

 <p>ARIZONA DEPARTMENT OF CORRECTIONS</p> <p>DEPARTMENT ORDER MANUAL</p>	<p>CHAPTER: 100</p> <p>AGENCY ADMINISTRATION/ MANAGEMENT</p>	<p>OPR:</p> <p>DIR</p>
	<p>DEPARTMENT ORDER: 109</p> <p><b><i>SMOKING AND TOBACCO REGULATIONS</i></b></p>	<p>SUPERSEDES:</p> <p>DO 109 (09/01/96)</p> <hr/> <p>EFFECTIVE DATE:</p> <p>APRIL 17, 2007</p>

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## PURPOSE

This Department Order establishes smoking and tobacco regulations that contribute to healthier and safer environments for inmate housing areas, for employee work environments and for members of the public visiting Department facilities.

## APPLICABILITY

This Department Order applies to all employees, inmates, visitors, volunteers, contractors and vendors, using cigarettes, cigars, pipes and smokeless tobacco products in all Department institutions, offices, state vehicles, rental and contract properties.

## PROCEDURES

**109.01 GENERAL REGULATIONS** - The following regulations apply to all Department institutions and offices, including rental and contract properties:

- 1.1 Smoking is prohibited in enclosed areas and buildings.
- 1.2 Smoking is prohibited 20 feet from any building entrance. Smoking outside is prohibited in any area which area may subject normal traffic to second-hand smoke or may result in drifting smoke entering into buildings through entrances, windows, ventilation systems or other means.
- 1.3 Smoking is prohibited in all state vehicles, including domicile vehicles.
- 1.4 All used smokeless tobacco (chewing tobacco, plug tobacco and/or snuff) shall be maintained in a covered receptacle, such as an empty soda can or Styrofoam cup with a lid, and disposed of in a sanitary condition.
- 1.5 Retaliation or discrimination against any person who files a complaint or grievance concerning smoking-related issues shall not be tolerated.
- 1.6 Smoking cessation information shall be made available to employees and inmates.
- 1.7 The Arizona Department of Health may enter into any public place or place of employment for the purpose of determining compliance with this law if there is reason to believe a violation of ARS 36-601 has occurred.

**109.02 REGULATIONS FOR EMPLOYEES**

- 1.1 The Deputy Director, Division Directors, Regional Operations Directors, Wardens, Deputy Wardens and Administrators shall:
  - 1.1.1 Enforce all provisions of this Department Order.
  - 1.1.2 Ensure that all employees are notified that smoking in public places or places of employment is prohibited and that no smoking may occur within twenty feet of public places or places of employment.
  - 1.1.3 Ensure that "no smoking" signs or the international "no smoking" symbol is conspicuously posted at every entrance and other areas where smoking is prohibited.

- 1.1.4 Post information where the general public, visitors and contractors may register complaints regarding non-compliance with this Department Order.
- 1.1.5 Institutions shall identify smoking areas for staff and inmates which do not conflict with section 109.01, 1.2. Staff and inmates shall be advised of the permitted smoking areas. Wardens shall develop an Institution Order and Post Orders that identify all permitted smoking areas.
- 1.2 Employees with outside duty shall not leave their assigned post to smoke, unless and until they are relieved of their post. Post relief is not mandated and shall be contingent upon the security and staffing needs of the affected posts.
- 1.3 Employees violating the provisions of this Department Order shall be subject to disciplinary action in accordance with Department Order #601, Administrative Investigations and Employee Discipline.
- 1.4 Any person who smokes where prohibited is guilty of a petty offense and is subject to imposition of a fine not less than \$50 and not more than \$300. A.R.S. 36.601.01 (k).

### **109.03 REGULATIONS FOR INMATES**

- 1.1 Inmates shall not smoke inside any building, including but not limited to the housing areas, visitation areas, dining areas, kitchens and warehouses within the prison.
- 1.2 Smoking and/or the possession of tobacco and all smoking-related materials is prohibited for inmates assigned to:
  - 1.2.1 Reception centers.
  - 1.2.2 Minors units.
  - 1.2.3 All detention units.
  - 1.2.4 Special Management Units I and II.
  - 1.2.5 Santa Maria Special Management Area.
  - 1.2.6 Medical units.
- 1.3 Inmates assigned to general population cellblocks and dormitories may possess smoking-related materials, but shall smoke only outside of all buildings in approved areas.
- 1.4 Inmates shall dispose of used smokeless tobacco in a covered receptacle, such as an empty soda can or Styrofoam cup with a lid, which shall be maintained and disposed of in sanitary conditions.
- 1.5 The use of smoking materials in non-smoking areas, including but not limited to housing areas, visitation areas, dining areas, kitchens and warehouses, shall result in confiscation of all smoking materials on the inmate's person and in the inmate's property as disposable contraband.
- 1.6 Inmates violating the provisions of this Department Order shall be subject to disciplinary action, which shall include restricting inmates who are found guilty of violations from purchasing tobacco from the inmate store. (See Department Order #803, Inmate Discipline System.)

- 1.7 Smoking is permitted when associated with religious ceremony practiced pursuant to the American Indian Religious Freedom Act of 1978 and ARS 36-601.02 (B-2).

#### 109.04 COMPLAINTS

- 1.1 Inmate complaints may be submitted in accordance with Department Order #802, Inmate Grievance System.
- 1.2 Employees shall attempt to resolve smoking-related complaints informally through their chain of command.
- 1.2.1 Department employees may submit a formal grievance in accordance with Department Order #517, Employee Grievances, for complaints that could not be resolved informally.
- 1.2.2 Employees who work in Contract Beds facilities shall use the grievance process of the respective facility.

## DEFINITIONS

**ENCLOSED AREA** - All space between a floor and ceiling that is enclosed on all sides by permanent or temporary walls or windows (exclusive of doorways), which extend from the floor to the ceiling. Enclosed area includes a reasonable distance from any entrances, windows and ventilation systems so that persons entering or leaving the building or facility shall not be subjected to breathing tobacco smoke and so that tobacco smoke does not enter the building or facility through entrances, windows, ventilation systems or any other means. A.R.S. 36.601.01 (3).

**PLACES OF EMPLOYMENT** - An enclosed area under the control of a public or private employer that employees normally frequent during the course of employment, including office buildings, work areas, auditoriums, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, cafeterias, hallways, stairs, elevators, health care facilities, private offices and vehicles owned and operated by the employer during working hours when the vehicle is occupied by more than one person. A private residence is not a "place of employment" unless it is used as a child care, adult day care, or health care facility. A.R.S. 601.01 (7).

**SMOKING** - Means inhaling, exhaling, burning, or carrying or possessing any lighted tobacco product, including cigars, cigarettes, pipe tobacco and any other lighted tobacco product. A.R.S. 601.01 (11).

{Original Signature on File}

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Dora Schiro  
Director

## AUTHORITY

A.R.S. 36-601.01 [b][5],[3][7][11], Smoking in Certain Public Areas: Violation; Classification; Exception.

A.R.S. 36-601.02 [b][2], Smoking in State Buildings; Prohibition; Exception; Violation; Classification.

A.R.S. 41-1033, Petition for a rule or review of a practice or policy

A.R.S. 41-1034, Declaratory judgment

American Indian Religious Freedom Act of 1978