

3701-52-01 **Definitions.**

As used in this chapter:

- (A) "Ashtray" means any receptacle that is used for disposing of smoking materials including but not limited to ash and filters.
- (B) "Department" means the Ohio department of health or its authorized designee, unless otherwise specified.
- (C) "Directly or indirectly under the control" means the ability to exercise authority over an area based upon property rights set forth under a real estate lease, title, or deed.
- (D) "Director" means the director of health or the director's authorized representative.
- (E) "Employee" means a person who is employed by an employer, or who contracts with an employer or third person to perform services for an employer and who is under the direction and control of the employer, or who otherwise performs services for an employer for compensation or for no compensation.
- (F) "Employer" means the state or any individual, business, association, political subdivision, or other public or private entity, including a nonprofit entity, that employs or contracts for or accepts the provision of services from one or more employees.
- (G) "Enclosed area" means an area with a roof or other overhead covering of any kind and walls or side coverings of any kind, regardless of the presence of openings for ingress and egress, on all sides or on all sides but one.
- (H) "Enter" as used in division (B) of section 3794.02 of the Revised Code and paragraph (B) of rule 3701-52-02 of the Administrative Code means any physical movement of tobacco smoke into any area in which smoking is prohibited under Chapter 3794. of the Revised Code through entrances, windows, ventilation systems, or other means.
- (I) "Entrance" means a doorway through which pedestrians, including the public or employees, enter a public place or place of employment. Entrance does not mean doorways through which vehicles pass or through which the loading or unloading of materials including but not limited to cargo or goods takes place.
- (J) "Migrate" or "migration" means the transit or movement of tobacco smoke from one place to another, regardless of cause, including but not limited to, movement of tobacco smoke induced or caused by changes in air flow.
- (K) "Outdoor patio" means an area that is either: enclosed by a roof or other overhead covering and walls or side coverings on not more than two sides; or has no roof or other overhead covering regardless of the number of walls or other side coverings.

- (L) "Place of employment" means an enclosed area under the direct or indirect control of an employer that the employer's employees use for work or any other purpose, including but not limited to, offices, meeting rooms, sales, production and storage areas, restrooms, stairways, hallways, warehouses, garages, and vehicles. An enclosed area as described herein is a place of employment without regard to the time of day or the presence of employees.
- (M) "Private residence" means, except as otherwise provided by division (A) of section 3794.03 of the Revised Code, a dwelling or area of a dwelling where there is a reasonable expectation of privacy and used as an individual's residence.
- (N) "Proprietor" means an employer, owner, manager, operator, liquor permit holder, or person in charge or control of a public place or place of employment.
- (O) "Public place" means an enclosed area to which the public is invited or in which the public is permitted and that is not a private residence.
- (P) "Retail tobacco store" means a retail establishment that derives more than eighty percent of its gross revenue from the sale of cigars, cigarettes, pipes, or other smoking devices for burning tobacco and related smoking accessories and in which the sale of other products is merely incidental. "Retail tobacco store" does not include a tobacco department or section of a larger commercial establishment or of any establishment with a liquor permit or any restaurant.
- (Q) "Smoking" means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other lighted smoking device for burning tobacco or any other plant. "Smoking" does not include the burning of incense in a religious ceremony.
- (R) "Vehicle" means the following: an enclosed motor vehicle registered by the Ohio bureau of motor vehicles when it is occupied by one or more non-smoking persons at the same time and while used for business purposes; a motor vehicle registered by the Ohio bureau of motor vehicles that is part of a motor pool and shared by non-smoking employees; a motor vehicle registered by the Ohio bureau of motor vehicles that is used for public mass transit; or, tourist or scenic railcars operated exclusively in Ohio.

Effective:

R.C. 119.032 review dates:

Certification

Date

Promulgated Under:	119.03
Statutory Authority:	3794.07
Rule Amplifies:	3794.01