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| ARIZONA DEPARTMENT OF CORRECTIONS | CHAPTER: 100<br>AGENCY ADMINISTRATION/ MANAGEMENT | OPR:<br>DIR |
| DEPARTMENT ORDER MANUAL | DEPARTMENT ORDER: 109<br>***SMOKING AND TOBACCO REGULATIONS*** | SUPERSEDES:<br>DO 109 (02/25/13) |
| | | EFFECTIVE DATE:<br>MARCH 2, 2015 |
| | | REPLACEMENT PAGE REVISION DATE:<br>N/A |

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# PURPOSE

This Department Order establishes smoking and tobacco regulations which 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, electronic cigarettes (e-cigarettes), cigars, pipes and smokeless tobacco products in all Department institutions, offices, state vehicles, and rental/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/vaping is prohibited in enclosed areas and buildings.

1.2 Smoking/vaping is prohibited 20 feet from any building entrance. Smoking/vaping 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/vaping is prohibited in all state vehicles, including domicile vehicles.

1.4 All used smokeless tobacco (i.e., 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 Electronic – Cigarettes, Cigars, and Pipes

1.5.1 Inmates are prohibited from possessing e-cigarettes, e-cigars, e-pipes and related accessories.

1.5.2 Employees, volunteers, contractors and vendors are allowed to possess an e-cigarette at their security posts or work stations; however, accessories (i.e., nicotine cartridges, electronic chargers, flavor tips, etc.) must remain secured in the their privately owned vehicle as outlined in Department Order #513, Employee Property. E-cigarettes may be used on approved rest and lunch breaks, and only in designated smoking/vaping areas, if so desired.

1.5.2.1 E-cigarettes, e-cigars, e-pipes and related accessories are permitted at non-prison facilities and are subject to the same restrictions as tobacco cigarettes.

1.5.3 Visitors are allowed to possess an e-cigarette; however, accessories (i.e., nicotine cartridges, electronic chargers, flavor tips, etc.) must remain secured in their privately owned vehicle. E-cigarettes may be used only in designated smoking areas.

1.6 Retaliation or discrimination against any person who files a complaint concerning smoking/vaping related issues shall not be tolerated.

1.7 Smoking cessation information shall be made available to employees and inmates.

1.8 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 Arizona Revised Statute (A.R.S.) 36-601.01 has occurred.

## 109.02 REGULATIONS FOR EMPLOYEES

1.1 The Deputy Director, Division Directors, Assistant Director, Regional Operations Directors, Wardens, Deputy Wardens and Administrators shall:

1.1.1 Enforce all provisions of this Department Order.

1.1.2 Ensure all employees are notified of smoking/vaping in public places or places of employment which are prohibited and no smoking/vaping may occur within 20 feet of public places or places of employment.

1.1.3 Ensure "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.

1.2 Institutions shall identify smoking/vaping areas for employees which do not conflict with section 109.01, 1.2, of this Department Order. Employees shall be advised of the permitted smoking/vaping areas.

1.3 Employees with outside duty shall not leave their assigned post to smoke, unless 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.

1.4 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.

1.5 Any person who smokes/vapes 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 Brent W. Lumley Special Management Area.

1.2.6 Medical units.

1.3 Institutions shall identify smoking areas for inmates which do not conflict with section 109.01, 1.2, of this Department Order. Inmates shall be advised of the permitted smoking areas.

1.4 Inmates assigned to general population cellblocks and dormitories may possess smoking-related materials, but shall smoke only outside of all buildings in approved areas.

1.5 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.

1.6 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.

1.7 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 Disciplinary Procedure.)

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

**109.04 COMPLAINTS**

1.1 Inmate complaints may be submitted in accordance with Department Order #802, Inmate Grievance Procedure.

1.2 Employees shall attempt to resolve smoking/vaping related complaints informally through their chain of command.

1.2.1 Employees who work in private prison facilities shall use the grievance process of the respective facility.

# DEFINITIONS

**ENCLOSED AREA** - All space between a floor and ceiling which 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 the persons entering or leaving the building or facility shall not be subjected to breathing tobacco smoke/nicotine vapor and so tobacco smoke/nicotine vapor 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 which 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)

**VAPING** – For the purpose of this Department Order, is the act of using an electronic smoking device (e-cigarette) which emits vapor rather than smoke. This vapor is known to irritate those who are sensitive to environmental stimuli, such as those who are sensitive or allergic to smoke.

{Original Signature on File}

Charles L. Ryan
Director

## CROSS-REFERENCE INDEX

Department Order #202, Public Access – Tours and Board Hearings
Department Order #205, Contractor Security
Department Order #405, Vehicles/Vehicle Maintenance
Department Order #513, Employee Property
Department Order #520, Employee Travel Reduction
Department Order #601, Administrative Investigations and Employee Discipline
Department Order #704, Inmate Regulations
Department Order #705, Inmate Transportation
Department Order #802, Inmate Grievance Procedure
Department Order #803, Inmate Discipline Procedure
Department Order #904, Inmate Religious Activities/Marriage Requests
Department Order #911, Inmate Visitation

## AUTHORITY

A.R.S. 36-601.01, Smoke-Free Arizona Act
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