



Government of the District of Columbia
Department of Health



Office of the Director

September 20, 2013

TO: Owners/ Operators/ Managers of:

Restaurants, Bars,
Taverns and Nightclubs

SECOND NOTICE

This letter is to remind all owners, operators, and managers of restaurants, bars, taverns, and nightclubs of the Department of Health Functions Clarification Amendment Act of 2006. The Department of Health Functions Clarification Amendment Act of 2006, effective April 4, 2006, D.C. Law 16-90, mandates nearly every workplace and public place in the District of Columbia to be smoke-free, and prohibits smoking in taverns, clubs, brew pubs, nightclubs, and restaurant bar areas as of January 2, 2007. The purpose of the Act is to preserve and improve the health, comfort, and safety of the people in the District of Columbia by limiting exposure to secondhand smoke.

PLEASE BE ADVISED THAT YOUR ESTABLISHMENT MUST IMMEDIATELY DESIST PERMITTING PATRONS OR STAFF TO SMOKE.

Exposure to tobacco smoke is a public health hazard that requires an immediate response for the preservation of the public health, safety, and welfare. The Act does not exempt any form of tobacco smoking and thereby includes **hookah shisha**.

VIOLATION OF THE LAW CAN RESULT IN A CLASS 2 INFRACTION – FIRST OFFENSE \$1,000 OR CLASS 3 INFRACTION – FIRST OFFENSE \$500.

To help your employees comply with the law, please circulate the enclosed information and alert your employees of the smoking prohibition. The emergency rules were adopted and became effective on July 8, 2013. For the next month, we are allowing establishments to voluntarily comply with the smoke-free law. **THE ISSUANCE OF FINES WILL BEGIN EFFECTIVE OCTOBER 1, 2013.**

We recognize that smoking is a difficult addiction and encourage compassion and support, not judgment, towards smokers. The Department can provide information on local cessation classes and self-help materials for your smoking employees who would like to quit. Employees who cannot fit a class into their schedule can call 1-800-QUIT NOW to schedule free phone sessions at their convenience.

Sincerely,


Joxel Garcia, MD, MBA
Acting Director

Chapter 36 (Department of Health (DOH) Infractions) of Title 16 (Consumers, Commercial Practices & Civil Infractions) of the District of Columbia Municipal Regulations (DCMR) is amended by adding a new Section 3632 (Smoking Infractions) to read as follows:

3632 SMOKING INFRACTIONS

3632.1 RESERVED

3632.2 Violation of any of the following provisions shall be a Class 2 infraction:

- (a) 20 DCMR § 2101.5 (failure to prohibit smoking in enclosed area of a place of employment or public place);
- (b) 20 DCMR § 2101.7 (failure to ensure that outdoor smoking area does not encompass area where smoking is prohibited);
- (c) 20 DCMR § 2106.5 (having a smoking area that exceeds twenty-five percent (25%) of the total area of a place of employment or public place that is a restaurant);
- (d) 20 DCMR § 2106.5(a), (b), (c), and (d) (failure to comply with additional conditions or restrictions necessary to minimize the adverse effects of smoking where an economic hardship waiver has been granted); and
- (e) 20 DCMR § 2108.1(d) (failure to warn a person observed to be smoking in a “no-smoking” area).

3632.3 Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 20 DCMR § 2101.1 (failure of a place of employment or public place to adopt a smoking policy consistent with the District of Columbia Smoking Restriction Act of 1979 (D.C. Law 3-22; D.C. Official Code § 7-1701 *et seq.*) and the Department of Health Functions Clarification Amendment Act of 2001 (D.C. Law 16-90; D.C. Official Code § 7-741 *et seq.*));
- (b) 20 DCMR § 2101.2 (failure to notify employees, orally and in writing, of the smoking policy for a place of employment or public place);
- (c) 20 DCMR § 2101.4 (failure of an employer or public place to post the smoking policy near similar employee notices);
- (d) 20 DCMR §§ 2103.2, 2103.3, 2103.6(a), 2103.8, and 2108.1(c) (failure to post or maintain properly worded and properly placed “no-smoking” signs);
- (e) 20 DCMR §§ 2103.4, 2103.6(b), and 2103.9 (failure to post properly worded signs designating a smoking area);
- (f) 20 DCMR § 2104.3 (failure to post properly worded and properly sized tobacco health warning signs);
- (g) 20 DCMR § 2104.4 (failure to post properly placed tobacco health warning signs);
- (h) 20 DCMR § 2108.1(a) (smoking in a posted “no smoking” area); and
- (i) 20 DCMR § 2108.1(b) (covering, removing, or disfiguring a smoking-related sign).