

Good morning co-Chairs Senators Kelly and MacKinnon, and members of the committee. My name is Steve Mapes and I reside in Kenai. I am speaking in opposition of SB1 and on behalf of the hundreds of adults on the Kenai Peninsula who have made the choice to vape instead of smoke.

An independent research document "Peering through the Mist" by Dr. Burstyn found the TLV's were magnitudes below OSHA limits. The abstract on page 1 of "Peering through the Mist" states the results and conclusions of Dr. Burstyn's research.

And an independent study, commissioned by Public Health England, found that e-cigarette use is around 95% less harmful to health than smoking and they contain almost none of the chemicals in cigarettes associated with serious diseases like lung cancer and emphysema.

On pages 2 and 3 of the Public Health England study are graphs showing the positive results of e-cig use among adults.

Adults choosing to vape instead of smoke look to unbiased/independent studies like this to help them make informed decisions.

Vaping has saved Alaskans who used to smoke, thousands of dollars and, because they are not painting their lungs with tar and filling their bloodstream with carbon monoxide, has had a tremendous positive impact on their lives.

It seems that this legislation session is about closing down this industry in Alaska or effectively regulating this healthier alternative out of existence. Unless it's about money and not health and well-being of the citizens of Alaska. The only store in Alaska that would comply with this bill in its current form is a tobacco store in the sponsor's district.

There was a time in the not too distant past when people were sure that automobiles were evil and airplanes were foolish... Alaska has the opportunity to show leadership in this new, less harmful way of nicotine delivery..

"You may hear our opposition say otherwise but the truth, as provided by independent studies and real world evidence, is that vaping works..

Thank you for your time and thoughtfulness on this issue.

From The Desk
Of
Larry J. "Hack" Hackenmiller
518 Farmers Loop Road
Fairbanks, Alaska 99712

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Public Testimony SB1 Senate Finance Committee March 14, 2016

The implied intent of this bill is to protect "Alaskan employees" from hazardous workplace conditions by eliminating secondhand smoke in buildings where they work. The supporters of this bill repeatedly state that the intent is not to remove the right of the smoker but simply to have smokers "take it outside".

The Alaska Occupational Safety and Health division, AKOSH, states that there are no occupational safety and health regulations that directly address secondhand smoke in the workplace. That there are 4,700+ chemical compounds in tobacco smoke, not over 7,000 chemicals as implied in written testimony on this bill, and many of the chemicals found in secondhand smoke have been listed in the federal OSHA Air Contaminant Standard (29 CFR 1910.1000) for Permissible Exposure Limits, PELs, on indoor air quality.

PELs are what makes the exposure to hazardous toxins acceptable without any science backed evidence to the contrary where the public health is concerned. Inhaling toxins below the PEL established by the EPA does not constitute a hazard or life threatening condition. A good example of this would be the PEL for driving a fuel driven vehicle. Without PEL's we would all be walking to work. The point here is that we have developed real science standards for exposure to hazardous toxins which are in practice today.

AKOSH states that levels of the contaminants in air resulting from secondhand smoke inside a building are **unlikely to reach levels that approach or exceed OSHA/AKONS PELs**. I will interpret this to mean that secondhand smoke in the workplace does not constitute, imply or substantiate a hazardous working condition.

My statement of facts above is not politically correct. It is based on a document I received from AKOSH when I ask them what the standards were for secondhand smoke in the workplace. Don't take my word for it. Ask them. Health groups did but don't like to talk about it.

So SB1 intends to protect Alaskan employees from a hazardous workplace condition that does not exist. SB1 intends to take away local options by organized municipalities to decide on their own the merits concerning an implied public health issue. SB1 intends to take away the right of businesses who serve the public and presently practice their rights to allow or restrict secondhand smoke exposure in their business without government red tape or penalties.

And the part about smokers taking it outside. There is no hazardous public health issue involved with smoking tobacco in an outdoor baseball stadium yet SB1 declares such. REALLY???

Ever wonder what the outcome would be if some poor smuck who got a \$100 ticket for smoking outside within 20 feet of a building entrance took the state to court to make them prove that dose of secondhand smoke in the open air was a public health hazard?

Attachment 1

Senate Finance Committee Testimony SB1

**Email from Dave Guinn, Health Consultant with Alaska Occupational, Safety & Health
Official response to a the question "What are the OSHA standards
for secondhand smoke in the workplace."**

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OSHA Request 39519602: Environmental Tobacco Smoke

From: **Guinn, Dave (DOL)** (dave.guinn@alaska.gov)
Sent: Fri 3/20/15 11:41 AM
To: icharrfbks@hotmail.com (icharrfbks@hotmail.com)
Cc: Markiewicz, Krystyna A (DOL) (krystyna.markiewicz@alaska.gov)

Hello Mr. Hackenmiller,

My name is Dave Guinn, I'm a Health Consultant with Alaska Occupational Safety and Health, Consultation and Training, and I've been asked to respond to your question: "What are the OSHA standards for environmental tobacco smoke, ETS, or commonly referred to as secondhand smoke, in a workplace?"

The short answer to your question is: OSHA and AKOSH (Alaska Occupational Safety and Health) currently have no occupational safety and health regulations that directly address environmental tobacco smoke (ETS) in the workplace. (See Attachment 1 below for OSHA's position on ETS in the workplace).

However, Alaska Statute AS 18.35.300, Places Where smoking Is Regulated, prohibits smoking in "a place of employment in which the owner, manager, proprietor, or other person who has control of the premises posts a sign stating that smoking is prohibited by law." The text of the Alaska statute addressing smoking can be found at: http://www.legis.state.ak.us/basis/folioproxy.asp?url=http://www.jnu01.legis.state.ak.us/cgi-bin/folioisa.dll/stattx12/query=*/doc/%7bt8695%7d. The state agency with jurisdiction for enforcing this statute is the Alaska Department of Environmental Conservation (ADEC). In addition to state regulations, the following communities have smoke-free workplace laws:

[Anchorage](#)

[Bethel](#)

[Haines](#)

[Juneau](#)

[Klawock](#)

[Nome](#)

[Palmer](#)

Petersburg

Skagway

Unalaska

Valdez

Reference: http://dec.alaska.gov/eh/fss/Smoking_Home.html

Tobacco smoke contains many (4,700+) chemical compounds, and some of these are addressed in the OSHA Air Contaminant Standard (29 CFR 1910.1000). Examples of these and their federal and Alaska-specific occupational permissible exposure limits can be found in the table below. For additional information on the hazards of the chemicals listed below, you can use the NIOSH Pocket Guide to Chemical Hazards, which can be found at this link: <http://www.cdc.gov/niosh/npg/>. While ETS is unlikely to produce hazardous chemicals in concentrations high enough to violate enforceable occupational exposure standards, they remain hazardous, and tobacco smoke in combination with exposure to other hazardous substances (e.g. crystalline silica, asbestos, radon gas) increases the health hazards synergistically.

In summary:

There are no OSHA or AKOSH occupational safety and health standards that directly address ETS:

While not regulated specifically, ETS contains hazardous chemicals that may be individually regulated by OSHA and AKOSH standards;

AKOSH PELs may be lower (more protective) than federal OSHA PELs;

While present, levels of these contaminants in air resulting from ETS are unlikely to reach levels that approach or exceed OSHA/AKOSH PELs;

Alaska statutes address smoking in public places, and smoking is prohibited in places of employment that management has designated as non-smoking;

Some Alaska municipalities have smoke-free workplace laws.

Contaminant	Federal PEL ^{1, 2, 3}	Alaska PEL ^{1, 2, 3, 6}
<i>Carbon Monoxide (CO)</i>	50 ppm	35 ppm
<i>Nicotine</i>	0.5 mg/m ³	0.5 mg/m ³
<i>Benzene</i>	1 ppm or 10 ppm ₅	1 ppm or 10 ppm ₅

Formaldehyde ₄	0.75 ppm	0.75 ppm
Methanol (wood alcohol)	200 ppm	200 ppm
Ammonia	50 ppm	35 ppm

Notes:

PEL = Permissible Exposure Limit

PPM = Parts per million (Used for contaminants in the gas phase)

Mg/m³ = milligrams per cubic meter (Used for contaminants in the solid (particulate) phase.)

See 29 CFR 1910.1048

Benzene is covered by a specific standard (29 CFR 1910.1028), which lists a PEL of 1 ppm as an 8-hour time-weighted average. 29 CFR 1910.1028(a)(2) lists exclusions, for which the 10 ppm PEL applies.

Alaska PELs are found in Alaska Administrative Code, 8 AAC 61.1100, Table Z-1-A. Link:
<http://www.legis.state.ak.us/aacpdf/ak861100.pdf>

This table includes only 8-hour time-weighted averages; there may be additional exposure limits such as ceilings and short-term exposure limits (STELs), as well as action levels (e.g. 0.5 ppm for benzene), which trigger other requirements for employers. As with other occupational exposure limits, these are unlikely to be triggered by ETS exposure.

If you have any additional questions, please feel free to contact AKOSH at 907-269-4940, or you can contact me directly at 907-269-4949. Thank you for your interest in occupational safety and health.

ATTACHMENT 1: OSHA Policy on Indoor Air Quality: Office Temperature/Humidity and Environmental Tobacco Smoke

February 24, 2003

MEMORANDUM FOR: REGIONAL ADMINISTRATORS STATE PLAN DESIGNEES

THROUGH: R. DAVIS LAYNE
DEPUTY ASSISTANT SECRETARY

FROM: RICHARD E. FAIRFAX, DIRECTOR
DIRECTORATE OF ENFORCEMENT PROGRAMS

SUBJECT: OSHA Policy on Indoor Air Quality: Office Temperature/Humidity and Environmental Tobacco Smoke

On December 17, 2001 OSHA withdrew its Indoor Air Quality (IAQ) proposal and terminated the rulemaking proceeding (66 FR 64946). However, the Agency still receives public inquiries about IAQ, primarily office temperature/humidity and smoking in the workplace. For that reason, we have summarized the Agency's position and guidance on these topics. We are including language in the form of letters you can utilize when responding to complainants on these topics.

Office Temperature/Humidity

As a general rule, office temperature and humidity are matters of human comfort. OSHA has no regulations specifically addressing temperature and humidity in an office setting. However, Section III, Chapter 2, Subsection V of the OSHA Technical Manual, "Recommendations for the Employer," provides engineering and administrative guidance to prevent or alleviate indoor air quality problems. Air treatment is defined under the engineering recommendations as, "the removal of air contaminants and/or the control of room temperature and humidity." OSHA recommends temperature control in the range of 68-76° F and humidity control in the range of 20%-60%.

As a second source of guidance, American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) Standard 55, *Thermal Environmental Conditions for Human Occupancy*, addresses "thermal comfort" in an office environment, which means that an employee wearing a normal amount of clothing feels neither too cold nor too warm. This standard discusses thermal comfort within the context of air temperature, humidity, and air movement and provides recommended ranges for temperature and humidity that are intended to satisfy the majority of building occupants. These ranges vary for cold and hot weather. ASHRAE addresses ventilation and the removal of air contaminants in a separate standard, ASHRAE Standard 62, *Ventilation for Acceptable Indoor Air Quality*.

As you know, hazards for which OSHA does not have a specific standard are governed by Section 5(a)(1) of the Occupational Safety and Health Act (the Act; General Duty Clause) which requires that employers provide employment and a place of employment that are free from recognized hazards that are causing or are likely to cause death or serious physical harm. Citations for violations of the General Duty Clause are issued when the four components of this provision are present, and when no specific OSHA standard has been promulgated to address the recognized hazard. These four components are: 1) the employer failed to keep his/her workplace free of a "hazard"; 2) the hazard was "recognized" either by the cited employer individually or by the employer's industry generally; 3) the recognized hazard was causing or was likely to cause death or serious physical harm; and 4) there was a feasible means available that would eliminate or materially reduce the hazard.

Office temperature and humidity conditions are generally a matter of human comfort rather than hazards that could cause death or serious physical harm. OSHA cannot cite the General Duty Clause for personal discomfort.

Environmental Tobacco Smoke (ETS)

Because the organic material in tobacco doesn't burn completely, cigarette smoke contains more than 4,700 chemical compounds. Although OSHA has no regulation that addresses tobacco smoke as a whole, 29 CFR 1910.1000 Air contaminants, limits employee exposure to several of the main chemical components found in tobacco smoke. In normal situations, exposures would not exceed these permissible exposure limits (PELs), and, as a matter of prosecutorial discretion, OSHA will not apply the General Duty Clause to ETS.

For further information to offer to employers/employees as guidance, you may wish to review a document published by the U.S. Environmental Protection Agency (EPA) about the health effects from environmental tobacco smoke, *A Fact Sheet: Respiratory Health Effects of Passive Smoking*. Additional information on indoor air quality in general can be found on the

Indoor Air Quality Technical Links page on the OSHA website.

We hope you find this information helpful. If you have any questions, please feel free to contact the Office of Health Enforcement at (202) 693-2190

End of Attachment 1

Dave Guinn

Industrial Hygienist

Alaska OSH Consultation & Training Program

Department of Labor and Workforce Development

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<http://labor.alaska.gov/lss/oshhome.htm>

I work for the Alaska Department of Labor and Workforce Development, Labor Standards and Safety Division and was recently assigned your request. I must preface this response by stating that I am not an attorney; and I cannot provide legal advice. I can provide you with the current clarification of the Occupational Safety and Health Regulations that are applicable in Alaska based upon the facts provided. All requests must be in the form of letter, fax, or electronic transmission to ensure accuracy, and will be retained for future reference. Statements and conclusions expressed herein may change depending upon the inclusion or exclusion of additional facts or background information. Due to periodic changes in OSHA Standards and their interpretations, it is important for you to review them regularly.