

**RULES  
OF  
DEPARTMENT OF HUMAN RESOURCES  
PUBLIC HEALTH**

**CHAPTER 290-5-61  
GEORGIA SMOKEFREE AIR ACT OF 2005**

**TABLE OF CONTENTS**

290-5-61-.01 Authority

290-5-61-.02 Purpose

290-5-61-.03 Applicability

290-5-61-.04 Definitions

290-5-61-.05 Signage

290-5-61-.06 Air Handling Systems

290-5-61-.07 Hours of Operation

290-5-61-.08 Outdoor Smoking Areas

290-5-61-.09 Enforcement

290-5-61-.10 Penalties

**290-5-61-.01 Authority.** The Department of Human Resources and the county boards of health and their duly authorized agents are authorized and empowered to enforce compliance with the Georgia Smokefree Air Act of 2005, and the rules and regulations adopted and promulgated in connection therewith. The county boards of health may annually request other governmental and educational agencies having facilities within the area of the local government to establish local operating procedures in cooperation and compliance with this chapter.

*Authority O.C.G.A. Secs. 31-2-4, 31-12A-10, 31-12A-11, 31-12A-12.*

**290-5-61-.02 Purpose.** These regulations establish standards in accordance with Title 31 Chapter 12A to protect the citizens of Georgia from exposure to secondhand smoke in most enclosed indoor public areas to which the public is invited or in which the general public is permitted. The purpose of the Georgia Smokefree Air Act of 2005 is to preserve and improve the health, comfort and environment of the people of this State, including children, adults, and employees, by limiting exposure to tobacco smoke.

*Authority O.C.G.A. Secs. 31-2-4, 31-12A-12.*

**290-5-61-.03 Applicability.** These rules shall apply as follows:

(1) Smoking shall be prohibited in all enclosed public places in this state except as permitted in Code Section 31-12A-6.

(2) Smoking shall be prohibited in all enclosed areas within places of employment except as permitted in Code Section 31-12A-6.

(a) Such prohibition on smoking shall be communicated to all current employees and to all prospective employees upon their application for employment.

(1) The building owner, agent, operator, person in charge or proprietor of a public place shall conspicuously post the work place policy pertaining to smoking in a position clearly visible to all employees.

(2) The building owner, agent, operator, person in charge or proprietor of a public place shall provide the work place policy pertaining to smoking in materials provided to new employees.

(3) These rules and regulations shall not be construed to permit smoking where it is otherwise restricted by other applicable laws.

(4) These rules and regulations shall be liberally construed so as to further the purposes of the Smokefree Air Act of 2005.

*Authority O.C.G.A. Secs. 31-2-4, 31-12A-4, 31-12A-5, 31-12A-12, 31-12A-13.*

**290-5-61-.04 Definitions.** The following definitions shall apply in the interpretation of these rules and regulations:

- (a) "Act" means the Smokefree Air Act of 2005.
- (b) "County Board of Health" means a board established in accordance with Chapter 3 of Title 31 of the Official Code of Georgia Annotated. There is established a county board of health in each and every county of this State empowered to exercise authority in all matters within the county pertaining to health unless the responsibility for enforcement of a matter belongs to another agency under law.
- (c) "Department" means Georgia Department of Human Resources.
- (d) "Private Club" means a facility that is not available for public use, control, or participation and is intended for or restricted to the use of a particular group or class of persons.
- (e) "Reasonable Distance" means that smoking shall occur at a distance outside any enclosed area where smoking is prohibited sufficient to ensure that tobacco smoke does not enter the area through entrances, windows, ventilation systems or any other means, and to ensure that those indoors and those entering or leaving the smokefree area are not involuntarily exposed to secondhand tobacco smoke.
- (f) "Ventilation System" means the continuous supply and removal of air with respect to a space, either by natural or mechanical means, to control chemical and physical hazards as well as to maintain temperature and relative humidity.

*Authority O.C.G.A. Secs. 31-2-4, 31-12A-10, 31-12A-2, 31-12A-12.*

**290-5-61-.05 Signage.** The following specifications must be met to comply with the requirement related to 'No Smoking' signs.

- (1) Visibility. 'No Smoking' signs or signs bearing the international 'No Smoking' symbol shall be easily readable, be conspicuously posted, and shall not be obscured in any way.
- (2) Format. The words 'No Smoking', 'Smoking Permitted', 'Smoking Permitted, No One Under the Age of 18 Allowed', and 'No Smoking Beyond this Point' shall not be less than 1.5 inches in height. These signs shall bear the applicable annotated code section, 'O.C.G.A. § 31-12A-1 et seq.'.
- (3) Smokefree Public Place. In a public place where smoking is prohibited, the building owner, agent, operator, person in charge or proprietor shall conspicuously post a sign bearing the words 'No Smoking' or conspicuously post the international 'No Smoking' symbol on all entrances or in a position clearly visible on entry into the place.

(4) Smoking Area in a Public Place. In a public place where smoking is allowed in an enclosed area, the building owner, agent, operator, person in charge or proprietor shall conspicuously post a sign bearing the words ‘Smoking Permitted, No One Under the Age of 18 Allowed’ on all entrances or in a position clearly visible on entry into the place.

(a) The building owner, agent, operator, person in charge or proprietor shall conspicuously post a sign inside the exit of all smoking areas, if the exit leads to a smokefree area. The sign shall bear the words, ‘No Smoking Beyond this Point’ or bear the international ‘No Smoking’ symbol.

(5) Exempt Status. The building owner, agent, operator, person in charge or proprietor of a public place that is exempt from the Act shall conspicuously post a sign using the words ‘Smoking Permitted, No One Under the Age of 18 Allowed’ on all entrances or in a position clearly visible on entry into the place. A private residence is not required to comply with this provision unless such residence is used as a licensed child care, adult day care, or health care facility.

*Authority O.C.G.A. Secs. 31-2-4, 31-12A-6, 31-12A-7, 31-12A-8, 31-12A-12.*

**290-5-61-.06 Air Handling Systems.**

(1) Statement. The building owner, agent, operator, person in charge or proprietor of a public place that includes an enclosed area in which smoking is permitted shall keep on file a written statement from a conditioned air contractor licensed by the State of Georgia or from an appropriately certified professional that the air handling system serving the enclosed area meets the requirements as set forth in the Act.

(2) Air Balancing Firm Statement. The building owner, agent, operator, person in charge or proprietor of a public place that includes an enclosed area in which smoking is permitted shall provide, upon request by the Department, county boards of health, or their duly authorized agents, a written statement from a certified air balancing firm that the air handling system performs as designed so as to meet the requirements as set forth in the Act.

(3) Manufacturer Guidelines. The building owner, agent, operator, person in charge or proprietor of a public place that includes an enclosed area in which smoking is permitted shall keep on file manufacturer guidelines and specifications for the air handling system(s) in use.

(4) Maintenance Records and Logs. The building owner, agent, operator, person in charge or proprietor of a public place that includes an enclosed area in which smoking is permitted shall keep on file all the maintenance records and logs for the current and previous year for the air handling system(s) in use.

(5) Access to Records. The building owner, agent, operator, person in charge or proprietor of a public place shall provide records requested by the Department, county boards of health, or their duly authorized agents within three working days of the request.

*Authority O.C.G.A. Secs. 31-2-4, 31-12A-6, 31-12A-12.*

**290-5-61-.07 Hours of Operation.** A smokefree public place must prohibit smoking twenty four hours per day in any area that does not meet the requirements pertaining to enclosed areas and smoking areas as specified in the Act.

*Authority O.C.G.A. Secs. 31-2-4, 31-12A-2, 31-12A-6, 31-12A-12.*

**290-5-61-.08 Outdoor Smoking Areas.**

(1) Reasonable Distance. The building owner, agent, operator, person in charge or proprietor of a public place may designate an outdoor smoking area that is located a reasonable distance from any entrance, exit, window, vent, or air intake system of a building where smoking is prohibited.

(a) If the location of an entrance, exit, window, vent, or air intake system of a building where smoking is prohibited or if the location of a barrier, such as a wall, property line, parking lot, or street makes the reasonable distance requirement impossible to meet, then the building owner, agent, operator, person in charge or proprietor of a public place shall maximize the distance between the outdoor smoking area and the entrance, exit, window, or air intake system of a building where smoking is prohibited.

(2) Ashtrays. Any ashtrays located in an outdoor smoking area shall be placed a reasonable distance from any entrance, exit, window, vent, or air intake system.

*Authority O.C.G.A. Secs. 31-2-4, 31-12A-12.*

**290-5-61-.09 Enforcement**

(1) The Department, county boards of health, and their duly authorized agents shall enforce the Act.

(a) Any citizen who desires to register a complaint under the Act may initiate enforcement with the Department, county boards of health, and their duly authorized agents.

- (b) The Department, county boards of health, and their duly authorized agents may, while an establishment is undergoing otherwise mandated inspections, inspect for compliance with the Act.
- (c) In addition to the remedies provided by the Act, the Department, county boards of health, or their duly authorized agents may apply for injunctive relief to enforce the provisions of the Act in any court of competent jurisdiction.
- (2) An owner, manager, operator, or employee of an establishment regulated by these rules and regulations shall inform persons violating these rules and regulations of the appropriate provisions.
- (3) The enactment of any other local law, rules and regulations of state or local agencies, and local ordinances prohibiting smoking that are more restrictive than the Act are enforceable.
- (4) The Act shall not be construed to permit smoking where it is otherwise restricted by other applicable laws.

*Authority O.C.G.A. Secs. 16-12-2, 31-2-4, 31-5-9, 31-12A-10, 31-12A-11, 31-12A-12, 31-12A-13.*

**290-5-61-.10 Penalties.** Individuals found in violation of the Act shall be guilty of a misdemeanor and, if convicted, shall be punished by a fine not less than \$100.00 and not more than \$500.00.

*Authority O.C.G.A. Secs. 16-12-2, 31-2-4, 31-5-8, 31-12A-12.*