

The **Smoke-Free Arizona Act** (the Act) prohibits smoking in most enclosed public places and places of employment. While the goal of the Act is to protect Arizonans from the dangers of secondhand smoke, there are some exempt public places and places of employment, defined by A.R.S. § 36-601.01(B), where smoking is allowed. Retail tobacco stores are one of the seven exemptions.



NEWSLETTER

A **“retail tobacco store”** is defined in A.R.S. § 36-601.01(A)(10) as a store that derives the majority of its sales from tobacco products and accessories. This means that in order for the retail tobacco store to be exempt from the Smoke-Free Arizona Act, it must derive at least 51% of its gross income from the sale of tobacco products and accessories.

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Retail tobacco stores may include smoke shops, cigar lounges, and hookah bars, but they are only exempt from the Act if they meet all the requirements detailed in A.R.S. § 36-601.01 and A.A.C. R9-2-107.

A.R.S. § 36-601.01(B)(3) states that smoking is allowed in retail tobacco stores (RTS) that are physically separated so that smoke from the RTS does not infiltrate into areas where smoking is prohibited, such as non-exempt public places and places of employment. The RTS must be independently ventilated and enclosed on all sides by solid walls or windows (exclusive of doors or passageways).

Each year, the legal owner (proprietor) of a RTS must be able to prove in a legal statement (notarized affidavit) that 51% of its gross income came from the sale of tobacco products and accessories during the previous calendar year. This statement should be completed by January 31st of each year, and must be maintained on the premises at all times. If the RTS begins operations after January 1st of the current year, the owner must complete a notarized affidavit by the first day of operation that they expect at least 51% of their gross income to come from the sale of tobacco products and accessories. If the Smoke-Free Arizona Program receives a complaint, these documents must be made available for review upon request. The statement requirements can be found in A.A.C. R9-2-107.

As with any enclosed public place or place of employment that is exempt from the Act, it is not necessary for retail tobacco stores to post the otherwise required “No Smoking” signs, prohibit smoking inside and within 20 feet of the entrances, or ensure that ashtrays are removed from inside and located at least 20 feet away from the entrances.

Finally, it is important to note that while a RTS may qualify for an exemption, a proprietor of a retail tobacco store may choose to maintain a smoke-free environment and prohibit smoking inside the establishment and within 20 feet of the entrances.



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The Smoke-Free Arizona Act is a voter-approved law that passed in November 2006. The Act increased the State tax on cigarettes by 2 cents, from \$1.18 per pack to \$1.20. Revenue generated in the Smoke-Free Arizona Fund was used to implement and continues to fund the Smoke-Free Arizona Program (SFA Program).

The SFA Program provides education about the Act, ensures compliance with the Act, maintains a 24/7 hotline and website, and offers educational materials and “No Smoking” signs free of charge. If you have questions about the Act or would like to file a complaint, please contact us.