

## Red Tape Review Rule Report (Due: September 1, 2023)

<b>Department Name:</b>	Health & Human Services (HHS)	<b>Date:</b>	8/29/2023	<b>Total Rule Count:</b>	9
<b>IAC #:</b>	641	<b>Chapter/ SubChapter/ Rule(s):</b>	153	<b>Iowa Code Section Authorizing Rule:</b>	142D
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**PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE**

**What is the intended benefit of the rule?**

This rule chapter defines procedure in implementing Iowa’s Smokefree Air Act. This includes the duty of employers, owners, or other persons having control of an area where smoking is prohibited to inform employees and persons accessing the site of that prohibition through proper signage. The rules also describe procedure for receiving complaints and implementing enforcement actions against persons who fail to comply with provisions of the Act. Enforcement action may be taken against a person who smokes in an area where smoking is prohibited or a person who owns, operates, manages or otherwise has custody or control of a place where smoking is prohibited and fails to properly prohibit smoking.

This rule chapter describes procedure to support the requirements for signage, complaints, and enforcement detailed in Iowa Code. This chapter does not create additional, substantive, requirements to be complied with.

**Is the benefit being achieved? Please provide evidence.**

Figures below are actuals incurred in the fiscal years shown.

**Identified Impacts\***

	SFY2018	SFY2019	SFY2020	SFY2021	SFY2022	5 Year Total
<b>Costs</b>						
HHS Implementation	\$121,000	\$54,000	\$35,000	\$27,000	\$28,000	\$265,000
Required Signage	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown
<b>Benefits</b>						
Citations & Civil Penalties	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown
Improved Public Health and Safety	Qualitative	Qualitative	Qualitative	Qualitative	Qualitative	Qualitative
<b>Net Value</b>	-\$121,000	-\$54,000	-\$35,000	-\$27,000	-\$28,000	-\$265,000

\*All monetary figures have been rounded to the nearest thousandth.

Enforcing the Smokefree Air Act through proper signage in designated nonsmoking areas and enforcement actions against those in noncompliance ensures the law is being implemented as intended to prevent secondhand smoke exposure, thus protecting public health and safety. In 2018 the adult smoking rate was 16.6% compared to 14.6% in 2021. In 2018 5.6% of 11th grade students in Iowa used cigarettes compared to 3% in 2021.

The aggregate amount of citations and civil penalties enforced each year is unknown. HHS tracked 418 complaints through the department complaint process from SFY2018-SFY2022.

**What are the costs incurred by the public to comply with the rule?**

Employers, owners, operators, managers, and persons having custody or control of an area declared nonsmoking must post signs indicating smoking is prohibited. Persons found to be in noncompliance with the Smokefree Air Act may receive a citation or civil penalty as defined in Iowa Code.

**What are the costs to the agency or any other agency to implement/enforce the rule?**

HHS incurs personnel costs for team members to support the procedures detailed in this rule chapter and costs related to technology. These costs are reflected in the table above as “HHS Implementation”.

**Do the costs justify the benefits achieved? Please explain.**

The cost benefit analysis above shows a net value of -\$265,000 and improved public health and safety. Enforcement costs are also defrayed through citations and civil penalties pursuant to Iowa Code. Eliminating the signage and complaint/enforcement procedures detailed in this rule chapter would result in confusion among property owners and the public in how to comply with the law. This may lead to increased noncompliance that could drive an increase in citations and civil penalties, and a negative impact on public health and safety.

**Are there less restrictive alternatives to accomplish the benefit?  YES  NO**

**If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.**

HHS implements the Smokefree Air Act in accordance with requirements of Iowa Code. This rule chapter clarifies procedure but does not ascribe department duties or implementation elements in addition to those directly defined in Code.

**Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]**

**PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE**

- 153.1
- 153.2
- 153.3
- 153.4
- 153.5
- 153.6
- 153.7
- 153.8

**RULES PROPOSED FOR REPEAL (list rule number[s]):**

- 153.1
- 153.3
- 153.4
- 153.6

**\*RULES PROPOSED FOR RE-PROMULGATION\* (list rule number[s] or include text if available):**

153.2  
153.5  
153.7  
153.8  
153.9

***\*For rules being re-promulgated with changes, please attach a document with suggested changes, if available.***

**METRICS**

<b>Total number of rules repealed:</b>	4
<b>Proposed word count reduction after repeal and/or re-promulgation</b>	1,837
<b>Proposed number of restrictive terms eliminated after repeal and/or re-promulgation</b>	27

**ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE?**

We recommend the following:

- adding vapor products and other tobacco and nicotine products
- remove the exemption of casino gaming floors
- remove the exemption of the state veterans home
- additional remedies for enforcement against businesses who violate the law