

**LEGISLATIVE INTERPRETATIONS**

Topic: Smoking – Underground mines	Issued by: V.P., WorkSafe Services
Statute: Smoke-Free Places Act	Date Issued: October 13, 2004
Section: 3	Date Revised:

**Question:**

I am a manager in an underground mine and need to know how the *Smoke-Free Places Act* applies to smokers who work underground?

It is not practical or feasible for miners who smoke to go to surface for a smoking break. Our current practice prohibits smoking in all enclosed areas such as lunchrooms and refuge stations and to allow smoking in areas of flow-through ventilation. Flow-through ventilation (which emulates outdoor air conditions) is sufficiently efficient to remove diesel exhaust emitted from the numerous powered mobile equipment and vehicles operated underground, resulting in good breathable air. We believe that any environmental tobacco smoke generated in flow-through areas will be equally removed.

Would smoking be allowed in such areas?

**Answer:**

Based on the definition of “indoor workplace”, the *Smoke-Free Places Act* applies in an underground mine. However, given that:

1. flow-through ventilation is efficient in removing diesel emissions to ensure safe breathable air for miners and
2. any environmental tobacco smoke generated in areas of flow-through ventilation will be removed along with the diesel emissions and
3. it is recognized that it would be impractical for smokers to leave the underground area for a smoke break

smoking will be allowed in an underground mine environment in areas with flow-through ventilation. Smoking is not allowed in lunchrooms and refuge stations. Also, this interpretation does not prevent the employer from exceeding its requirements .

## Referenced legislation

"indoor workplace" means an enclosed place, other than a vehicle, in which employees perform the duties of their employment and includes an adjacent corridor, lobby, stairwell, elevator, escalator, eating area, washroom, restroom or other enclosed area frequented by employees during the course of their employment, but does not include a private residence unless it meets the requirements of subsection (3).

### **Smoking prohibited in certain places**

- 3** Except as provided in sections 4 and 5, no person shall smoke
- (a) in an enclosed public place,
  - (b) in an indoor workplace,
  - (c) in a group living facility,
  - (d) in a public vehicle,
  - (e) in a vehicle used in the course of employment, while carrying two or more employees, or
  - (f) on the grounds of a school.