

Model Ordinance Language for Smokefree Success

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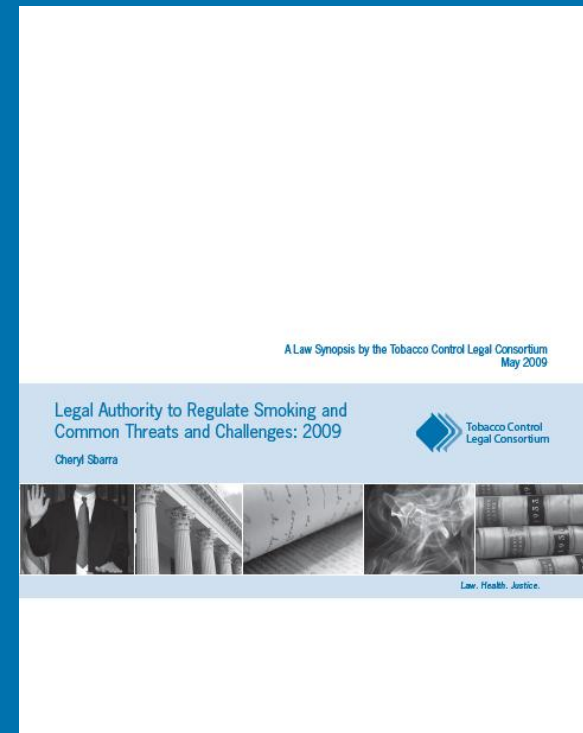
www.no-smoke.org

The Tobacco Control Legal Consortium

A national legal network
supporting tobacco control policy
change.

What We Do:

- Policy development
- Legal research, analysis, and interpretation
- Education and training
- Litigation support



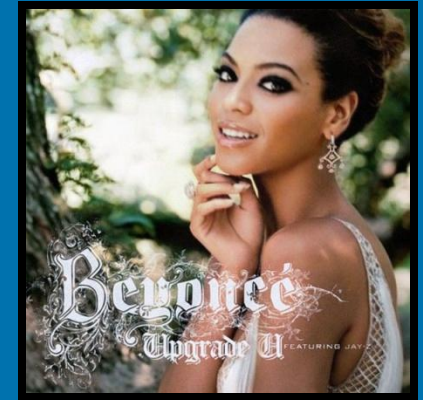
1980s



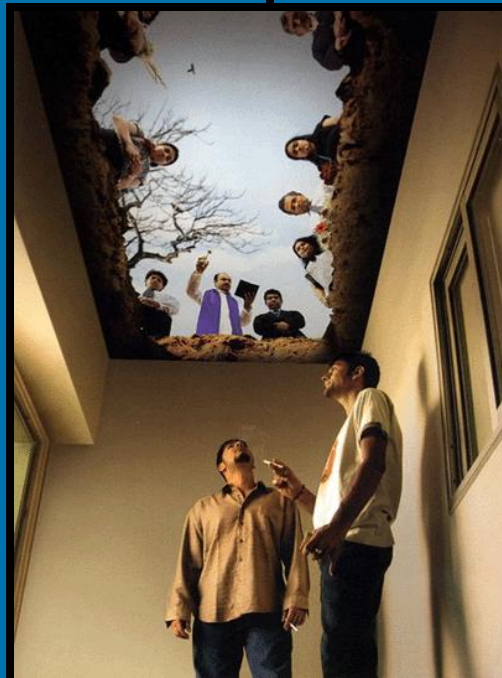
1990s



2000 & beyond



Smoking Sections



Smoking Rooms



100% Smokefree

2006 Surgeon General's Report

- There is no risk-free level of exposure to secondhand smoke.
- Ventilation of the air cannot eliminate all the health risks caused by exposure to secondhand smoke.



Plan before you act



Guiding Principles

- Plan before you act
- Agree on “Dealbreakers”
- Be realistic about resources
- Start with a strong grassroots base
- Start with model policy language
- Include expert advisors
- Importance of broad-based community support



Examples of Policy Dealbreakers

- Preemption
- Ventilation/Smoking Rooms
- Hours/Age Restrictions
- Signage (Red-Light, Green-Light)
- Grandfather Clauses
- Exemptions – Where to draw the line?

Agree on Dealbreakers & Key Principles Early in Process

Put decisions in writing

DETERMINING YOUR DEALBREAKERS

Why smokefree workplaces? Everyone deserves the right to breathe smokefree air. The purpose of passing a smokefree law is to fully protect employees, residents, and visitors from dangerous exposure to secondhand smoke in workplaces and public places. When drafting and debating the language of a proposed law, keep this purpose in mind. Your lawmakers may attempt to weaken the bill. Pay close attention to the text of any proposed amendments to prevent unwanted changes that defeat the purpose of fully eliminating secondhand smoke exposure.

Key Principles:

Discuss potential amendments and determine where you will stand. Document your decisions in writing. It is essential to sit down with your partners at the initial stages of your campaign to discuss *all* potential amendments and exemptions and as a group determine where you will draw the line.

Introduce strong language. The goal is to fully protect all workers. Therefore it is ideal to introduce smokefree law language that will provide complete smokefree protection to *all* workers without exception. The science on the dangers of secondhand smoke is no longer up for debate and all workers deserve 100% smokefree air.

Be prepared to walk away. Never support a law that includes exemptions or loopholes that make it more difficult to strengthen the law in the future. For example, if a law includes a provision allowing ventilated smoking rooms, it will become extremely difficult to remove that provision and pass an effective law later. **It is always better to walk away from a bad law, than to be stuck with it and, therefore, be prevented from passing an effective law later. In such cases, nothing is better than something.**

For a comprehensive summary of troubling policy provisions and lessons learned, please consult *Fundamentals of Smokefree Workplace Laws*, which is on the ANR website at http://www.no-smoke.org/bdf/CIA_Fundamentals.pdf or can be obtained by contacting ANR at 510-841-3032

Dealbreakers:

Determine your dealbreakers. Review the language of the proposed law closely and determine where you will draw the line. The following provisions are unacceptable and should be actively opposed, as they create unnecessary exemptions and loopholes that both allow unwarranted exposure to secondhand smoke and impede progress toward comprehensive smokefree protections.

Ventilation systems and/or Smoking Rooms are ineffective and costly. Ventilation cannot remove the harmful constituents of secondhand smoke and smoking rooms put employees who work in them at risk. See ANR's *Ventilation* page for more information, at <http://www.no-smoke.org/getthefacts.php?dp=d20>.

Hardship Provisions allow for an exemption if a business can demonstrate economic hardship after going smokefree. These exemptions are unnecessary and are based on the false premise that a negative economic impact results from smokefree air laws.

Signage or "Red Light/Green Light" Provisions allow businesses to simply post signs indicating that an area allows smoking. These do nothing to protect employees and patrons in those areas.

ANR Model Ordinance

- <http://no-smoke.org/document.php?id=229>
- Key Updates:
 - Definitions
 - E-Cigs
 - Restaurant/Bar patios
 - Penalties/Enforcement
- Issues to Watch:
 - 100% smokefree hotels (WI)
 - Medical marijuana SHS
 - Other emerging issues

Electronic Cigarettes

- Enforcement issues and findings; not a tobacco product
- "E-cigarette" - any electronic oral device, such as one composed of a heating element, battery, and/or electronic circuit, which provides a vapor of nicotine or any other substances, and the use or inhalation of which simulates smoking. The term shall include any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, or under any other product name or descriptor.
- "Smoking" means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, in any manner or in any form. "Smoking" also includes the use of an e-cigarette which creates a vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this Article.



Other Definitions, such as:

- "Enclosed Area" means all space between a floor and a ceiling that is bounded on all sides by walls, doorways, or windows, whether open or closed. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent.
- "Place of Employment" means an enclosed area under the control of a public or private employer (Sec. 1005 prohibits smoking "in all enclosed areas of places of employment without exception.")



Proprietors' Duties

Sec. 1011. Posting of Signs and Removal of Ashtrays

The owner, operator, manager, or other person in control . . . shall:

- [P]ost "No Smoking" signs . . . in that place.
- [P]ost at every entrance to that place a sign stating that smoking is prohibited.
- [P]ost on every vehicle that constitutes a place of employment . . . at least one sign . . . stating that smoking is prohibited.
- Remove all ashtrays from any area where smoking is prohibited by this Article, except for ashtrays displayed for sale and not for use on the premises.

Sec. 1013. Enforcement

. . . An owner, manager, operator, or employee of an establishment regulated by this Article shall direct a person who is smoking in violation of this Article to extinguish the product being smoked. If the person does not stop smoking, the owner, manager, operator, or employee shall refuse service and shall immediately ask the person to leave the premises. If the person in violation refuses to leave the premises, the owner, manager, operator, or employee shall contact a law enforcement agency. . . .



Thank you

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