This factsheet explains how the prohibition of smoking under the Minnesota Clean Indoor Air Act (MCIAA) applies to private clubs.

Q: Is smoking or vaping prohibited under the MCIAA?

A: Generally, the MCIAA prohibits smoking — including vaping — in indoor public places and workplaces.\(^1\) There are very few exceptions to this prohibition — and none of these exceptions apply to private clubs.

Q: What is the purpose of the state law?

A: The purpose of the prohibition is stated in the MCIAA: “to protect employees and the general public from the hazards of secondhand smoke and involuntary exposure to aerosol or
vapor from electronic delivery devices (also known as e-cigarettes) by eliminating smoking in public places, places of employment, public transportation, and at public meetings.”

Q: Where is smoking or vaping prohibited?

A: The MCIAA prohibits individuals from smoking or vaping in nearly all indoor areas of public places and places of employment, as well as on public transportation and at public meetings. The definition of smoking includes using or carrying any lighted or heated cigarette, cigar, pipe, e-cigarette, or any other lighted or heated product “containing, made, or derived from nicotine, tobacco, marijuana, or other plant.” It does not matter if the product is natural or synthetic — either way, smoking, including vaping, is prohibited in these indoor settings.

Q: Are there any exceptions to the general prohibition of smoking in indoor areas of public places and workplaces?

A: Yes. The MCIAA allows several narrow exceptions to the general prohibition of smoking in indoor areas of public places or workplaces. However, nearly all of these exceptions are irrelevant to the general prohibition of smoking in private clubs. The only possible exceptions, when smoking might be allowed, are if a traditional Native American ceremony takes place in a private club as specified in the statutory exception, or if a theatrical performance is held in a private club and an actor or actress engages in smoking as part of the theatrical performance, in accordance with statutory restrictions.

Specifically, the MCIAA does not prohibit smoking in the following limited locations and circumstances:

- During off-hours in a day care provider’s home, when proper advance notice is provided to parents and guardians
- Outdoor smoking, regardless of distance from building openings
- Private homes, residences, or automobiles when they are not being used as a place of employment
- Sleeping rooms of hotels and motels
- Cabs of commercial motor vehicles that weigh over 26,000 pounds
- Family farm buildings, farm trucks and equipment, when certain conditions are met
• Tobacco product shops, only for the purpose of customer sampling of tobacco products

• Traditional Native American ceremonies

• Disabled Veterans Rest Camp in Washington County

The MCIAA also does not prohibit smoking by:

• Drivers of public transportation vehicles when the driver is using the vehicle for private purposes and no for-hire persons are present

• Patients of licensed residential healthcare facilities in designated separate, enclosed areas that meet applicable regulations

• Patients in a locked psychiatric unit in a separated well-ventilated area, as approved by the treating physician

• Approved scientific study participants

• Actors and actresses, as part of a theatrical performance, under certain circumstances, and when notice is provided to theater patrons in advance and in performance programs
Q: Is there any exception to the general prohibition of smoking indoors that would permit smoking in a private club under any circumstance?

A: No. The state law does not provide an exception for private clubs. A private club is a “place of employment” under state law, as it is “an indoor area in which two or more individuals perform any type of service for consideration of payment … or gratuitously perform services for which individuals are ordinarily paid.” Whether one considers the operation, upkeep, and maintenance of the building, or food and beverage service, booking of events, accounting, or other activities or services, a private club almost certainly falls squarely within the meaning of a “place of employment” as defined in the MCIAA, since the performance of such activities would typically involve more than one individual — volunteers, paid employees, independent contractors, or some combination. It does not matter if a particular private club limits itself to members-only events or gatherings or allows members of the public to book events or meetings for a fee: the basic employment threshold would be met if more than one person is compensated in any way for performance of services or performs any service for which persons would ordinarily be paid. A private club is also a “public place” under state law if an indoor area is used by the general public. This includes, for example, when an indoor area of a private club is rented or leased out for events, gatherings, or meetings. All persons must comply with the MCIAA prohibition of smoking indoors and with all applicable local regulations. The MCIAA allows local governments to enact regulations that are stricter, but not weaker, than the state law.

Q: How is the prohibition of smoking enforced under state and local laws?

A: The MCIAA contains enforcement provisions that authorize the Minnesota Department of Health and local authorities to enforce the smoke-free requirement by applying penalties to address violations. A proprietor or other person who owns, leases, manages, operates, or otherwise controls an area where smoking is prohibited is guilty of a petty misdemeanor if that person knowingly fails to comply with the prohibition. A person who smokes in an area where smoking is prohibited is also guilty of a petty misdemeanor. In addition, the Commissioner of the Department of Health, a local community health board, or any affected party may bring an action in court to enjoin (stop) repeated violations.
Q: Is help available if our community needs assistance addressing this issue?

A: Yes. Please contact your local public health department. In addition, the Public Health Law Center provides free legal technical assistance to help communities understand and administer applicable laws.

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Endnotes

1 Minn. Stat. §§ 144.411 to 144.417.
2 Minn. Stat. § 144.412, Public policy.
3 Minn. Stat. § 144.414, Prohibitions, subd. 1, Public places, places of employment, public transportation, and public meetings.
4 Minn. Stat. § 144.413, subd. 4, Smoking.
5 Minn. Stat. § 144.414, Prohibitions, subds. 2, 3, and 4; Minn. Stat. § 144.4167, Permitted Smoking, subds. 1-9; see also Minn. Dep’t of Health, Minn. Clean Indoor Air Act (MCIAA) factsheet.
6 Minn. Stat. § 144.4167, Permitted Smoking, subds. 2 and 9.
7 Minn. Stat. § 144.414, Prohibitions, subds. 2, 3, and 4; Minn. Stat. § 144.4167, Permitted Smoking, subds. 1-9; see also Minn. Dep’t of Health, Minn. Clean Indoor Air Act (MCIAA) factsheet, https://www.health.state.mn.us/communities/environment/air/mciaa/index.html.
8 Minn. Stat. § 144.413, subd. 1b, Place of employment.
9 Minn. Stat. § 144.413, subd. 2, Public place.
10 Minn. Stat. § 144.417, Commissioner of Health, Enforcement, Penalties.
11 A petty misdemeanor is the lowest level of offense in Minnesota, and results in a fine of no more than $300. A petty misdemeanor is not considered a crime and does not carry a jail sentence, and can typically be paid without a court appearance. Payment of a fine constitutes an admission of guilt.