contempt of court.

B.(1)(a) Any person who is guilty of a violation of the prohibition in R.S. 40:1300.256(A) (1), (2), (3), and (4) shall, upon a first offense, be fined twenty-five dollars.

(b) Any person who is guilty of violating such prohibition a second time shall be fined fifty dollars.

(c) Any person who is guilty of violating such prohibition a third or subsequent time shall be fined one hundred dollars.

(2)(a) Any employer who is guilty of a violation of the prohibition in R.S. 40:1300.256(A) (5) shall, upon a first offense, be fined one hundred dollars.

(b) Any employer who is guilty of violating such prohibition a second time shall be fined two hundred fifty dollars.

(c) Any employer who is guilty of violating such prohibition a third or subsequent time shall be fined five hundred dollars.

Acts 2006, No. 815, §1, eff. Jan. 1, 2007; Acts 2014, No. 546, §1, eff. Jan. 1, 2015.

**RS 40:1300.263**

§1300.263. Development of smoke-free policies

A.(1) Public post secondary education institutions shall develop smoke-free policies for its campuses.

(2) For the purposes of this Section, "smoke-free" means the prohibition of smoking as defined in R.S. 40:1300.253.

B.(1) Nothing in this Section shall prohibit a public post secondary education institution from developing a tobacco-free policy for its campus.

(2) For the purposes of this Section, "tobacco-free" means the prohibition on the use of tobacco derived or containing products, including but not limited to cigarettes, cigars, cigarillos, pipes, hookah-smoked products, and oral tobacco products.

C. The provisions of this Section shall not supersede the provisions of R.S. 40:1300.256 (A).

Acts 2013, No. 211, §1.

NOTE: See Acts 2013, No. 211, §2, relative to effectiveness.



**RS 40:1300.264**

§1300.264. Smoking prohibited near school property; exceptions; penalty

A. Smoking, as defined in this Part, shall not be permitted, and no person shall smoke within two hundred feet of the entrances, exits, or outdoor areas of any public or private elementary or secondary school.

B.(1) This Section shall not apply to smoking by a person of the legal age within private property that is within the two hundred feet boundary or to smoking by a person of the legal age occupying a moving vehicle in which smoking is not prohibited that is traveling through an area within the two hundred feet boundary.

(2) This exception shall not apply to the property of a private elementary or secondary school.

C. The state superintendent of education, with the approval of the State Board of Elementary and Secondary Education, shall develop a method by which to mark smoke-free areas, including the use of signs or other markings suitable to the situation. Signs or other markings shall be located in a visible manner on or near each school indicating that such area is a smoke-free area, and that such an area is within two hundred feet of the entrances, exits, or outdoor areas of any public or private elementary or secondary school. The state Department of Education shall assist each school system with providing for the posting required in this Subsection.

D.(1) Any violation of this Section may be cited by any law enforcement officer by the issuance of a citation and summons to appear before a court of proper jurisdiction.

(2) Such citations shall be in a form such that there shall be retained in each book of citations a receipt and each shall have a copy to be deposited by the law enforcement officer with a court having jurisdiction over the alleged offense.

(3) Upon the deposit of the copy, the court shall notify the alleged violator of the time and place of his hearing or of his opportunity to plead guilty by the payment of his specified fine. Failure to appear, unless the fine is paid, may be punished within the discretion of the court as contempt of court.

E.(1) Any person who is guilty of a violation of this Section shall, upon a first offense, be fined twenty-five dollars.

(2) Any person who is guilty of violating this Section a second time shall be fined fifty dollars.

(3) Any person who is guilty of violating this Section a third or subsequent time shall be fined one hundred dollars.

F. The provisions of this Section shall not supersede the provisions of R.S. 40:1300.256(A). Acts 2014, No. 581, §1, eff. June 9, 2014.