

**Frequently Asked Questions About the 2006
Utah Indoor Clean Air Act Amendments
By Category
5-3-2006**

General

1. What do I have to do to get an exemption from the UICAA for my business?

In order to get an exemption from the smoking prohibitions of the UICAA your business would have to be eligible for one of the exemptions allowed by the legislature. They are:

- Single proprietor types of businesses, e.g.- shoe cobbler, where the owner/operator is the only person present.
- Guest rooms in hotels, motels, and “bed and breakfast” lodging facilities, but smoking is prohibited in the common areas, e.g.- lounges, lobbies, dining areas.
- Private clubs and taverns as defined and licensed by the Department of Alcoholic Beverage Control. (These begin phasing out May 15, 2006 with a final ban on smoking in all private clubs and taverns on January 1, 2009.
- Separate and enclosed areas in the Salt Lake International Airport. 26-38-3(2)(a), (b),(c)

2. I have a private business but the UICAA states in Section 26-38-3(1) that smoking is prohibited in all enclosed indoor places of public access and publicly owned buildings and offices. Does that mean I can allow smoking in my private business?

No. The Utah Indoor Clean Air Act defines places of public access in Section 26-38-2(1) to include places, whether publicly or privately owned, to which persons not employed at the place have general and regular access.

3. What are the penalties for violating the Utah Indoor Clean Air Act?

Civil monetary penalties can be assessed by state and local health departments on those persons who violate provisions of the UICAA. For a first violation of Section 26-38-3 a civil penalty of up to \$100 may be imposed. For a second or subsequent violation the individual is subject to a penalty of not less than \$100 and not more than \$500.

Businesses, organizations, or individuals that do not abide by UICAA requirements and fail to respond to orders by state or local health departments to comply may also be subject to a civil penalty of up to \$5,000 (which can be assessed on a per occurrence basis).

By carefully reviewing requirements of the UICAA statute and administrative rule, businesses and organizations can avoid being penalized. State and local health departments are readily available to address any questions you may have about the 2006 UICAA. Section 26-38-8; Section 26-23-6

Child Care Providers

1. Do the changes in the law mean I can't smoke in my own home?

Yes. If the facility you are providing care in is your home (or someone else's home) no smoking is allowed while children, other than your child, are present. Discuss this with family members and friends so everyone is clear about the requirement. Section 26-38-2(j)(i) and (ii)

2. What am I required to do to comply with the changes in the law?

Beginning May 1, 2006 child care providers must prohibit smoking in the facility or home in which they are providing care. Signs indicating the no-smoking requirement must also be posted at the facility or home used to provide care. Section 26-38-2(j)(i) and (ii), R 392-510-13

3. What do I do if someone smokes in my home or facility where I am caring for children?

Inform employees, parents, and visitors that the law prohibits smoking in the facility. If the person does not heed your warning, ask them to leave the facility (and the premises if that is your choice as the property owner or manager.) In the unlikely case that a person fails to leave, consider calling local law enforcement for assistance.

Private Elementary and Secondary Schools

1. What am I required to do?

One of the most important steps administrators can take before May 1, 2006 is to develop and disseminate a written smoking policy to all employees notifying them about the changes and the consequences for violating the policy and law. In addition, take appropriate action, such as posting signs, to let parents and visitors to your campus know about the change in the law. Sample policies and additional information are available in the School's Guide to Comprehensive Tobacco Control which can be found at:

<http://www.tobaccofreeutah.org/schoolguide.pdf>

Section 26-38-2(2)(k)

2. Do the 2006 changes in the UICAA apply to charter schools?

Yes. Charter schools fall under the same regulations as public schools. Section 26-38-2(2)(k)

3. What do I do if someone smokes in the school at which I work after May 1, 2006?

If you are an employee and believe there is a violation, contact your supervisor to report the problem. If you feel your concerns are ignored or if you feel uncomfortable talking with your administrators, contact your local health department directly and they will send out a staff member to investigate your complaint. Section 26-38-7

4. Is the football stadium, or baseball diamond, etc. at my school affected by changes in the UICAA?

They may be affected if adults have been previously allowed to smoke in those locations. Under the 2006 UICAA no smoking is allowed in all elementary and secondary school educational facilities or the premises on which they are located. Posting of appropriate signs and occasional public address announcements at events can help make spectators aware of the policy. This action may be particularly important in those school districts that hold events with out-of-state schools. Section 26-38-2(2)(k)

Social, fraternal, and religious organizations

1. How do we make sure we are in compliance?

It is important to notify membership of the changes and when they will take effect. If you rent or lease your facility for private functions to caterers, event planners, wedding parties, etc., make sure the party holding the event is aware that smoking is not allowed. Section 26-38-2((1)

2. If our fraternal group also has a Class B private club license, can we still allow smoking?

Organizations that hold a Class B private club license issued by the Utah Department of Alcoholic Beverage Control (DABC) may still allow smoking in the geographical area of a building designated by the DABC as the private club until January 1, 2007 when all Class A,B, and C private clubs will become smoke free.

3. We have a meeting room in our building that is not part of our Class B private club. Can we allow smoking in that location when we hold weddings or other social gatherings there?

No. Beginning May 1, 2006, all private functions that are not held in a Class B private club designated area (by the DABC license) must become smokefree. This applies to members as well as anyone who rents or leases the space for weddings, conventions, meetings, or conducts similar business in the non-private club area. Section 26-38-2(1), Section 26-38-2(m)

4. Are fraternities and sororities at universities and colleges considered a “fraternal organization” under the law and, if so, is smoking in fraternity and sorority houses prohibited by the 2006 UICAA?

Yes. Therefore they are beholdng to requirements of the law regarding prohibiting smoking when conducting social events at their houses by organization members, guests, or their families. Section 26-38-2(1)

Private Function Sponsors

1. What am I required to do to comply with the new law?

If you are sponsoring a private social function assure that participants do not smoke inside facilities where these events are taking place. Section 26-38-2(1)(m)

2. What do I do if someone at an event smokes?

You should politely let the person know that the UICAA does not allow smoking inside at the event and ask them to either extinguish their cigarette or go outside. The current rule, R392-510-9, generally requires no-smoking areas within 25 feet of an entrance, exit, open window, or air intake of a building so it will be important to inform guests who choose to go outside to this rule as well. Section 26-38-7(1) and (2); R392-510-9

3. If we hold the event in a private club or tavern can we still allow smoking?

It depends on what type of private club license the facility falls under and when the establishment was licensed. The easiest way to determine the smoking status of a site is to ask the proprietor of the facility what type of license they have.

Specifically:

All Class A (Country Club), B (Fraternal), and C (Dining Club where food sales make up at least 50% of receipts) are required to be smokefree by January 1, 2007.

If the event is held in a Class D (Dining Club where food sales make up less than 50% of receipts) smoking is required to be prohibited by January 1, 2009 unless the license was issued after May 15, 2006. In this case, the facility must be smokefree when it opens for business.

If the event is held in a tavern smoking is required to be prohibited beginning January 1, 2009 unless the license was issued after May 15, 2006. In this case the facility must be smokefree when it opens for business.

4. Does the restriction on smoking at private functions apply if I hold the event in my home?

Probably not. The UICAA only applies to facilities rented or leased for private functions from which the general public is excluded. Unless you are renting your home out to someone else to provide a private function, the UICAA does not apply. Section 26-38-2(2)(m)

5. I own a hotel and received a letter in the mail stating that smoking is no longer allowed at private functions that are held in our facility. Does this mean I can no longer offer smoking (lodging) rooms too?

No. The letter you received relates specifically to private functions such as weddings, business conventions/meetings, etc. to which the general public is excluded. These private functions must now be smoke free. Lodging rooms are still exempt so you are still able to offer smoking rooms in your facility as per Section 26-38-3(2)(b).

5. Before the law was changed this year I was allowed to offer a smoking room for my bowling leagues. Is it true that the amendments no longer allow smoking rooms for bowling leagues?

Yes, it is true. Smoking is not allowed by bowling league members in smoking rooms of bowling alleys. In addition, according to the administrative rule for the law a building owner, agent, or operator of a place may not designate an outdoor smoking permitted area within 25 feet of any entrance-way, exit, open window, or air intake of a building where smoking is prohibited.

Non-Publicly Accessible Workplaces

1. What types of workplaces are considered to be non-publicly accessible?

The types of places covered by this category are those to which persons employed at the place have access and to which persons not employed at the place, including delivery people, sales persons, or customers, do not have access. Examples include: break rooms in grocery/hardware/convenience stores, manufacturing plants, and warehouses.

2. If I currently operate a non-publicly accessible workplace what am I required to do by the UICAA?

- Beginning May 1, 2006 smoking can no longer be allowed in break rooms or similar locations in businesses that qualified for the previous exemption.
- Existing break rooms and smoking areas are NOT "grandfathered/grandmothered in" and may not allow smoking after May 1, 2006.
- It is the responsibility of building and business owners to communicate the changes in the law to employees and to assure compliance with the UICAA. Section 26-38-2(n)

3. Since my company already has a smoking area, can't we keep it?

No. Effective May 1, 2006 all previously indoor non-publicly accessible workplaces that allowed smoking will be required to become smokefree. There was no grandfather/grandmother provision to allow those who currently have smoking-permitted areas in non-publicly accessible workplaces to continue after that date. Section 26-38-2(n)

4. If our company's smoking area is outside, will the changes effect us?

Not now but possibly in the future. As long as the current outside location is 25 feet away from building entrances, exits, air intakes, or open windows or at an entrance or exit that has double vestibule doors smoking can still be allowed at the present time if the building owner and company or organizational management approve it. R 392-510-9

Private Clubs and Taverns

1. What do the changes in the UICAA mean for private clubs and taverns?

- After May 15, 2006 any Class D private club or tavern that is licensed by the Utah Department of Alcoholic Beverage Control (DABC) will be smokefree.
- On January 1, 2007 all class A, B, and C private clubs will become smokefree.
- Until January 1, 2009 Class D private clubs and taverns that have a license issued by the DABC on or before May 15, 2006 may still allow smoking in their facilities as long as they meet requirements of the UICAA statute and Administrative Rule R392-510 . Section 26-38-3(c) and (d); R 392-510

2. If a person is purchasing a private club but the sale does not go through until after May 15, 2006 will the new owner be required to prohibit smoking at the club? What about taverns?

The answer to this question depends on what kind of private club license the person is attempting to acquire.

- If the person obtains a license from the DABC for a Class D private club they will have to be smokefree if the license is not issued by May 15, 2006.
- If the person obtains a license from the DABC for a tavern they will have to be smokefree if the license is not issued by May 15, 2006
- If the person is acquiring a Class A, B, or C private club license they can still allow smoking if the license is issued after May 15, 2006 but will have to go smokefree on January 1, 2007. Section 26-38-3(c) and (d)(i) and (ii)

3. If we already have a tavern license (before May 15, 2006) can we still allow smoking?

For now, yes. If your Department of Alcoholic Beverage Control license was issued on or before May 15, 2006, smoking may be permitted. However, all taverns in the state are required to be smokefree by January 1, 2009. In addition, businesses that allow smoking must meet current and future Administrative Rule R392-510 requirements. Nothing in the UICAA prevents a tavern from becoming smokefree prior to the deadline. Section 26-38-3(2)(c)

For more information:

Tobacco Free Resource Line: 1-877-220-3466

Utah Tobacco Prevention and Control Program website: <http://www.tobaccofreeutah.org/>

Note: The information listed in this document is subject to change and update without notice and is provided for educational purposes only. To keep up-to-date readers are urged to revisit the website address above or contact their local health department.