

SB

1

<TARGET><BILL>SB 1</BILL><SUBJECT>SB
1</SUBJECT><COMM>SHSS29</COMM></TARGET>

SENATE COMMITTEE REPORT First Committee of Referral

DATE: 1/30/15

FURTHER: State Affairs
Finance

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 3/11/15

Health and Social Services Committee considered SPONSOR SUBSTITUTE FOR SENATE BILL NO. 1

SB 1 REGULATION OF SMOKING

"An Act prohibiting smoking in certain places; relating to education on the smoking prohibition; and providing for an effective date."

and recommends:

- be replaced with CS SSSB | _____ (HSS) Same Title [] New Title
- [] adopt previous CS _____ (_____) [] Same Title [] New Title
- [] attached amendment(s)
- [] adopt _____ Letter of Intent
- [] further referral to _____ Committee

NEW

Dept Abbr.	
ADM	LWF
CED	LAW
<i>AJS</i> COR	LEG
CRT	MVA
EED	DNR
DEC	DPS
DFG	REV
GOV	DOT
DHS	UA

NEW FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #
DOTPF	✓			1
DOTPF	✓			2
POTPF	✓			3
DOTPF	✓			4
LED			✓	5

PREVIOUS FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #
AJS			✓	6
DHS			✓	7
DEC			✓	8

[] APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	Do PASS	Do NOT PASS	No REC	AMEND
	Giesel	X			
	Kelly			✓	
	Ellis	X			
	STOLTE			✓	
CHAIR:	Stedman			✓	

SENATE BILL NO. 1

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY SENATOR MICCICHE

Introduced: 1/21/15

Referred: Health and Social Services, State Affairs, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act prohibiting smoking in certain places; relating to education on the smoking
2 prohibition; and providing for an effective date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 18.35 is amended by adding new sections to read:

5 **Article 4. Prohibition of Smoking in Certain Places.**

6 **Sec. 18.35.301. Prohibition of smoking.** (a) Smoking is prohibited in an
7 enclosed area in a public place, including an enclosed area

8 (1) at an entertainment venue or a sports arena;

9 (2) on a bus, in a taxicab, on a ferry, or in another vehicle used for
10 public transportation;

11 (3) at a public transit depot, bus shelter, airport terminal, or other
12 public transportation facility;

13 (4) at a retail store or shopping center;

14 (5) at a place of government or public assembly located on property

1 that is owned or operated by the state, a municipality, or a regional educational
 2 attendance area, or by an agent of the state, a municipality, or a regional educational
 3 attendance area.

4 (b) Smoking is prohibited in an enclosed area in the following places:

5 (1) at an office building, office, hotel, motel, restaurant, bar, retail
 6 store, or common area in an apartment building or multiple-family dwelling;

7 (2) in a place of employment;

8 (3) in a building or residence that is used to provide paid child care,
 9 whether or not children are present in the building or residence;

10 (4) at a health care facility;

11 (5) in a vehicle that is a place of employment;

12 (6) at a public or private educational facility;

13 (7) in a residence at which the care of adults is provided on a fee-for-
 14 service basis;

15 (8) at a residence in a health care facility, hotel, or motel.

16 (c) Smoking is prohibited outdoors

17 (1) at an area located at a public or private school or a state or
 18 municipal park that is primarily designated as a place for children to play;

19 (2) in a seating area for an outdoor arena, stadium, or amphitheater;

20 (3) within

21 (A) 50 feet of an entrance to a health care facility;

22 (B) 10 feet of an entrance to a bar or restaurant that serves
 23 alcoholic beverages;

24 (C) 20 feet of an entrance, open window, or heating or
 25 ventilation system air intake vent at an enclosed area at a place where smoking
 26 is prohibited under this section; or

27 (D) a reasonable distance of an entrance, open window, or
 28 heating or ventilation system air intake vent on a marine vessel covered by this
 29 section as determined by the vessel owner or operator in charge.

30 (d) Notwithstanding (a) of this section, unless the owner or operator prohibits
 31 it, smoking is allowed at a retail tobacco or e-cigarette store. In this subsection, "retail

1 tobacco or e-cigarette store"

2 (1) means a retail store

3 (A) that sells primarily cigarettes, e-cigarettes, cigars, tobacco
4 and products containing tobacco, and pipes and other smoking or e-cigarette
5 accessories;

6 (B) in which the sale of other products is incidental;

7 (C) that derives at least 90 percent of its gross revenue from the
8 sale of cigarettes, e-cigarettes, cigars, tobacco and products containing tobacco,
9 and pipes and other smoking or e-cigarette accessories; and

10 (D) that is a freestanding building not attached to another
11 business or to a residence;

12 (2) does not include

13 (A) a tobacco or e-cigarette department or section of a business
14 that does not meet the criteria in (1) of this subsection;

15 (B) a business that is also a restaurant or grocery store;

16 (C) a business that is licensed under AS 04.11 to serve
17 alcoholic beverages at an outdoor location;

18 (D) a business that is licensed under AS 05.15 to sell pull-tabs;

19 (E) a business that is licensed under AS 43.70.075 to sell
20 tobacco but that does not meet the requirements of this subsection; or

21 (F) a retail store that is within an indoor public place or
22 workplace.

23 (e) Notwithstanding (b) of this section, unless the owner or operator prohibits
24 it, smoking is allowed in a vehicle or on a marine vessel that is a place of employment
25 when the vehicle or vessel is used exclusively by one person.

26 (f) Nothing in this section prohibits smoking at

27 (1) a private club that does not serve alcoholic beverages and is not a
28 place of employment, unless the private club is hosting an event that is open to the
29 public; in this paragraph, "private club" means a building or portion of a building used
30 only for a recreational, fraternal, social, patriotic, political, benevolent, or athletic
31 purpose by one organization that has been granted an exemption from the payment of



1 federal income tax as a club under 26 U.S.C. 501 (Internal Revenue Code);

2 (2) a private residence, except a private residence described in (b) of
3 this section.

4 (g) Notwithstanding (b) of this section, the department may adopt regulations
5 authorizing smoking in a stand-alone shelter. At a minimum, the regulations must
6 provide

7 (1) that no food or drink be sold in the stand-alone shelter;

8 (2) that at least 50 percent of one side of the shelter be completely
9 open to the outside; and

10 (3) for minimum distance requirements consistent with (c) of this
11 section.

12 **Sec. 18.35.306. Notice of prohibition.** (a) A person who is in charge of a place
13 or vehicle where smoking is prohibited under AS 18.35.301 shall conspicuously
14 display in the place or vehicle a sign that

15 (1) reads "Smoking Prohibited by Law--Maximum Fine \$100"; and

16 (2) includes the international symbol for no smoking or the words "No
17 Puffin" with a pictorial representation of a Horned Puffin or Tufted Puffin holding a
18 burning cigarette enclosed in a red circle crossed with a red bar.

19 (b) A person in charge of a building at which smoking is prohibited within a
20 specific distance from the entrance of the building under AS 18.35.301(c) shall
21 conspicuously display a sign that reads "Smoking within (number of feet) Feet of
22 Entrance Prohibited by Law--Maximum Fine \$100" visible from the outside of each
23 entrance to the building.

24 (c) The department shall furnish signs required under this section to a person
25 who requests them with the intention of displaying them.

26 **Sec. 18.35.311. Duty of employers and building managers.** (a) An employer
27 may not permit an employee, customer, or other person to smoke inside an enclosed
28 area at a place of employment.

29 (b) The owner, operator, manager, or other person who manages a building or
30 other place where smoking is prohibited under AS 18.35.301 may not provide ashtrays
31 or other smoking accessories for use in that building or place.

1 **Sec. 18.35.316. Powers and duties of the commissioner.** (a) The
2 commissioner shall

3 (1) administer and enforce the requirements of AS 18.35.301 -
4 18.35.399;

5 (2) adopt regulations under AS 44.62 (Administrative Procedure Act)
6 necessary to carry out the duties under this section.

7 (b) In addition to other powers granted the commissioner under AS 18.35.301
8 - 18.35.399, the commissioner may delegate to another agency the authority to
9 implement and enforce one or more provisions of AS 18.35.301 - 18.35.399.

10 (c) Nothing in this section limits the authority of a peace officer to enforce the
11 provisions of AS 18.35.301 - 18.35.399.

12 **Sec. 18.35.321. Public education.** (a) The commissioner shall ensure that
13 employers, property owners, property operators, and other members of the public are
14 provided ongoing access to

15 (1) a program of education regarding the requirements in AS 18.35.301
16 - 18.35.399;

17 (2) an electronically published printable brochure that summarizes the
18 requirements in AS 18.35.301 - 18.35.399.

19 (b) The program of education under (a) of this section may be provided in
20 combination with the comprehensive smoking education, tobacco use prevention, and
21 tobacco control program established in AS 44.29.020(a)(14).

22 **Sec. 18.35.326. Nonretaliation.** (a) An employer may not discharge, refuse to
23 hire, or in any other manner retaliate against an employee or applicant for employment
24 because the employee or applicant cooperates with or initiates enforcement of a
25 requirement in AS 18.35.301 - 18.35.399.

26 (b) The owner or operator of a vehicle or other place that is subject to a
27 requirement in AS 18.35.301 - 18.35.399 may not retaliate against a customer or other
28 member of the public for cooperating with or initiating enforcement of a requirement
29 in AS 18.35.301 - 18.35.399.

30 **Sec. 18.35.331. Conflicts with local requirements.** Nothing in AS 18.35.301
31 - 18.35.399 prohibits a municipality from adopting an ordinance imposing

costs

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- (1) additional limitations on smoking; or
- (2) additional duties on employers, owners, operators, and other
persons who are subject to the requirements of AS 18.35.306 or 18.35.311 related to
smoking.

Sec. 18.35.336. Violations and civil penalties. (a) The commissioner shall adopt by regulation procedures for filing, processing, and investigating reports of violations of AS 18.35.301, 18.35.306, 18.35.311, and 18.35.326.

(b) If, after investigating a report made under this section, the commissioner determines that a violation has occurred, the commissioner may

- (1) file a civil complaint in the district court to enforce the provisions of AS 18.35.301, 18.35.306, 18.35.311, and 18.35.326; or
- (2) issue a citation under AS 18.35.346(b).

(c) A person who violates AS 18.35.301 and against whom the commissioner has filed a civil complaint under this section is punishable by a civil penalty of not more than \$100.

(d) A person who fails to comply with a duty imposed on that person by AS 18.35.306 or 18.35.311 and against whom the commissioner has filed a civil complaint under this section is punishable by a civil penalty of not more than

- (1) \$100 for a first failure to comply;
- (2) \$200 for a second failure to comply that occurs within 24 months after the date the person was fined for a first failure to comply;
- (3) \$500 for each failure to comply that occurs within 24 months after the date the person was fined for a second failure to comply.

(e) A person who violates AS 18.35.326 and against whom the commissioner has filed a civil complaint under this section is punishable by a civil penalty of not more than \$1,000.

(f) The department may provide for the payment of a civil penalty under this section by mail.

Sec. 18.35.346. Citations; fines. (a) A peace officer may issue a citation for a violation of AS 18.35.301 committed in the officer's presence or for a violation of AS 18.35.306, 18.35.311, or 18.35.326. The provisions of AS 12.25.175 - 12.25.230

Penalties

Costs

Costs

1 apply to the issuance of a citation under this subsection.

2 (b) An employee of the department designated by the commissioner to enforce
3 the provisions of AS 18.35.301, 18.35.306, 18.35.311, or 18.35.326 may issue a
4 citation for a violation of AS 18.35.301, 18.35.306, 18.35.311, or 18.35.326 regardless
5 of whether the violation was committed in the employee's presence. A citation issued
6 under this subsection shall be in the same form and shall be processed in the same
7 manner as a citation issued by a peace officer under (a) of this section. An employee
8 of the department may not arrest a person for a violation of AS 18.35.301, 18.35.306,
9 18.35.311, or 18.35.326.

10 (c) A person who violates AS 18.35.301 as alleged in a citation under (a) or
11 (b) of this section is guilty of a violation, as defined in AS 11.81.900(b), and upon
12 conviction is punishable by a fine of not more than \$100 for each violation.

13 (d) A person who fails to comply with a duty imposed on that person by
14 AS 18.35.306 or 18.35.311 as alleged in a citation under (a) or (b) of this section is
15 guilty of a violation as defined in AS 11.81.900(b) and punishable by a fine of not
16 more than

17 (1) \$100 for a first failure to comply;

18 (2) \$200 for a second failure to comply that occurs within 24 months
19 after the date the person was fined under this section for a first failure to comply;

20 (3) \$500 for each failure to comply that occurs within 24 months after
21 the date the person was fined under this section for a second failure to comply.

22 (e) A person who violates AS 18.35.326 as alleged in a citation under (a) or
23 (b) of this section is guilty of a violation, as defined in AS 11.81.900(b), and
24 punishable by a fine of not more than \$1,000 for each violation.

25 (f) The supreme court shall establish a schedule of bail amounts for violations
26 of AS 18.35.301, 18.35.306, 18.35.311, and 18.35.326, but in no event may the bail
27 amount exceed the maximum fine that may be imposed for the violation under (c) - (e)
28 of this section. The bail amount for a violation must appear on the citation.

29 (g) If a person cited for a violation under this section does not contest the
30 citation, the person may, on or before the 30th day after the date of the citation, mail
31 or personally deliver to the clerk of the court in which the citation is filed

These are

1 (1) the amount of bail indicated on the citation for that violation; and
 2 (2) a copy of the citation indicating that the right to an appearance is
 3 waived, a plea of no contest is entered, and the bail is forfeited.

4 (h) When bail has been forfeited under (g) of this section, a judgment of
 5 conviction shall be entered. Forfeiture of bail is a complete satisfaction for the
 6 violation. The clerk of the court accepting the bail shall provide the violator with a
 7 receipt stating that fact if requested.

8 (i) A person cited under this section is guilty of failure to obey a citation under
 9 AS 12.25.230 if the person fails to pay the bail amount established under (f) of this
 10 section or fails to appear in court as required.

11 **Sec. 18.35.351. Injunctions.** The commissioner or another affected party may
 12 bring a civil action in the superior court to enjoin a violation of AS 18.35.301,
 13 18.35.306, 18.35.311, or 18.35.326.

14 **Sec. 18.35.399. Definitions.** In AS 18.35.301 - 18.35.399,

15 (1) "business" means a for-profit or nonprofit sole proprietorship,
 16 partnership, joint venture, corporation, professional corporation, private club, retail
 17 seller of goods or services, or other business entity;

18 (2) "commissioner" means the commissioner of health and social
 19 services or the commissioner's designee;

20 (3) "department" means the Department of Health and Social Services;

21 (4) "e-cigarette" means an electronic device that uses a heating
 22 element, battery, or electronic circuit to issue a vapor or aerosol for inhalation in a
 23 manner that simulates smoking a lighted or heated cigar, cigarette, or pipe, or other
 24 lighted or heated tobacco or plant product intended for inhalation;

25 (5) "employee" means a person who is employed by a business for
 26 compensation or works for a business as a volunteer without compensation;

27 (6) "employer" means the state, a municipality, a regional educational
 28 attendance area, and a person or a business with one or more employees;

29 (7) "enclosed area" means space between a floor and a ceiling that is
 30 bounded on two or more sides by a combination of walls, doorways, windows, or
 31 other physical barriers that may be open, partially open, closed, retractable, temporary,

1 or permanent;

2 (8) "health care facility" means an office or institution providing care
3 or treatment for physical, mental, emotional, or other medical, dental, physiological, or
4 psychological diseases or conditions; a private, municipal, or state hospital;
5 independent diagnostic testing facility; primary care outpatient facility; skilled nursing
6 facility; kidney disease treatment center, including freestanding hemodialysis units;
7 intermediate care facility; ambulatory surgical facility; Alaska Pioneers' Home or
8 Alaska Veterans' Home administered by the Department of Health and Social Services
9 under AS 47.55; long-term care facility; psychiatric hospital; residential psychiatric
10 treatment center, as defined in AS 18.07.111 or AS 47.32.900, and other facilities,
11 places of employment or offices operated for use by doctors, nurses, surgeons,
12 chiropractors, physical therapists, physicians, psychiatrists, or dentists or other
13 professional health care providers to provide health care;

14 (9) "place of employment" means work areas, private offices, hotel and
15 motel rooms, employee lounges, restrooms, conference rooms, classrooms, cafeterias,
16 hallways, vehicles, and other employee work areas that are under the control of an
17 employer;

18 (10) "public place" includes

19 (A) an area to which the public is invited or into which the
20 public is admitted;

21 (B) a place where services, goods, or facilities are offered to
22 the public;

23 (11) "smoking" means using an e-cigarette or other oral smoking
24 device or inhaling, exhaling, burning, or carrying a lighted or heated cigar, cigarette,
25 pipe, or tobacco or plant product intended for inhalation.

26 * **Sec. 2.** AS 18.35.300, 18.35.305, 18.35.310, 18.35.320, 18.35.330, 18.35.340, 18.35.341,
27 18.35.342, 18.35.343, 18.35.350, 18.35.355, and 18.35.365 are repealed.

28 * **Sec. 3.** The uncoded law of the State of Alaska is amended by adding a new section to
29 read:

30 **APPLICABILITY.** AS 18.35.301, 18.35.306, 18.35.311, 18.35.316, 18.35.321,
31 18.35.326, 18.35.331, 18.35.336, 18.35.346, 18.35.351, and 18.35.399, added by sec. 1 of this

1 Act, apply to violations or failures to comply that occur on or after the effective date of sec. 1
2 of this Act.

3 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
4 read:

5 TRANSITION; REGULATIONS. The Department of Health and Social Services may
6 adopt regulations necessary to implement AS 18.35.301, 18.35.306, 18.35.311, 18.35.316,
7 18.35.321, 18.35.326, 18.35.331, 18.35.336, 18.35.346, 18.35.351, and 18.35.399, added by
8 sec. 1 of this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act),
9 but not before the effective date of sec. 1 of this Act.

10 * **Sec. 5.** Section 4 of this Act takes effect immediately under AS 01.10.070(c).

11 * **Sec. 6.** Except as provided in sec. 5 of this Act, this Act takes effect October 1, 2015.



Official Business

Alaska State Legislature

Senate

Office of the Secretary

State Capitol, Room 211
Juneau, Alaska 99801-1182
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Fax: (907) 465-2832
Email: senate.secretary@akleg.gov

FOR YOUR IMMEDIATE ATTENTION

DATE: 1/30/15
TO: Health and Social Services Committee
(Christie, Room 30)
FROM: Office of the Senate Secretary
SUBJ: Sponsor Substitute

A Sponsor Substitute has been introduced on the following bill/resolution pending in your Committee:

RETRIEVE

SENATE BILL NO. 1

"An Act prohibiting smoking in certain places; relating to education on the smoking prohibition; and providing for an effective date."

Please pull this bill/resolution folder from your files and give to the page. The bill/resolution folder will be returned to you with the Sponsor Substitute.

Thank you.

Senate Peter A. Micciche

Alaska State Legislature

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To: Senator Bert Stedman
Chair, Senate Health & Social Services

From: Senator Peter Micciche

PAM

Re: Hearing Request for SSSB 1

Date: February 2, 2015

I respectfully request a hearing for Sponsor Substitute for Senate Bill 1 - *An Act prohibiting smoking in certain places; relating to education on the smoking prohibition; and providing for an effective date.*

Staff contact: Chuck Kopp (907) 465-2828

Senator.Peter.Micciche@akleg.gov

Senate Peter A. Micciche

Alaska State Legislature

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SSSB 1 Testimony List

Juneau

Marge Stoneking, American Lung Association
Janet Kincaid, Palmer business owner
George Stewart, MD, retired pulmonologist
Katie Pesznecker

Michael Patterson, Juneau resident, featured in CDC national ad series "Tips from a former smoker"

✓ Commissioner Valerie Davidson, Department of Health and Social Services
Jay Butler, M.D., Chief Medical Officer, Director of Division of Public Health
& Kathie Wasserman, AK Municipal League

Outside of Juneau

Jackson Blackwell, Kenai high school student (has to leave at 2:30 to get back to school)
Pat Porter, Mayor, City of Kenai, Kenai LIO
Betty MacTavish, Kodiak LIO
Elaine Marquez-Haggerty, RN, Wasilla LIO
Elizabeth Ripley, Mat-Su Health Foundation
Gary Ferguson, ANTHC, Anchorage LIO
Emily Nenon, American Cancer Society Cancer Action Network, Anchorage LIO

Off Net

Mike Gordon, Owner, Chilkoot Charlies – to speak to business aspect
Jack Duckworth, son Gabriel – ryc@gci.net, (907)617-3145

LEGISLATIVE INFORMATION OFFICES

Approximate number of public members at each LIO:

Anchorage (7), Kenai (4), Wasilla (4), Fairbanks, Kodiak (2), and Sitka (2)

Senate Peter A. Micciche

Alaska State Legislature

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Revised February 10, 2015

SSSB 1 Sponsor Statement

Regulation of smoking

SSSB 1 seeks to safeguard working Alaskans and their children from the adverse health effects of secondhand smoke by providing a statewide smoke-free workplace law for businesses and public places. As a conservative Alaskan, I actively support a philosophy that works to limit the role of government in our daily lives. I process each legislative decision through a litmus test of whether the result falls under an appropriate role of government. In this case, we believe that both the right to breathe smoke-free air and the significant, documented public health risks of second hand smoke exposure compel us to view the protection of Alaska's labor force and their families as an appropriate governmental responsibility. Similar comparisons include the government role in establishing speed limits, seat belt laws, motor vehicle design safety improvements, electrical codes, pipeline safety laws and agency responsibilities ensuring industrial employee safety regulations. As judicial philosopher Zechariah Chafee said in the Harvard Law Review in 1919, "Your right to swing your arm ends just where the other man's nose begins". SSSB 1 helps to protect the rights of Alaskans who choose not to smoke.

Current law prohibits smoking in the workplace in many areas of the state, as well as in healthcare facilities, schools, childcare facilities and public meeting rooms in government buildings. Over one-half of the population of Alaska including those in Bethel, Anchorage, Juneau, Barrow, Dillingham, Haines, Skagway, Petersburg, Klawock, Nome, Unalaska, and Palmer are currently living under smoke-free laws similar to SSSB 1. These laws are well established and strongly supported by citizens and businesses. For Alaskans residing in the remaining areas of the state, SSSB 1 offers a uniformly applied safeguard from second hand smoke that is currently not available.

SSSB 1 does not prohibit outdoor smoking, except within certain areas near building entrances/exits, air intakes, and other specifically designated public gathering places as defined in the statute. The bill does not legislate hiring or employment of smokers or non-smokers. Local governments with adequate

jurisdiction retain the authority to adopt more restrictive local provisions than the statewide law (e.g., provisions specific to local public gathering places or events). Free-standing tobacco shops are excluded from the bill.

Why is a conservative willing to take on this issue? The reason is simply to protect the rights of the non-smoker, save lives and reduce the staggering health costs of secondhand exposure to tobacco use. The 2012 Alaska Division of Public Health report, *Alaska Tobacco Facts*, found more Alaskans die annually from the direct effects of tobacco use than from suicide, motor vehicle crashes, chronic liver disease and cirrhosis, homicide, and HIV/AIDS combined.

The annual economic loss to Alaskans because of secondhand smoke is estimated to be in the millions of dollars, with an estimated 60 lives lost each year. Nationally, exposure to secondhand smoke kills more than 41,000 adult non-smokers from coronary heart disease and lung cancer each year. Many Alaskan families, including mine, continue to be adversely affected. My children prematurely lost their grandfather and I lost my father in November of 2013. My siblings suffer from the early childhood effects of secondhand smoke.

SSSB 1 does not remove the right of the smoker to choose to smoke. Rather, it limits a smoker's ability to adversely affect the health of Alaska's non-smoking employees. In other words, the bill simply asks smokers to "take it outside" in an effort to protect Alaskan employees.

More than eight hundred Alaskan businesses and organizations representing all regions of the state have already signed on in support of a statewide smoke-free workplace law. Through SSSB 1, we believe it is time to have this discussion. I urge fellow members to join me in protecting the health of innocent, non-smoking Alaskans by supporting this bill.

Staff Contact: Chuck Kopp (907)465-3792

Senator Peter A. Micciche

Alaska State Legislature

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Sponsor Substitute Senate Bill 1

SECTIONAL ANALYSIS

Version "E"

Section 1 creates new Article 4, *Prohibition of Smoking in Certain Places*, within AS 18.35 describing where smoking is prohibited or regulated.

18.35.301 Prohibition of Smoking

- **Page 1, lines 6-14 & page 2, lines 1-3: (a)** prohibits smoking in enclosed areas in public places, including enclosed areas at an entertainment venue or sports arena; in vehicles used for public transportation; at public transportation facilities and depots; at a retail store or shopping center; at places of public assembly on property owned by the state or other unit of local government.
- **Page 2, lines 4-17: (b)** prohibits smoking in certain enclosed areas: office buildings, hotels, motels, restaurants, bars, retail stores or common areas in apartment and multiple family dwellings, a place of employment, a building or residence used to provide paid childcare, at healthcare facilities, in a vehicle that is a place of employment, at a public or private educational facility; at a residence where paid adult care is provided; at a residence in a healthcare facility, hotel, or motel; and on a marine vessel operating as a shore-based fisheries business under AS 43.75.
- **Page 2, lines 18-31: (c)** prohibits smoking outdoors in certain areas: at public or private schools; state or municipal parks primarily designated as a place for children to play; in seating areas for outdoor arenas, stadiums and amphitheaters; within 50 feet of an entrance to a healthcare facility, 20 feet of an entrance, open window, or heating or ventilation system air intake vent at a place where smoking is prohibited under this section; or within a reasonable distance of an entrance, open window, or heating or ventilation air intake on a marine vessel as determined by the vessel operator in charge.
- **Page 3, lines 1-24: (d)** allows smoking at a retail tobacco or e-cigarette store unless the owner or operator prohibits it, and defines "retail tobacco or e-cigarette store".
- **Page 3, lines 25-30: (e)** allows smoking in a vehicle that is a place of employment used exclusively by one person; and on a marine vessel when it is engaged in commercial fishing or sport charter fishing.

- **Page 3, line 31 & Page 4, lines 1-8: (f)** allows smoking in a private club that does not serve alcohol and is not a place of employment, unless the club is hosting an event open to the public; defines “private club”, and; allows smoking in a private residence that is not used for paid childcare.
- **Page 4, lines 9-16: (g)** allows the department (HSS) to adopt regulations authorizing smoking in stand-alone shelters.

18.35.306 Notice of Prohibition

- **Page 4, lines 17-30:** describes the obligations of employers, owners and operators of places and vehicles where smoking is prohibited to post “no smoking” signs within those places or vehicles and at or near the entrances. This section also requires the Department of Health & Social Services to furnish signs upon request.

18.35.311 Duty of employers and building managers

- **Page 4, line 31 & Page 5, lines 1-2: (a)** an employer may not permit an employee, customer or other person to smoke inside an enclosed area at a place of employment;
- **Page 5, lines 3-5: (b)** an owner, operator, or manager of a building or other place where smoking is prohibited may not provide ashtrays or other smoking accessories for use in that building or place.

18.35.316 Powers and duties of the commissioner

- **Page 5, lines 6-16:** requires the commissioner of health and social services to administer and enforce the requirements of AS 18.35.301-18.35.399, and adopt necessary regulations to implement these requirements; allows the commissioner to delegate enforcement authority to another agency; and permits peace officers to enforce the provisions of AS 18.35.301 – 18.35.399.

18.35.321 Public Education

- **Page 5, lines 17-26:** requires the commissioner of health and social services to provide a program of education regarding AS 18.35.301 – 18.35.399 to employers, other affected parties and members of the public; and that this program may be provided in combination with the current comprehensive smoking education program established in AS 44.29.020(a)(14) which seeks in part to “prevent youth initiation of tobacco use, promote cessation among tobacco users, and educate the public about the lethal effects of exposure to secondhand smoke.”

18.35.326 Nonretaliation

- **Page 5, lines 27-31 & Page 6, lines 1-3:** prohibits employers from discriminating against current or prospective employees because the employee or applicant cooperated with or initiated enforcement of a requirement in AS 18.35.301-18.35.399; and similarly prohibits owners or operators of vehicles or other places subject to AS 18.35.301 – 18.35.399 from retaliating against customers or other members of the public due to their cooperation with or initiation of enforcement of the requirements in AS 18.35.301-18.35.399.

18.35.331 Conflicts with local requirements

- **Page 6, lines 4-9:** establishes a municipality may adopt and enforce local laws with additional prohibitions on smoking or additional duties for employers, owners, operators, and other persons related to enforcement of such provisions.

18.35.336 Violations and civil penalties

- **Page 6, lines 10-31, and Page 7, lines 1-2:** requires the commissioner of health and social services to establish regulatory process for investigating reported violations of AS 18.35.301, 18.35.306, 18.35.311, and 18.35.326; establishes that the commissioner, upon determination that a violation has occurred, may file a civil complaint in district court to enforce the requirements of AS 18.35.301, 18.35.306, 18.35.311, and 18.35.326, or designate an employee of the department to issue a citation for the violation; establishes a maximum fine of \$100 for violation of AS 18.35.301; establishes a bail schedule for violations of AS 18.35.306 or 18.35.311 to be not more than \$100 for a first failure to comply, \$200 for a second failure that occurs within 24 months of the first violation, and \$500 for the third and each consecutive failure to comply within 24 months of the second violation; establishes a civil penalty of not more than \$1,000 for a violation of AS 18.35.326; and allows the department to accept fine payments by mail.

18.35.346 Citations; fines

- **Page 7, lines 3-31 & Page 8, lines 1-15:** re-enacts existing law to allow a peace officer or an employee designated by the commissioner to issue citations for violations of the new law. A peace officer must personally witness a violation of AS 18.35.301 to issue a citation, but this is not the case for an employee designated by the department to issue a citation. An employee of the department may not arrest a person for a violation of AS 18.35.301, 18.35.306, 18.35.311, or 18.35.326. Fines for any violations alleged in a citation are subject to the same fine schedule described in Sec. 18.35.336. The supreme court will establish bail amounts for violations of AS 18.35.301, 18.35.306, 18.35.311, and 18.35.326 that do not exceed the maximum fines allowable under this section. Establishes requirements for citation format, payment of citations, and adjudication of citations.

18.35.351 Injunctions

- **Page 8, lines 16-18:** re-enacts existing law to permit the commissioner or another affected party to bring a civil action in superior court to enjoin a violation of the law.

18.35.399 Definitions

- **Page 8, lines 19-31 & page 9, lines 1-30:** Definitions are provided for business, commissioner, department, e-cigarette, employee, employer, enclosed area, health care facility, place of employment, public place, and smoking.

Section 2 repeals existing statutes regulating smoking in public facilities (AS 18.35.300, 18.35.305, 18.35.310, 18.35.320, 18.35.330, 18.35.340, 18.35.341-343, 18.35.350, 18.35.355, and 18.35.365).

Section 3 amends the uncodified law and clarifies that the new provisions of this bill apply to violations or failures to comply that occur on or after the effective date of Section 1 of the bill.

Section 4 amends the uncodified law by adding a new section that permits the Department of Health and Social Services to adopt regulations to implement Section 1 of the bill. Regulations take effect under AS 44.62 (Administrative Procedure Act) cannot take effect before the effective date of Section 1 of the bill.

Section 5 provides that Section 4 of the bill takes effect immediately under AS 01.10.070(c).

Section 6 provides that, with the exception of Section 5, the rest of the bill will be effective on October 1, 2015.

Senate Peter A. Micciche

Alaska State Legislature

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SSSB 1 – Explanation of Changes

1. Page 2, lines 16-17
Adds new subsection (9) to 18.35.301(b) prohibiting smoking in enclosed areas - (9) on a marine vessel operating as a shore-based fisheries business under AS 43.75.
2. Page 3, lines 27-30
Adds new language to 18.35.301(e) permitting smoking in certain places - (2) on a marine vessel when the vessel is engaged in commercial fishing or sport charter fishing.

Christie Jamieson

From: Christie Jamieson
Sent: Tuesday, February 17, 2015 1:19 PM
To: Randy Ruaro
Subject: SB 1

Randy: The senator had me contact the staff to the senators who are on the Senate HSS, to ask them if they had any additional comments or concerns pertaining to SB 1.

So far we have the following:

Giessel – no comments.

Stoltze – this proposed legislation goes far beyond mandating a statewide smoking ban. The powers given to DHSS are very concerning to him. He is very concerned about establishing new bureaucracies in DHSS. They have a big challenge with the requirements of the aftermath of proposition 2 from the general election causing government expansion. He has more specific issues as well but will limit to the budget concerns for now.

Kelly – said he is not going to support SB 1 and gave no details.

Christie

Christie Jamieson, Committee Aide
Senate Health & Social Services (HSS)
Senator Bert Stedman, District R
Ph: 907-465-3712 (direct); 907-465-3873 (main)
Christie.Jamieson@akleg.gov

CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 1(HSS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY THE SENATE HEALTH AND SOCIAL SERVICES COMMITTEE

Offered:

Referred:

Sponsor(s): SENATORS MICCICHE, McGuire, Costello, Bishop, Stevens, Meyer, Olson, Ellis, Gardner, Hoffman, Wielechowski

A BILL

FOR AN ACT ENTITLED

1 **"An Act prohibiting smoking in certain places; relating to education on the smoking**
2 **prohibition; and providing for an effective date."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 18.35 is amended by adding new sections to read:

5 **Article 4. Prohibition of Smoking in Certain Places.**

6 **Sec. 18.35.301. Prohibition of smoking.** (a) Smoking is prohibited in an
7 enclosed area in a public place, including an enclosed area

8 (1) at an entertainment venue or a sports arena;

9 (2) on a bus, in a taxicab, on a ferry, or in another vehicle used for
10 public transportation;

11 (3) at a public transit depot, bus shelter, airport terminal, or other
12 public transportation facility;

13 (4) at a retail store or shopping center;

14 (5) at a place of government or public assembly located on property

1 that is owned or operated by the state, a municipality, or a regional educational
 2 attendance area, or by an agent of the state, a municipality, or a regional educational
 3 attendance area.

4 (b) Smoking is prohibited in an enclosed area

5 (1) at an office building, office, hotel, motel, restaurant, bar, retail
 6 store, or common area in an apartment building or multiple-family dwelling;

7 (2) in a place of employment;

8 (3) in a building or residence that is used to provide paid child care,
 9 whether or not children are present in the building or residence;

10 (4) at a health care facility;

11 (5) in a vehicle that is a place of employment;

12 (6) at a public or private educational facility;

13 (7) in a residence at which the care of adults is provided on a fee-for-
 14 service basis;

15 (8) at a residence in a health care facility, hotel, or motel;

16 (9) on a marine vessel operating as a shore-based fisheries business
 17 under AS 43.75.

18 (c) Smoking is prohibited outdoors

19 (1) at an area located at a public or private school or a state or
 20 municipal park that is primarily designated as a place for children to play;

21 (2) in a seating area for an outdoor arena, stadium, or amphitheater;

22 (3) within

23 (A) 50 feet of an entrance to a health care facility;

24 (B) 10 feet of an entrance to a bar or restaurant that serves
 25 alcoholic beverages;

26 (C) 20 feet of an entrance, open window, or heating or
 27 ventilation system air intake vent at an enclosed area at a place where smoking
 28 is prohibited under this section; or

29 (D) a reasonable distance of an entrance, open window, or
 30 heating or ventilation system air intake vent on a marine vessel covered by this
 31 section as determined by the vessel owner or operator in charge.

1 (d) Notwithstanding (a) of this section, unless the owner or operator prohibits
 2 it, smoking is allowed at a retail tobacco or e-cigarette store. In this subsection, "retail
 3 tobacco or e-cigarette store"

4 (1) means a retail store

5 (A) that sells primarily cigarettes, e-cigarettes, cigars, tobacco
 6 and products containing tobacco, and pipes and other smoking or e-cigarette
 7 accessories;

8 (B) in which the sale of other products is incidental;

9 (C) that derives at least 90 percent of its gross revenue from the
 10 sale of cigarettes, e-cigarettes, cigars, tobacco and products containing tobacco,
 11 and pipes and other smoking or e-cigarette accessories; and

12 (D) that is a freestanding building not attached to another
 13 business or to a residence;

14 (2) does not include

15 (A) a tobacco or e-cigarette department or section of a business
 16 that does not meet the criteria in (1) of this subsection;

17 (B) a business that is also a restaurant or grocery store;

18 (C) a business that is licensed under AS 04.11 to serve
 19 alcoholic beverages at an outdoor location;

20 (D) a business that is licensed under AS 05.15 to sell pull-tabs;

21 (E) a business that is licensed under AS 43.70.075 to sell
 22 tobacco but that does not meet the requirements of this subsection; or

23 (F) a retail store that is within an indoor public place or
 24 workplace.

25 (e) Notwithstanding (a) and (b) of this section, smoking may be permitted in a
 26 separate enclosed smoking area located in a terminal for international passengers who
 27 are in transit in a state-owned and state-operated international airport and who are
 28 restricted by federal law from leaving the airport, if the smoking area is vented directly
 29 to an outdoor area that is not an area where smoking is prohibited under (c) of this
 30 section.

31 (f) Notwithstanding (b) of this section, unless the owner or operator prohibits

1 it, smoking is allowed

2 (1) in a vehicle that is a place of employment when the vehicle is used
3 exclusively by one person;

4 (2) on a marine vessel when the vessel is engaged in commercial
5 fishing or sport charter fishing or is otherwise used as a place of employment.

6 (g) Nothing in this section prohibits smoking at a private residence, except a
7 private residence described in (b) of this section.

8 (h) Notwithstanding (b) of this section, the department shall adopt regulations
9 authorizing smoking in a stand-alone shelter. At a minimum, the regulations must
10 provide

11 (1) that no food or drink be sold in the stand-alone shelter;

12 (2) that at least 50 percent of one side of the shelter be completely
13 open to the outside; and

14 (3) for minimum distance requirements consistent with (c) of this
15 section.

16 **Sec. 18.35.306. Notice of prohibition.** (a) A person who is in charge of a place
17 or vehicle where smoking is prohibited under AS 18.35.301 shall conspicuously
18 display in the place or vehicle a sign that

19 (1) reads "Smoking Prohibited by Law--Maximum Fine \$100"; and

20 (2) includes the international symbol for no smoking or the words "No
21 Puffin" with a pictorial representation of a Horned Puffin or Tufted Puffin holding a
22 burning cigarette enclosed in a red circle crossed with a red bar.

23 (b) A person in charge of a building at which smoking is prohibited within a
24 specific distance from the entrance of the building under AS 18.35.301(c) shall
25 conspicuously display a sign that reads "Smoking within (number of feet) Feet of
26 Entrance Prohibited by Law--Maximum Fine \$100" visible from the outside of each
27 entrance to the building.

28 (c) The department shall furnish signs required under this section to a person
29 who requests them with the intention of displaying them.

30 **Sec. 18.35.311. Duty of employers and building managers.** (a) An employer
31 may not permit an employee, customer, or other person to smoke inside an enclosed

1 area at a place of employment.

2 (b) The owner, operator, manager, or other person who manages a building or
3 other place where smoking is prohibited under AS 18.35.301 may not provide ashtrays
4 or other smoking accessories for use in that building or place.

5 **Sec. 18.35.316. Powers and duties of the commissioner.** (a) The
6 commissioner shall

7 (1) administer and enforce the requirements of AS 18.35.301 -
8 18.35.399;

9 (2) adopt regulations under AS 44.62 (Administrative Procedure Act)
10 necessary to carry out the duties under this section.

11 (b) In addition to other powers granted the commissioner under AS 18.35.301
12 - 18.35.399, the commissioner may delegate to another agency the authority to
13 implement and enforce one or more provisions of AS 18.35.301 - 18.35.399.

14 **Sec. 18.35.321. Public education.** (a) The commissioner shall ensure that
15 employers, property owners, property operators, and other members of the public are
16 provided ongoing access to

17 (1) a program of education regarding the requirements in AS 18.35.301
18 - 18.35.399;

19 (2) an electronically published printable brochure that summarizes the
20 requirements in AS 18.35.301 - 18.35.399.

21 (b) The program of education under (a) of this section may be provided in
22 combination with the comprehensive smoking education, tobacco use prevention, and
23 tobacco control program established in AS 44.29.020(a)(14).

24 **Sec. 18.35.326. Nonretaliation.** (a) An employer may not discharge or in any
25 other manner retaliate against an employee because the employee cooperates with or
26 initiates enforcement of a requirement in AS 18.35.301 - 18.35.399.

27 (b) The owner or operator of a vehicle or other place that is subject to a
28 requirement in AS 18.35.301 - 18.35.399 may not retaliate against a customer or other
29 member of the public for cooperating with or initiating enforcement of a requirement
30 in AS 18.35.301 - 18.35.399.

31 **Sec. 18.35.331. Conflicts with local requirements.** Nothing in AS 18.35.301

1 - 18.35.399 prohibits a municipality from adopting an ordinance imposing

2 (1) additional limitations on smoking; or

3 (2) additional duties on employers, owners, operators, and other
4 persons who are subject to the requirements of AS 18.35.306 or 18.35.311 related to
5 smoking.

6 **Sec. 18.35.336. Violations and civil penalties.** (a) The commissioner shall
7 adopt by regulation procedures for filing, processing, and investigating reports of
8 violations of AS 18.35.301, 18.35.306, 18.35.311, and 18.35.326.

9 (b) If, after investigating a report made under this section, the commissioner
10 determines that a violation has occurred, the commissioner may file a civil complaint
11 in the district court to enforce the provisions of AS 18.35.301, 18.35.306, 18.35.311,
12 and 18.35.326.

13 (c) A person who violates AS 18.35.301 and against whom the commissioner
14 has filed a civil complaint under this section is punishable by a civil penalty of not
15 more than \$100.

16 (d) A person who fails to comply with a duty imposed on that person by
17 AS 18.35.306 or 18.35.311 and against whom the commissioner has filed a civil
18 complaint under this section is punishable by a civil penalty of not more than

19 (1) \$100 for a first failure to comply;

20 (2) \$200 for a second failure to comply that occurs within 24 months
21 after the date the person was fined for a first failure to comply;

22 (3) \$500 for each failure to comply that occurs within 24 months after
23 the date the person was fined for a second failure to comply.

24 (e) A person who violates AS 18.35.326 and against whom the commissioner
25 has filed a civil complaint under this section is punishable by a civil penalty of not
26 more than \$1,000.

27 (f) The department may provide for the payment of a civil penalty under this
28 section by mail.

29 **Sec. 18.35.351. Injunctions.** The commissioner or another affected party may
30 bring a civil action in the superior court to enjoin a violation of AS 18.35.301,
31 18.35.306, 18.35.311, or 18.35.326.

1 **Sec. 18.35.399. Definitions.** In AS 18.35.301 - 18.35.399,

2 (1) "business" means a for-profit or nonprofit sole proprietorship,
3 partnership, joint venture, corporation, professional corporation, private club, retail
4 seller of goods or services, or other business entity;

5 (2) "commissioner" means the commissioner of health and social
6 services or the commissioner's designee;

7 (3) "department" means the Department of Health and Social Services;

8 (4) "e-cigarette" means an electronic device that uses a heating
9 element, battery, or electronic circuit to issue a vapor or aerosol for inhalation in a
10 manner that simulates smoking a lighted or heated cigar, cigarette, or pipe, or other
11 lighted or heated tobacco or plant product intended for inhalation;

12 (5) "employee" means a person who is employed by a business for
13 compensation or works for a business as a volunteer without compensation;

14 (6) "employer" means the state, a municipality, a regional educational
15 attendance area, and a person or a business with one or more employees;

16 (7) "enclosed area" means space between a floor and a ceiling that is
17 bounded on two or more sides by a combination of walls, doorways, windows, or
18 other physical barriers that may be open, partially open, closed, retractable, temporary,
19 or permanent;

20 (8) "health care facility" means an office or institution providing care
21 or treatment for physical, mental, emotional, or other medical, dental, physiological, or
22 psychological diseases or conditions; a private, municipal, or state hospital;
23 independent diagnostic testing facility; primary care outpatient facility; skilled nursing
24 facility; kidney disease treatment center, including freestanding hemodialysis units;
25 intermediate care facility; ambulatory surgical facility; Alaska Pioneers' Home or
26 Alaska Veterans' Home administered by the Department of Health and Social Services
27 under AS 47.55; long-term care facility; psychiatric hospital; residential psychiatric
28 treatment center, as defined in AS 18.07.111 or AS 47.32.900, and other facilities,
29 places of employment or offices operated for use by doctors, nurses, surgeons,
30 chiropractors, physical therapists, physicians, psychiatrists, or dentists or other
31 professional health care providers to provide health care;

1 (9) "place of employment" means work areas, private offices, hotel and
 2 motel rooms, employee lounges, restrooms, conference rooms, classrooms, cafeterias,
 3 hallways, vehicles, and other employee work areas that are under the control of an
 4 employer;

5 (10) "public place" includes

6 (A) an area to which the public is invited or into which the
 7 public is admitted;

8 (B) a place where services, goods, or facilities are offered to
 9 the public;

10 (11) "smoking" means using an e-cigarette or other oral smoking
 11 device or inhaling, exhaling, burning, or carrying a lighted or heated cigar, cigarette,
 12 pipe, or tobacco or plant product intended for inhalation.

13 * **Sec. 2.** AS 18.35.300, 18.35.305, 18.35.310, 18.35.320, 18.35.330, 18.35.340, 18.35.341,
 14 18.35.342, 18.35.343, 18.35.350, 18.35.355, and 18.35.365 are repealed.

15 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
 16 read:

17 APPLICABILITY. AS 18.35.301, 18.35.306, 18.35.311, 18.35.316, 18.35.321,
 18 18.35.326, 18.35.331, 18.35.336, 18.35.351, and 18.35.399, added by sec. 1 of this Act, apply
 19 to violations or failures to comply that occur on or after the effective date of sec. 1 of this Act.

20 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
 21 read:

22 TRANSITION; REGULATIONS. The Department of Health and Social Services may
 23 adopt regulations necessary to implement AS 18.35.301, 18.35.306, 18.35.311, 18.35.316,
 24 18.35.321, 18.35.326, 18.35.331, 18.35.336, 18.35.351, and 18.35.399, added by sec. 1 of this
 25 Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not
 26 before the effective date of sec. 1 of this Act.

27 * **Sec. 5.** Section 4 of this Act takes effect immediately under AS 01.10.070(c).

28 * **Sec. 6.** Except as provided in sec. 5 of this Act, this Act takes effect October 1, 2015.

CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 1(HSS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY THE SENATE HEALTH AND SOCIAL SERVICES COMMITTEE

Offered:
Referred:

Sponsor(s): SENATORS MICCICHE, McGuire, Costello, Bishop, Stevens, Meyer, Olson, Ellis, Gardner,
Hoffman, Wielechowski

A BILL

FOR AN ACT ENTITLED

1 "An Act prohibiting smoking in certain places; relating to education on the smoking
2 prohibition; and providing for an effective date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * Section 1. AS 18.35 is amended by adding new sections to read:

Article 4. Prohibition of Smoking in Certain Places.

5 **Sec. 18.35.301. Prohibition of smoking.** (a) Smoking is prohibited in an
6 enclosed area in a public place, including an enclosed area

7 (1) at an entertainment venue or a sports arena;

8 (2) on a bus, in a taxicab, on a ferry, or in another vehicle used for
9 public transportation;

10 (3) at a public transit depot, bus shelter, airport terminal, or other
11 public transportation facility;

12 (4) at a retail store or shopping center;

13 (5) at a place of government or public assembly located on property
14

1 that is owned or operated by the state, a municipality, or a regional educational
2 attendance area, or by an agent of the state, a municipality, or a regional educational
3 attendance area.

4 (b) Smoking is prohibited in an enclosed area

5 (1) at an office building, office, hotel, motel, restaurant, bar, retail
6 store, or common area in an apartment building or multiple-family dwelling;

7 (2) in a place of employment;

8 (3) in a building or residence that is used to provide paid child care,
9 whether or not children are present in the building or residence;

10 (4) at a health care facility;

11 (5) in a vehicle that is a place of employment;

12 (6) at a public or private educational facility;

13 (7) in a residence at which the care of adults is provided on a fee-for-
14 service basis;

15 (8) at a residence in a health care facility, hotel, or motel;

16 (9) on a marine vessel operating as a shore-based fisheries business
17 under AS 43.75.

18 (c) Smoking is prohibited outdoors

19 (1) at an area located at a public or private school or a state or
20 municipal park that is primarily designated as a place for children to play;

21 (2) in a seating area for an outdoor arena, stadium, or amphitheater;

22 (3) within

23 (A) 50 feet of an entrance to a health care facility;

24 (B) 10 feet of an entrance to a bar or restaurant that serves
25 alcoholic beverages;

26 (C) 20 feet of an entrance, open window, or heating or
27 ventilation system air intake vent at an enclosed area at a place where smoking
28 is prohibited under this section; or

29 (D) a reasonable distance of an entrance, open window, or
30 heating or ventilation system air intake vent on a marine vessel covered by this
31 section as determined by the vessel owner or operator in charge.

1 (d) Notwithstanding (a) of this section, unless the owner or operator prohibits
2 it, smoking is allowed at a retail tobacco or e-cigarette store. In this subsection, "retail
3 tobacco or e-cigarette store"

4 (1) means a retail store

5 (A) that sells primarily cigarettes, e-cigarettes, cigars, tobacco
6 and products containing tobacco, and pipes and other smoking or e-cigarette
7 accessories;

8 (B) in which the sale of other products is incidental;

9 (C) that derives at least 90 percent of its gross revenue from the
10 sale of cigarettes, e-cigarettes, cigars, tobacco and products containing tobacco,
11 and pipes and other smoking or e-cigarette accessories; and

12 (D) that is a freestanding building not attached to another
13 business or to a residence;

14 (2) does not include

15 (A) a tobacco or e-cigarette department or section of a business
16 that does not meet the criteria in (1) of this subsection;

17 (B) a business that is also a restaurant or grocery store;

18 (C) a business that is licensed under AS 04.11 to serve
19 alcoholic beverages at an outdoor location;

20 (D) a business that is licensed under AS 05.15 to sell pull-tabs;

21 (E) a business that is licensed under AS 43.70.075 to sell
22 tobacco but that does not meet the requirements of this subsection; or

23 (F) a retail store that is within an indoor public place or
24 workplace.

25 (e) Notwithstanding (a) and (b) of this section, smoking may be permitted in a
26 separate enclosed smoking area located in a terminal for international passengers who
27 are in transit in a state-owned and state-operated international airport and who are
28 restricted by federal law from leaving the airport, if the smoking area is vented directly
29 to an outdoor area that is not an area where smoking is prohibited under (c) of this
30 section.

31 (f) Notwithstanding (b) of this section, unless the owner or operator prohibits

1 it, smoking is allowed

2 (1) in a vehicle that is a place of employment when the vehicle is used
3 exclusively by one person;

4 (2) on a marine vessel when the vessel is engaged in commercial
5 fishing or sport charter fishing or is otherwise used as a place of employment.

6 (g) Nothing in this section prohibits smoking at a private residence, except a
7 private residence described in (b) of this section.

8 (h) Notwithstanding (b) of this section, the department shall adopt regulations
9 authorizing smoking in a stand-alone shelter. At a minimum, the regulations must
10 provide

11 (1) that no food or drink be sold in the stand-alone shelter;

12 (2) that at least 50 percent of one side of the shelter be completely
13 open to the outside; and

14 (3) for minimum distance requirements consistent with (c) of this
15 section.

16 **Sec. 18.35.306. Notice of prohibition.** (a) A person who is in charge of a place
17 or vehicle where smoking is prohibited under AS 18.35.301 shall conspicuously
18 display in the place or vehicle a sign that

19 (1) reads "Smoking Prohibited by Law--Maximum Fine \$100"; and

20 (2) includes the international symbol for no smoking or the words "No
21 Puffin" with a pictorial representation of a Horned Puffin or Tufted Puffin holding a
22 burning cigarette enclosed in a red circle crossed with a red bar.

23 (b) A person in charge of a building at which smoking is prohibited within a
24 specific distance from the entrance of the building under AS 18.35.301(c) shall
25 conspicuously display a sign that reads "Smoking within (number of feet) Feet of
26 Entrance Prohibited by Law--Maximum Fine \$100" visible from the outside of each
27 entrance to the building.

28 (c) The department shall furnish signs required under this section to a person
29 who requests them with the intention of displaying them.

30 **Sec. 18.35.311. Duty of employers and building managers.** (a) An employer
31 may not permit an employee, customer, or other person to smoke inside an enclosed

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area at a place of employment.

(b) The owner, operator, manager, or other person who manages a building or other place where smoking is prohibited under AS 18.35.301 may not provide ashtrays or other smoking accessories for use in that building or place.

Sec. 18.35.316. Powers and duties of the commissioner. (a) The commissioner shall

(1) administer and enforce the requirements of AS 18.35.301 - 18.35.399;

(2) adopt regulations under AS 44.62 (Administrative Procedure Act) necessary to carry out the duties under this section.

(b) In addition to other powers granted the commissioner under AS 18.35.301 - 18.35.399, the commissioner may delegate to another agency the authority to implement and enforce one or more provisions of AS 18.35.301 - 18.35.399.

Sec. 18.35.321. Public education. (a) The commissioner shall ensure that employers, property owners, property operators, and other members of the public are provided ongoing access to

(1) a program of education regarding the requirements in AS 18.35.301 - 18.35.399;

(2) an electronically published printable brochure that summarizes the requirements in AS 18.35.301 - 18.35.399.

(b) The program of education under (a) of this section may be provided in combination with the comprehensive smoking education, tobacco use prevention, and tobacco control program established in AS 44.29.020(a)(14).

Sec. 18.35.326. Nonretaliation. (a) An employer may not discharge or in any other manner retaliate against an employee because the employee cooperates with or initiates enforcement of a requirement in AS 18.35.301 - 18.35.399.

(b) The owner or operator of a vehicle or other place that is subject to a requirement in AS 18.35.301 - 18.35.399 may not retaliate against a customer or other member of the public for cooperating with or initiating enforcement of a requirement in AS 18.35.301 - 18.35.399.

Sec. 18.35.331. Conflicts with local requirements. Nothing in AS 18.35.301

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- 18.35.399 prohibits a municipality from adopting an ordinance imposing
(1) additional limitations on smoking; or
(2) additional duties on employers, owners, operators, and other persons who are subject to the requirements of AS 18.35.306 or 18.35.311 related to smoking.

Sec. 18.35.336. Violations and civil penalties. (a) The commissioner shall adopt by regulation procedures for filing, processing, and investigating reports of violations of AS 18.35.301, 18.35.306, 18.35.311, and 18.35.326.

(b) If, after investigating a report made under this section, the commissioner determines that a violation has occurred, the commissioner may file a civil complaint in the district court to enforce the provisions of AS 18.35.301, 18.35.306, 18.35.311, and 18.35.326.

(c) A person who violates AS 18.35.301 and against whom the commissioner has filed a civil complaint under this section is punishable by a civil penalty of not more than \$100.

(d) A person who fails to comply with a duty imposed on that person by AS 18.35.306 or 18.35.311 and against whom the commissioner has filed a civil complaint under this section is punishable by a civil penalty of not more than

- (1) \$100 for a first failure to comply;
- (2) \$200 for a second failure to comply that occurs within 24 months after the date the person was fined for a first failure to comply;
- (3) \$500 for each failure to comply that occurs within 24 months after the date the person was fined for a second failure to comply.

(e) A person who violates AS 18.35.326 and against whom the commissioner has filed a civil complaint under this section is punishable by a civil penalty of not more than \$1,000.

(f) The department may provide for the payment of a civil penalty under this section by mail.

Sec. 18.35.351. Injunctions. The commissioner or another affected party may bring a civil action in the superior court to enjoin a violation of AS 18.35.301, 18.35.306, 18.35.311, or 18.35.326.

1 **Sec. 18.35.399. Definitions.** In AS 18.35.301 - 18.35.399,

2 (1) "business" means a for-profit or nonprofit sole proprietorship,
3 partnership, joint venture, corporation, professional corporation, private club, retail
4 seller of goods or services, or other business entity;

5 (2) "commissioner" means the commissioner of health and social
6 services or the commissioner's designee;

7 (3) "department" means the Department of Health and Social Services;

8 (4) "e-cigarette" means an electronic device that uses a heating
9 element, battery, or electronic circuit to issue a vapor or aerosol for inhalation in a
10 manner that simulates smoking a lighted or heated cigar, cigarette, or pipe, or other
11 lighted or heated tobacco or plant product intended for inhalation;

12 (5) "employee" means a person who is employed by a business for
13 compensation or works for a business as a volunteer without compensation;

14 (6) "employer" means the state, a municipality, a regional educational
15 attendance area, and a person or a business with one or more employees;

16 (7) "enclosed area" means space between a floor and a ceiling that is
17 bounded on two or more sides by a combination of walls, doorways, windows, or
18 other physical barriers that may be open, partially open, closed, retractable, temporary,
19 or permanent;

20 (8) "health care facility" means an office or institution providing care
21 or treatment for physical, mental, emotional, or other medical, dental, physiological, or
22 psychological diseases or conditions; a private, municipal, or state hospital;
23 independent diagnostic testing facility; primary care outpatient facility; skilled nursing
24 facility; kidney disease treatment center, including freestanding hemodialysis units;
25 intermediate care facility; ambulatory surgical facility; Alaska Pioneers' Home or
26 Alaska Veterans' Home administered by the Department of Health and Social Services
27 under AS 47.55; long-term care facility; psychiatric hospital; residential psychiatric
28 treatment center, as defined in AS 18.07.111 or AS 47.32.900, and other facilities,
29 places of employment or offices operated for use by doctors, nurses, surgeons,
30 chiropractors, physical therapists, physicians, psychiatrists, or dentists or other
31 professional health care providers to provide health care;

1 (9) "place of employment" means work areas, private offices, hotel and
2 motel rooms, employee lounges, restrooms, conference rooms, classrooms, cafeterias,
3 hallways, vehicles, and other employee work areas that are under the control of an
4 employer;

5 (10) "public place" includes

6 (A) an area to which the public is invited or into which the
7 public is admitted;

8 (B) a place where services, goods, or facilities are offered to
9 the public;

10 (11) "smoking" means using an e-cigarette or other oral smoking
11 device or inhaling, exhaling, burning, or carrying a lighted or heated cigar, cigarette,
12 pipe, or tobacco or plant product intended for inhalation.

13 * **Sec. 2.** AS 18.35.300, 18.35.305, 18.35.310, 18.35.320, 18.35.330, 18.35.340, 18.35.341,
14 18.35.342, 18.35.343, 18.35.350, 18.35.355, and 18.35.365 are repealed.

15 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
16 read:

17 APPLICABILITY. AS 18.35.301, 18.35.306, 18.35.311, 18.35.316, 18.35.321,
18 18.35.326, 18.35.331, 18.35.336, 18.35.351, and 18.35.399, added by sec. 1 of this Act, apply
19 to violations or failures to comply that occur on or after the effective date of sec. 1 of this Act.

20 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
21 read:

22 TRANSITION; REGULATIONS. The Department of Health and Social Services may
23 adopt regulations necessary to implement AS 18.35.301, 18.35.306, 18.35.311, 18.35.316,
24 18.35.321, 18.35.326, 18.35.331, 18.35.336, 18.35.351, and 18.35.399, added by sec. 1 of this
25 Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not
26 before the effective date of sec. 1 of this Act.

27 * **Sec. 5.** Section 4 of this Act takes effect immediately under AS 01.10.070(c).

28 * **Sec. 6.** Except as provided in sec. 5 of this Act, this Act takes effect October 1, 2015.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version: SB 1
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB001SS-DOT-MVO-2-6-15
Title: REGULATION OF SMOKING
Sponsor: MICCICHE
Requester: Senate Health & Social Services

Department: Department of Transportation and Public Facilities
Appropriation: Marine Highway System
Allocation: Marine Vessel Operations
OMB Component Number: 2604

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016 Appropriation Requested	Included in Governor's FY2016 Request	Out-Year Cost Estimates					
			FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities	2.4		1.0	1.0	1.0	1.0	1.0	1.0
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	2.4	0.0	1.0	1.0	1.0	1.0	1.0	1.0

Fund Source (Operating Only)

1004 Gen Fund	2.4		1.0	1.0	1.0	1.0	1.0	1.0
Total	2.4	0.0	1.0	1.0	1.0	1.0	1.0	1.0

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues								
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Estimated SUPPLEMENTAL (FY2015) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2016) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Initial version.

Prepared By: Mike Lesmann
Division: Commissioner's Office
Approved By: Mary Siroky
Agency: DOT&PF

Phone: (907)465-4772
Date: 02/06/2015 01:00 PM
Date: 02/06/15

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

BILL NO. SB 1

Analysis

This legislation would ban smoking in enclosed areas onboard the Alaska Marine Highway System (AMHS) ferries, inside of AMHS terminals and other buildings belonging to the AMHS.

With the passage of this legislation, current no-smoking signs at terminals as well as onboard the 11 vessels of the fleet will have to be replaced with new signs citing the increased fine.

26 12" x 12" building signs at terminals @ \$25/signs	\$.7
66 (6 per vessel) 12" x 12" signs onboard @ \$25/sign	\$1.7
Total one time cost	\$2.4
Cost per year to replace stolen/damage/worn signs	\$1.0

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version: SB 1
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB001SS-DOT-IASO-2-6-15
Title: REGULATION OF SMOKING
Sponsor: MICCICHE
Requester: Senate Health & Social Services

Department: Department of Transportation and Public Facilities
Appropriation: International Airports
Allocation: International Airport Systems Office
OMB Component Number: 1649

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016 Appropriation Requested	Included in Governor's FY2016 Request	Out-Year Cost Estimates					
			FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities	8.5		0.9	0.9	0.9	0.9	0.9	0.9
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	8.5	0.0	0.9	0.9	0.9	0.9	0.9	0.9

Fund Source (Operating Only)

1027 IntAirport	8.5		0.9	0.9	0.9	0.9	0.9	0.9
Total	8.5	0.0	0.9	0.9	0.9	0.9	0.9	0.9

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues								
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Estimated SUPPLEMENTAL (FY2015) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2016) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Initial version.

Prepared By: Mike Lesmann
Division: Commissioner's Office
Approved By: Mary Siroky
Agency: DOT&PF

Phone: (907)465-4772
Date: 02/06/2015 01:00 PM
Date: 02/06/15

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

BILL NO. SB 1

Analysis

This legislation would ban smoking in enclosed areas of the Fairbanks International Airport terminal and the Ted Stevens Anchorage International Airport terminal as well as within airport fuel facilities. It also prohibits smoking in other enclosed areas in a place of employment at these airports.

Title 17 currently prohibits smoking within 50 ft of an aircraft on airport property. The international airports follow municipal codes prohibiting smoking in public buildings and displays signage and have periodic public address system announcements in the terminals.

Currently smokers are provided with a designated outside smoking area adjacent to the terminals but away from any building entrances. A smoking room equipped with ventilation is provided in the North Terminal of the Ted Stevens Anchorage International Airport for passengers that deplane and cannot leave the terminal secure area before re-boarding their through-flight (some international flights and military charters).

With the passage of this legislation, the airport will be required to discontinue the use of the North Terminal smoking room, remove current no-smoking signage and replace with new signs in highly visible locations at the terminal and numerous other state managed buildings.

Total 340 12" x 12" signs (\$25/sign)

Ted Stevens Anchorage International Airport	300 signs	\$7.5
Fairbanks International Airport	40 signs	\$1.0
Total one time cost	340 signs	\$8.5
Cost per year to replace stolen/damage/worn signs	34 signs	\$.9

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version: SB 1
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB001SS-DOT-SEF-2-6-15
Title: REGULATION OF SMOKING
Sponsor: MICCICHE
Requester: Senate Health & Social Services

Department: Department of Transportation and Public Facilities
Appropriation: State Equipment Fleet
Allocation: State Equipment Fleet
OMB Component Number: 2791

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016 Appropriation Requested	Included in Governor's FY2016 Request	Out-Year Cost Estimates					
			FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities	1.5		1.5	1.5	1.5	1.5	1.5	1.5
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	1.5	0.0	1.5	1.5	1.5	1.5	1.5	1.5

Fund Source (Operating Only)

1026 HwyCapital	1.5		1.5	1.5	1.5	1.5	1.5	1.5
Total	1.5	0.0	1.5	1.5	1.5	1.5	1.5	1.5

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues								
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Estimated SUPPLEMENTAL (FY2015) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2016) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Initial version.

Prepared By: Mike Lesmann
Division: Commissioner's Office
Approved By: Mary Siroky
Agency: DOT&PF

Phone: (907)465-4772
Date: 02/06/2015 01:00 PM
Date: 02/06/15

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

BILL NO. SB 1

Analysis

This legislation would ban smoking in state-owned vehicles under (a)(4) - other enclosed area in a place of employment.

5653 vehicles in the state equipment fleet

\$1.5 for decals for entire state equipment fleet vehicles

This fiscal note assumes that the decals would need to be replaced annually.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version: SB 1
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB001SS-DOT-TMS-2-6-15
Title: REGULATION OF SMOKING
Sponsor: MICCICHE
Requester: Senate Health & Social Services

Department: Department of Transportation and Public Facilities
Appropriation: Administration and Support
Allocation: Transportation Management and Security
OMB Component Number: 2607

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016 Appropriation Requested	Included in Governor's FY2016 Request	Out-Year Cost Estimates					
			FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services	1.8		0.2	0.2	0.2	0.2	0.2	0.2
Commodities	8.8		0.9	0.9	0.9	0.9	0.9	0.9
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	10.6	0.0	1.1	1.1	1.1	1.1	1.1	1.1

Fund Source (Operating Only)

1004 Gen Fund	10.6		1.1	1.1	1.1	1.1	1.1	1.1
Total	10.6	0.0	1.1	1.1	1.1	1.1	1.1	1.1

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues								
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Estimated SUPPLEMENTAL (FY2015) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2016) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Initial version.

Prepared By: Mike Lesmann
Division: Commissioner's Office
Approved By: Mary Siroky
Agency: DOT&PF

Phone: (907)465-4772
Date: 02/06/2015 01:00 PM
Date: 02/06/15

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

BILL NO. SB 1

Analysis

This legislation would ban smoking in enclosed areas at all 247 State of Alaska rural airports including state-owned airport terminals, fuel facilities, and other enclosed areas in a place of employment (sand storage sheds, equipment storage/maintenance facilities, airport rescue/firefighting facilities). The department would provide durable signs at these locations.

Total 6" x 20" signs (\$30/sign, installation & shipping)

Northern Region Highways & Aviation	125 signs	\$3.8
Central Region Highways & Aviation	160 signs	\$4.8
Southeast Region Highways & Aviation	65 signs	\$2.0
Total one time cost	350 signs	\$10.6
Cost per year to replace stolen/damage/worn signs	35 signs	\$1.1

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version: SB 1
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB001-DCCED-ABC-02-06-2015
Title: REGULATION OF SMOKING
Sponsor: MICCICHE
Requester: (S) Health and Social Services

Department: Department of Commerce, Community and
Economic Development
Appropriation: Alcoholic Beverage Control Board
Allocation: Alcoholic Beverage Control Board
OMB Component Number: 2690

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2016 Request	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES	FY 2016	FY 2016					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2015) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2016) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? **No**
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By: <u>Cynthia Franklin, Director</u>	Phone: <u>(907)269-0351</u>
Division: <u>Alcoholic Beverage Control Board</u>	Date: <u>01/30/2015 09:00 AM</u>
Approved By: <u>Catherine Reardon, Director</u>	Date: <u>02/06/15</u>
Agency: <u>Division of Administrative Services</u>	

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

BILL NO. SB001

Analysis

SB1 updates and alters the current statutes guiding smoking in public and shared spaces in Alaska. The Department of Health and Social Services is responsible for adopting and enforcing regulations to enact the provisions of this bill. While it is possible that the definition used for smoking in this bill would include the smoking of marijuana, which falls under the Alcoholic Beverage Control Board's regulatory purview, there is no anticipated fiscal impact to the Alcoholic Beverage Control Board at this time.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version: SB 1
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB001SS-ACS-TRC-02-06-15
Title: REGULATION OF SMOKING
Sponsor: MICCICHE
Requester: Senate Health & Social Services

Department: Judiciary
Appropriation: Alaska Court System
Allocation: Trial Courts
OMB Component Number: 768

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016 Appropriation Requested	Included in Governor's FY2016 Request	Out-Year Cost Estimates					
			FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues								
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Estimated SUPPLEMENTAL (FY2015) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2016) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Initial version.

Prepared By: Nancy Meade, General Counsel
Division: Alaska Court System
Approved By: Nancy Meade for Christine Johnson, Administrative Director
Agency: Alaska Court System

Phone: (907)463-4736
Date: 02/06/2015 01:00 PM
Date: 02/06/15

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

BILL NO. SB1

Analysis

The Sponsor Substitute for Senate Bill 1 repeals all of the current statutes under the article captioned "Regulation of Smoking in Public Facilities" (AS 18.35.300-.365), and replaces that article with a new one entitled "Prohibition of Smoking in Certain Places" (AS 18.35.301-.399). The bill would prohibit smoking in more places and in more circumstances than are regulated in the current statutes.

SSSB 1 provides that the Department of Health and Social Services may file civil complaints in the district court to enforce the law, and may issue citations for certain offenses established by the bill. In Section 1, AS 18.35.346(f) requires the Supreme Court to establish a schedule of bail amounts for violations of offenses established in the bill.

The court system is unable to predict the number of new civil complaints that may be filed under SSSB 1 alleging violations of the prohibitions on smoking, or the number of new citations that may be filed with the court under the bill. Nonetheless, the court system anticipates that the number of new case filings and the number of additional citations that will result from this bill will be relatively small, and that the courts can absorb the additional workload without fiscal impact. In addition, the Supreme Court anticipates that it can create the schedule of bail amounts required under SSSB 1 without fiscal impact. The court system therefore submits a zero fiscal note.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version: SB 1
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB001-DHSS-CDPHP-02-06-15
Title: REGULATION OF SMOKING
Sponsor: MICCICHE
Requester: Senate Health & Social Services Committee

Department: Department of Health and Social Services
Appropriation: Public Health
Allocation: Chronic Disease Prevention and Health Promotion
OMB Component Number: 2818

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016 Appropriation Requested	Included in Governor's FY2016 Request	Out-Year Cost Estimates					
			FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues								
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Estimated SUPPLEMENTAL (FY2015) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2016) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? Yes
If yes, by what date are the regulations to be adopted, amended or repealed? Dec. 2017

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By: Jay C. Butler, MD, Director/Chief Medical Officer
Division: Public Health
Approved By: Sarah Woods, Deputy Director Finance & Management Services
Agency: Health & Social Services

Phone: (907)269-6680
Date: 02/03/2015 01:00 PM
Date: 02/06/15

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

BILL NO. SB001

Analysis

This bill repeals Article 3 and adds a new Article 4 (Regulation of Smoking in Public), which designates the Commissioner of the Department of Health and Social Services as responsible to implement and enforce a statewide smoking prohibition in enclosed public spaces, public transportation vehicles and facilities, places of employment, government owned or operated places, buildings or residences used to provide paid child care, health care facilities, Alaska Pioneer Homes and Veterans' Homes, vehicles that are places of employment, and certain marine vessels. Also included are school grounds or public parks for children, outdoor arena seating, and areas within certain distances from entrances, open windows, and air intake vents of places where smoking is prohibited. The bill requires the Commissioner to adopt regulations for filing, processing, and investigating reports of violations of the smoking prohibition, which may include filing complaints and issuing citations.

The Department's role in enforcing and implementing the statewide smoking prohibition is to provide education and respond to complaints. The bill allows the Commissioner to delegate to other agencies any of the responsibilities to enforce the bill's provisions. DEC is currently responsible for enforcing Article 3. Repeal of Article 3 may have the effect of reducing base costs for DEC, while addition of Article 4 allows for DHSS's delegation of enforcement.

Until regulations are established, it is difficult to know the full extent of the work involved in enforcement. Currently, enforcement of this nature is not a core function of any of the DHSS divisions. The Division of Behavioral Health's Prevention and Early Intervention Section currently monitors retail tobacco sales to minors required by federal Synar legislation. The Tobacco Enforcement Team, comprised of three staff, would monitor and respond to all complaints and provide ongoing education to businesses. Regulations adopted by the Commissioner can create a series of notices, warnings and other interventions in order to minimize costs prior to investigations and sanctions. Local law enforcement would be utilized to issue citations. Ideally, the Division of Behavioral Health would consider this as a form of "passive enforcement" which could be performed in addition to the other duties assigned to the Tobacco Investigators. Under this complaint-driven enforcement model, the division does not expect to require an additional appropriation.

The bill also subjects a person who is in charge of a place where smoking is prohibited to a requirement to display specific signage. Sec. 18.35.306(c) requires the department to furnish signs to any person who requests them. If the intent is that the type of sign provided is an electronic downloadable copy of a sample sign, the cost would be minimal regardless of the number of signs requested. However, if the intent is for more durable manufactured or printed signage, then additional resources would be needed.

The Division of Public Health's Tobacco Prevention and Control Program would be responsible for developing public education materials regarding the requirements within the law and for educating business owners, our grantees and the public on the specifics of the law. Current grantees and contractors will refocus their efforts to the implementation related to this statewide smoking prohibition, possibly at the expense of current educational efforts. A website along with other resources and materials would educate business owners, the public and law enforcement on the specifics of the law.

This is a zero fiscal note. The department believes these efforts could be accomplished with existing resources in combination with ongoing comprehensive tobacco prevention and control efforts across the state.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version: SB 1
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB001SS-DEC-FSS-03-06-15
Title: REGULATION OF SMOKING
Sponsor: MICCICHE
Requester: Senate Health & Social Services Committee

Department: Department of Environmental Conservation
Appropriation: Environmental Health
Allocation: Food Safety & Sanitation
OMB Component Number: 2343

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016 Appropriation Requested	Included in Governor's FY2016 Request	Out-Year Cost Estimates				
			FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES							
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2015) cost: 0.0 (separate supplemental appropriation required)
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2016) cost: 0.0 (separate capital appropriation required)
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By: Elaine Busse Floyd, Director
Division: Environmental Health
Approved By: Alice Edwards, Deputy Commissioner
Agency: Department of Environmental Conservation

Phone: (907)269-7644
Date: 03/06/2015 09:00 AM
Date: 03/06/15

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

BILL NO. SB 1

Analysis

Analysis/Assumptions:

This legislation transfers the administration and enforcement authority out of the Department of Environmental Conservation (DEC) and into the Department of Health & Social Services (HSS). Current enforcement activities are limited to ensuring that facilities are compliant during routine inspections, so there are no cost savings to DEC by transferring enforcement authority to HSS.

Senate Peter A. Micciche

Alaska State Legislature

SESSION ADDRESS:

Alaska State Capitol, Rm. 514
Juneau, Alaska 99801-1182
Phone: (907) 465-2828
Fax: (907) 465-4779
Toll Free: (800) 964-5733



INTERIM ADDRESS:

145 Main Street Loop, Suit #226
Kenai, Alaska 99611-7771
Phone: (907) 283-7996
Fax: (907) 283-8127
Toll Free: (800) 964-5733

CS for SSSB 1(HSS)

29-LS0003\P

Explanation of Changes

1. P.3, line 24 – **Sec. 18.35.301(e) Prohibition of smoking**
New subsection (e) permits an enclosed smoking area at Alaska International Airport System airports for international passengers who are in-transit and restricted by federal law from leaving the airport and establishes ventilation requirements.
2. P.4, line 5 – **Sec. 18.35.301(f)(2) Prohibition of smoking**
Provides an additional exemption for a marine vessel – a vessel engaged in commercial or sport chart fishing or is otherwise used as a place of employment. Will cover all workboats.
3. P.4, line 6 – **Sec. 18.35.301 Prohibition of smoking**
Deletes exemption for “private club”.
4. P.4, line 8 – **Sec. 18.35.301(h) Prohibition of smoking**
Deletes [may] and inserts shall. Requires Commissioner to adopt regulations authorizing smoking in a stand-alone shelter.
5. P.5, lines 24-26 – **Sec. 18.35.326(a) Nonretaliation**
Limits applicability of this section to employees, removing reference to ‘applicants’.
6. P.6, line 29 – **Sec. 18.35.346. Citations; fines.**
Deletes all of this section, removing reference to citations and fines from peace officers.

1/25/15 – Notes from meeting on SB #1 –

This bill in prohibition on smoking is imposing a statewide rule...I have to ask myself on making revisions to a bill if it is creating policy and who it is affecting...

There have been about 100 emails that have come in opposing to SB#1 from the railbelt ^{to} over the bill carefully, then brief our senator on what is being brought before the Senate HSS Committee. In this case, Senator Micciche is pushing for an early hearing. I also need to meet with Micciche's staff (the person carrying the bill), and ask all our questions.

Questions regarding SB#1:

1. What is a public place? Define.
2. What is an enclosed area?
3. What does entertainment venue mean?
4. Should the state be telling private businesses how to run their businesses? Is this really needed?
5. What does prohibiting smoking in taxi's have to do with this bill? Taxi's are owned by the private sector.
6. This bill is getting into impacting private businesses and their ownership.
7. We are now telling the retail stores and shopping centers to not smoke in their stores.
8. Local municipalities may have their own smoking laws incorporated in their code books...if they do, then the citizens will follow their laws.
- 9.

Christie Jamieson

From: Alexander, Stephanie O (DOR) <stephanie.alexander@alaska.gov>
Sent: Monday, February 02, 2015 2:16 PM
To: Christie Jamieson
Cc: Burnett, Jerry D (DOR)
Subject: Re: Fwd: Request for License Information

Good afternoon Christie,

For 2014, 153 Shore Base (SB) licenses and 23 Shorebase Cannery (SC) licenses were current/issued.

Please let me know if you have any other questions or need anything else.

Thank you,

Stephanie Alexander

Alaska Department of Revenue
Commissioner's Office
907.465.6829
stephanie.alexander@alaska.gov

From: Christie Jamieson <Christie.Jamieson@akleg.gov>
Date: February 1, 2015 at 4:24:49 PM EST
To: "'jerry.burnett@alaska.gov'" <jerry.burnett@alaska.gov>
Subject: Request for License Information

Good afternoon Mr. Burnett: Our office would like information pertaining to licenses under AS 43.75. Can you give us information as to how many licenses are shore-based businesses please? This pertains to SSSB 1, an act prohibiting smoking in certain places.

If we can get that number on total licenses as soon as possible, we would appreciate it.

Thank you, Christie

Christie Jamieson, Committee Aide
Senate Health & Social Services (HSS)
Senator Bert Stedman, District R
Ph: 907-465-3712 (direct); 907-465-3873 (main)
Christie.Jamieson@akleg.gov

Christie Jamieson

From: Fowler, Micaela R (CED) <micaela.fowler@alaska.gov>
Sent: Tuesday, January 27, 2015 5:29 PM
To: Christie Jamieson
Subject: RE: licensing count

As we discussed:

405 Beverage Dispensary Licenses (this means an establishment that can serve a full bar)
218 beverage dispensary tourism/seasonal/tourism seasonal
1 beverage dispensary community
49 duplicate licenses (one establishment that has multiple bars must hold multiple licenses)

~~X~~ \$ = ?

Best,

Micaela Fowler
Legislative Liaison
Office of the Commissioner
Department of Commerce, Community, and Economic Development
9th Floor | State Office Building, Juneau, AK 99811
☎: 907.465.2503(w)/907.209.3070(c) | 📠: 907.465.5442
✉: micaela.fowler@alaska.gov

From: Christie Jamieson [mailto:Christie.Jamieson@akleg.gov]
Sent: Tuesday, January 27, 2015 4:37 PM
To: Fowler, Micaela R (CED); Mungle, Jeanne K (CED)
Subject: licensing count
Importance: High

Good afternoon Micaela: I just left you a phone message this afternoon around 4:34 pm. Our office requests a total count of bar licensed within the State of Alaska.

If this would be possible to receive no later than tomorrow, January 28th, it would be most appreciated.

Thank you, Christie

Christie Jamieson, Committee Aide
Senate Health & Social Services (HSS)
Senator Bert Stedman, District R
Ph: 907-465-3712 (direct); 907-465-3873 (main)
Christie.Jamieson@akleg.gov

Christie Jamieson

From: Christie Jamieson
Sent: Sunday, February 01, 2015 11:29 AM
To: LAA Legal
Subject: SSSB 1

Good morning~ Can the drafter for SSSB 1 please tell me the purpose of the new verbiage found on Page 3, lines 27-30?

Thank you for any information you can provide as soon as it is possible.

Christie

Christie Jamieson, Committee Aide
Senate Health & Social Services (HSS)
Senator Bert Stedman, District R
Ph: 907-465-3712 (direct); 907-465-3873 (main)
Christie.Jamieson@akleg.gov

2/2/15

Mary Ellen Juffry from legal services will send a note to the sponsor of the bill; the sponsor can explain the purpose, not the legal services.

2/2/15

Hilary from legal services called & said they can tell me what it means, but cannot tell me "why" for the change.
"All places prohibited except those two places!"

**DCCED 2013 Certified Municipal Populations
for FY2015 Programs**

DCCED 2014
DRAFT
Certified
Population

Municipality	Incorporation Type	Population
Adak	2nd Class City	247
Akhiok	2nd Class City	81
Akiak	2nd Class City	389
Akutan	2nd Class City	1,052
Alakanuk	2nd Class City	730
Aleknagik	2nd Class City	197
Aleutians East Borough	2nd Class Borough	3,070
Allakaket	2nd Class City	111
Ambler	2nd Class City	274
Anaktuvuk Pass	2nd Class City	324
Anchorage	Unified Home Rule Municipality	300,549
Anderson	2nd Class City	209
Angoon	2nd Class City	416
Aniak	2nd Class City	533
Anvik	2nd Class City	79
Atka	2nd Class City	70
Atkasuk	2nd Class City	229
Barrow	1st Class City	4,469
Bethel	2nd Class City	6,241
Bettles	2nd Class City	13
Brevig Mission	2nd Class City	411
Bristol Bay Borough	2nd Class Borough	942
Buckland	2nd Class City	482
Chefornak	2nd Class City	420
Chevak	2nd Class City	989
Chignik	2nd Class City	96
Chuathbaluk	2nd Class City	134
Clark's Point	2nd Class City	48
Coffman Cove	2nd Class City	174
Cold Bay	2nd Class City	89
Cordova	Home Rule City	2,286
Craig	1st Class City	1,198
Deering	2nd Class City	152
Delta Junction	2nd Class City	1,089
Denali Borough	Home Rule Borough	1,785
Dillingham	1st Class City	2,431
Diomedede	2nd Class City	111
Eagle	2nd Class City	81
Edna Bay	2nd Class City	46
Eek	2nd Class City	349
Egegik	2nd Class City	106
Ekwok	2nd Class City	119
Elim	2nd Class City	350

**DCCED 2013 Certified Municipal Populations
for FY2015 Programs**

**DCCED 2014
DRAFT
Certified
Population**

Municipality	Incorporation Type	Population
Emmonak	2nd Class City	841
Fairbanks	Home Rule City	31,721
Fairbanks North Star Borough	2nd Class Borough	97,972
False Pass	2nd Class City	34
Fort Yukon	2nd Class City	576
Galena	1st Class City	449
Gambell	2nd Class City	713
Golovin	2nd Class City	171
Goodnews Bay	2nd Class City	259
Grayling	2nd Class City	191
Gustavus	2nd Class City	516
Haines Borough	Home Rule Borough	2,537
Holy Cross	2nd Class City	177
Homer	1st Class City	5,099
Hoonah	1st Class City	787
Hooper Bay	2nd Class City	1,178
Houston	2nd Class City	1,965
Hughes	2nd Class City	86
Huslia	2nd Class City	338
Hydaburg	1st Class City	405
Juneau	Unified Home Rule Municipality	33,026
Kachemak	2nd Class City	460
Kake	1st Class City	626
Kaktovik	2nd Class City	251
Kaltag	2nd Class City	182
Kasaan	2nd Class City	75
Kenai	Home Rule City	7,167
Kenai Peninsula Borough	2nd Class Borough	57,212
Ketchikan	Home Rule City	8,314
Ketchikan Gateway Borough	2nd Class Borough	13,825
Kiana	2nd Class City	403
King Cove	1st Class City	905
Kivalina	2nd Class City	411
Klawock	1st Class City	802
Kobuk	2nd Class City	152
Kodiak	Home Rule City	6,329
Kodiak Island Borough	2nd Class Borough	13,797
Kotlik	2nd Class City	653
Kotzebue	2nd Class City	3,153
Koyuk	2nd Class City	321
Koyukuk	2nd Class City	92
Kupreanof	2nd Class City	25
Kwethluk	2nd Class City	800

**DCCED 2013 Certified Municipal Populations
for FY2015 Programs**

**DCCED 2014
DRAFT
Certified
Population**

Municipality	Incorporation Type	Population
Lake & Peninsula Borough	Home Rule Borough	1,672
Larsen Bay	2nd Class City	71
Lower Kalskag	2nd Class City	281
Manokotak	2nd Class City	500
Marshall	2nd Class City	444
Matanuska-Susitna Borough	2nd Class Borough	98,063
McGrath	2nd Class City	315
Mekoryuk	2nd Class City	210
Mountain Village	2nd Class City	1,480
Napakiak	2nd Class City	857
Napaskiak	2nd Class City	387
Nenana	Home Rule City	451
New Stuyahok	2nd Class City	396
Newhalen	2nd Class City	499
Nightmute	2nd Class City	207
Nikolai	2nd Class City	274
Nome	1st Class City	83
Nondalton	2nd Class City	3,721
Noorvik	2nd Class City	164
North Pole	Home Rule City	639
North Slope Borough	Home Rule Borough	2,198
Northwest Arctic Borough	Home Rule Borough	7,774
Nuiqsut	2nd Class City	444
Nulato	2nd Class City	246
Nunam Iqua	2nd Class City	181
Nunapitchuk	2nd Class City	563
Old Harbor	2nd Class City	213
Ouzinkie	2nd Class City	171
Palmer	Home Rule City	6,053
Pelican	1st Class City	75
Petersburg Borough	Home Rule Borough	3,209
Pilot Point	2nd Class City	78
Pilot Station	2nd Class City	634
Platinum	2nd Class City	60
Point Hope	2nd Class City	651
Port Alexander	2nd Class City	45
Port Heiden	2nd Class City	114
Port Lions	2nd Class City	176
Quinhagak	2nd Class City	724
Ruby	2nd Class City	186
Russian Mission	2nd Class City	325
Saint George	2nd Class City	92
Saint Mary's	1st Class City	550

**DCCED 2013 Certified Municipal Populations
for FY2015 Programs**

**DCCED 2014
DRAFT
Certified
Population**

Municipality	Incorporation Type	Population
Saint Michael	2nd Class City	418
Saint Paul	2nd Class City	436
Sand Point	1st Class City	946
Savoonga	2nd Class City	718
Saxman	2nd Class City	419
Scammon Bay	2nd Class City	528
Selawik	2nd Class City	876
Seldovia	1st Class City	233
Seward	Home Rule City	2,768
Shageluk	2nd Class City	79
Shaktoolik	2nd Class City	282
Shishmaref	2nd Class City	607
Shungnak	2nd Class City	308
Sitka	Unified Home Rule Municipality	9,061
Skagway	1st Class Borough	1,031
Soldotna	1st Class City	4,311
Stebbins	2nd Class City	608
Tanana	1st Class City	229
Teller	2nd Class City	256
Tenakee Springs	2nd Class City	128
Thorne Bay	2nd Class City	530
Togiak	2nd Class City	876
Toksook Bay	2nd Class City	623
Unalakleet	2nd Class City	744
Unalaska	1st Class City	4,689
Upper Kalskag	2nd Class City	231
Valdez	Home Rule City	4,032
Wainwright	2nd Class City	553
Wales	2nd Class City	146
Wasilla	1st Class City	8,275
White Mountain	2nd Class City	203
Whittier	2nd Class City	234
Wrangell	Unified Home Rule Municipality	2,406
Yakutat	Home Rule Borough	631

Kenai Peninsula Borough, Alaska, Code of Ordinances >> Title 10 - HEALTH AND SAFETY >> CHAPTER 10.08. PROHIBITION OF SMOKING >>

CHAPTER 10.08. PROHIBITION OF SMOKING

10.08.010. Smoking prohibited.

10.08.020. No smoking signs posted.

10.08.010. Smoking prohibited.

Smoking is prohibited in the assembly room of the Kenai Peninsula Borough at any time that the assembly is in session at a public meeting.

(Ord. No. 80-67, § 1(part), 1981)

10.08.020. No smoking signs posted.

The mayor shall cause notice to be posted and maintained at the assembly meeting room.

(Ord. No. 80-67, § 1(part), 1981)

Kelehitam Gateway Borough

10.15.080 Restricted areas. [SHARE](#)

- (a) No person shall enter an area that is posted as a restricted area closed to the public (except as may be permitted by the posting), without the written permission of the director of transportation services.
- (b) No person shall enter upon the runways, taxiways, apron, or into hangars, except:
- (1) Persons assigned to duties in those areas;
 - (2) Authorized representatives of the borough;
 - (3) Persons authorized by the director of transportation services; and
 - (4) Passengers under appropriate supervision entering on the apron area for the purpose of embarking or disembarking from an aircraft.
- (c) No person shall utilize the jetway as a **smoking**, promenade or view area. [Ord. No. 909, §6, 6-21-93; Ord. No. 300, §1, 5-1-78. Code 1974 §15.12.040.]

10.15.140 Sanitation. [SHARE](#)

- (a) **Vehicles.** No person upon the air terminal shall operate any type of vehicle for the disposal of garbage, ashes, or other waste material at the air terminal in any manner contrary to the directions of the airport manager with respect to timing, routing, speed, and public safety. No person upon the air terminal may operate any such vehicle, however, if such vehicle is in a condition which permits the escape therefrom in any manner of garbage, trash or litter in any form.
- (b) **Damage to Premises.** No person upon the air terminal shall extinguish any cigarette, cigar, pipe, or other **smoking** material upon the carpeted floors within the terminal building.

(c) Animal Damage. No person upon the air terminal shall permit any animal to defecate, urinate or otherwise create an unsanitary condition within the terminal building or adjacent grounds.

(d) Trash Containers. No person upon the air terminal, doing business thereupon, shall keep uncovered trash containers on the sidewalks, roadways or in public areas. [Ord. No. 300, §1, 5-1-78. Code 1974 §15.12.070.]

(e) Fire/EMS fees shall be as follows:

	Responsible Party*	Fees
(1) Fire Prevention.		
a. Careless regard for open burning (reference IFC Section 307).	BO	\$50
b. Careless regard for open flames (reference IFC Section 308).	RP	\$50
c. Careless smoking materials (reference IFC Section 310).	RP	\$50
d. Failure to control or report a dangerous fire (reference AS <u>11.46.450</u>).	RP	\$100
e. Nuisance alarms, included are automatic alarms (more than three (3) false alarms per month).	BO	\$500



Chapter 18.30
SMOKING

Sections:

- 18.30.010 Causing fire by careless conduct deemed misdemeanor.**
- 18.30.020 Definitions.**
- 18.30.030 Sleeping rooms – Posting notice required.**
- 18.30.040 Violations a misdemeanor.**

18.30.010 Causing fire by careless conduct deemed misdemeanor.

Whoever, by reason of careless or willful conduct in **smoking** or in the use of lighters or matches, sets fire to any bedding, carpet, curtains, drapes, furniture, household equipment or other goods or chattels or to any building is guilty of a misdemeanor. This chapter shall apply only to those places for which notice is required to be posted as set out in KMC 18.30.030. (Ord. 815 § 1, 1974)

18.30.020 Definitions.

“Careless conduct in **smoking**” includes, as used in this chapter, any of the following acts of commission or omission: permitting a spark or sparks from a lighted cigar, cigarette or pipe to fall upon or into anything flammable; placing any lighted **smoking** material on or about or in close proximity to any flammable article or articles; falling asleep with lighted **smoking** material of any kind at hand; throwing lighted **smoking** material out of a window or into an elevator pit or elsewhere than in a proper receptacle therefor; dropping a lighted cigarette or cigar or part thereof into a mail chute in any building, failure to extinguish the fire of a match or any kind of lighter device after use of the same; failure to destroy the lighted part of a cigar or cigarette when disposing of it; failure to destroy the burning smidgen or smidgens of tobacco from a pipe when cleaning or unloading a pipe. (Ord. 815 § 1, 1974)

18.30.030 Sleeping rooms – Posting notice required.

A plainly printed notice of the provisions of this chapter shall be posted in a conspicuous place in every sleeping room of every hotel, motel, rooming house, tourist home, tourist court or other place renting rooms for the accommodation of the public. Such notice shall be posted by the owner, proprietor, lessee or managing agent of such establishment. (Ord. 815 § 1, 1974)

18.30.040 Violations a misdemeanor.

Any person, firm, copartnership or corporation violating any of the provisions of this chapter is guilty of a misdemeanor and upon conviction thereof shall be punished according to KMC 1.02.030. (Ord. 815 § 1, 1974)

Mobile Version

Mat-Su Borough

2.12.113 SMOKING IN MEETING ROOM PROHIBITED.

(A) Smoking is prohibited in the assembly meeting room during meetings of the assembly, planning commission, platting board, board of ethics, or any other committees, commission or boards established by the assembly or established pursuant to state law.

(B) Every person violating this section shall be punishable by a fine not to exceed \$100.

(Ord. 94-001AM, § 3 (part), 1994; Ord. 92-139AM, § 14, 1992; Ord. 84-34, § 2 (part), 1984)

- Palmer Pool
- Classes
- Palmer Pool Schedule
- Pool Rules
- Pool Fees
- Pool Forms
- Recreational Services
- Facilities
- Borough Gym
- Government Peak Chalet
- Palmer Pool
- Brett Memorial Ice Arena
- Parks
- Trails
- Wasilla Pool
- Community Libraries
- Community Enrichment
- Departments
- Quick Access
- FAQ
- Contacts

Pool Rules

- Anyone under 9 must have a responsible individual of at least 13 yrs old in the water with them at all times.
- Hot tub is for ages 18 and up.
- The services of the Hot Tub and diving boards cannot be guaranteed.

POOL FACILITY RULES

1. Payment is required before swimming.
2. No alcohol or drugs are allowed on premises. Any and all persons exhibiting such behavior are required to leave without a refund, or will be denied admittance and be reported to the proper authorities.
3. Persons with open wounds, sores, or any communicable disease may not enter the pool.
4. Toys and equipment brought to the pool need to be approved by the lifeguard prior to its use.
5. Running or sliding is not allowed.
6. Smoking and chewing tobacco is not allowed in the facility. No smoking within 50 feet of the front door.
7. Profanity is prohibited.
8. All patrons are subject to lifeguard's interpretation of the rules.

SWIMMING RULES

1. Only regulation swim wear is allowed.
2. Swim pants are required at this facility for patrons that are not toilet trained.
3. All persons must shower thoroughly before entering the pool.
4. A Lifeguard MUST be on duty before entering the pool.
5. Listen to the lifeguard. Failure to do so will result in expulsion from the facility without refund.
6. All children under nine years of age must be accompanied in the water, within arms reach, of a responsible individual at least thirteen years of age at all times.
7. A parent or guardian must be within an arms reach of any child using a flotation device at all times.
8. Persons unable to pass a swimming proficiency test must be accompanied in deep water by a parent or guardian at all times.
9. Riding or sitting on another person's shoulders is not allowed.
10. Hanging from the diving board or slides is not allowed.
11. Rough play is not allowed. This includes dunking, splashing, shoving, pushing, harassment, or flirtatious behavior.
12. Diving is only allowed in the diving well.

Please take note of the additional rules posted at the pool on use of the Locker Rooms, Hot Tub, Diving Well, Diving Board, Slide, and Alaska DEC Public Swimming Pool and Spa Hygiene Requirements when you visit the facility.

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 For questions or comments about the Borough,
 or Borough Services, call (907)861-7801

For website issues contact the IT Helpdesk

Matanuska-Susitna Borough

350 E. Dahlia Ave.

Palmer, Ak 99645

Hours of Operation: 8:00 AM - 5:00 PM

16.65.035 Posting of signs.

(AO No. 2000-91(S), § 1, 12-31-00)

16.65.040 Non-retaliation.

(AO No. 2000-91(S), § 1, 12-31-00)

16.65.045 Violations and penalties.

(AO No. 2000-91(S), § 1, 12-31-00)

16.65.050 Public education.

(AO No. 2000-91(S), § 1, 12-31-00)

16.65.055 Other applicable laws.

(AO No. 2000-91(S), § 1, 12-31-00)

16.65.001 - Title and purpose.



- A. This chapter shall be known as "The Secondhand Smoke Control Ordinance."
- B. The purposes of this chapter are to:
 - 1. Protect the public health, safety and general welfare by eliminating exposure to secondhand smoke in public places, places of employment, and places where child care is offered.
 - 2. Acknowledge the need of nonsmokers, especially children, to breathe smoke-free air, recognizing the danger to public health which secondhand smoke causes.
 - 3. Recognize that the need to breathe air free of the disease-causing toxins in secondhand smoke should have priority over the desire and convenience of smoking in public places, places of employment and childcare.
 - 4. Recognize the right and benefit to municipal residents and visitors to be free from unwelcome secondhand smoke in public places and places of employment.

(AO No. 2006-86(S), § 1, 7-1-07)

16.65.005 - Definitions.



In this chapter:

Business means any natural person or legal entity (such as, without limitation, a business-for-profit corporation, nonprofit corporation, partnership, limited liability company or trust) that undertakes to provide goods or services to the public or to persons who are members of a private group that is eligible to obtain the goods or services, regardless of whether the business exists or is conducted for the purpose of making a profit.

Employee means any person who is employed by any business for compensation or works for a business as a volunteer without compensation.

Enclosed area means all interior space within a building or other facility between a floor and a ceiling that is enclosed on all sides by walls, windows, or doors extending from the floor to the ceiling.

Place of employment means an area under the control of an employer, that employees may frequent during the course of employment, including, but not limited to, work areas, employee lounges, restrooms, conference rooms, classrooms, cafeterias, hallways, and vehicles.

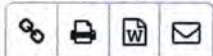
Private club means an organization (whether a legal entity or an informal association of persons) that is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes at all times, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain, and has been granted an exemption from the payment of federal income tax as a club under 26 U.S.C. Section 501.

Public place means any enclosed area to which the public is invited or into which the public is permitted, including but not limited to, educational facilities, entertainment, food and beverage service, offices, retail stores, and transportation facilities and vehicles accessible to the general public.

Smoking means inhaling, exhaling, burning or carrying any lighted tobacco product.

(AO No. 2006-86(S), § 1, 7-1-07)

16.65.010 - Prohibition of smoking.

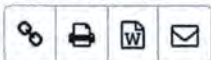


- A. Smoking is prohibited at the following places:
1. All enclosed public places within the Municipality of Anchorage, including, but not limited to, all businesses visited by the public, transportation facilities, waiting areas of public transit depots, buses, taxicabs, sports arenas, and other enclosed areas open to the public.
 2. All enclosed areas that are places of employment.
 3. All enclosed areas on properties owned or controlled by the Municipality of Anchorage, including the Anchorage School District, and including every room, chamber, place of meeting or public assembly under the control of any municipal board, council, commission, committee, or municipal authority.
 4. All areas within 20 feet of each entrance to enclosed areas on properties owned or controlled by the Municipality of Anchorage including the Anchorage School District, and including every room, chamber, place of meeting or public assembly under the control of any municipal board, council, commission, committee, or municipal authority.

5. All areas within 50 feet of each entrance to a hospital or medical clinic.
 6. All enclosed areas where a person provides child care on a fee for service basis.
 7. Seating areas of outdoor arenas, stadiums, and amphitheaters.
 8. All areas within five feet of the entrance to a premises licensed under state law to sell alcoholic beverages for consumption on the premises. When a licensed premises includes an outdoor area such as a patio or deck, the minimum reasonable distance under subsection 16.65.020 shall be five feet.
- B. Smoking is prohibited on any property not listed in subsection A of this section, with or without enclosure, if the owner, operator, manager, or other person having control of the property chooses to prohibit smoking.

(AO No. 2006-86(S), § 1, 7-1-07)

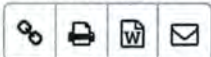
16.65.020 - Reasonable distance.



To ensure that smoke does not enter any enclosed area where smoking is prohibited through entrances, windows, ventilation systems or any other means, smoking shall occur only at a reasonable distance outside any enclosed public place or place of employment where smoking is prohibited. Unless otherwise stated under this chapter, or increased by the owner, operator, manager, or other person having control of the property, the minimum reasonable distance is 20 feet.

(AO No. 2006-86(S), § 1, 7-1-07)

16.65.030 - Exceptions; areas where smoking is not prohibited.



- A. Smoking is not prohibited in the following places:
1. A maximum of 25 percent of hotel and motel sleeping rooms rented to guests designated as smoking rooms if the hotel or motel designates at least 75 percent of its guest rooms as permanently nonsmoking.
 2. Private clubs that are not licensed for the sale of alcoholic beverages under state law and are not places of employment; however, if an enclosed area is being used for a purpose, event, or function to which the general public is invited, then smoking is prohibited.
 3. Outdoor areas of places of employment except the outdoor areas identified under AMC 16.65.010
 4. Private residences, except enclosed areas during the time child care is provided on a fee for service basis. Individuals providing day care on a fee for service basis shall not expose children to secondhand smoke.
- B. Nothing in this chapter shall be construed or interpreted to provide any person a right to smoke on premises or property owned, leased or under the legal control of another.

(AO No. 2006-86(S), § 1, 7-1-07)

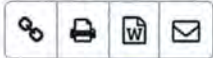
16.65.040 - Obligations of property owners and employers.



- A. "No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly, sufficiently, and conspicuously posted by the owner, operator, manager, or other person having control of a building or other area where smoking is prohibited by this chapter.
- B. Every public building owned or controlled by the Municipality of Anchorage shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited within 20 feet of the entrance to the building and within the building.
- C. Every hospital and health care facility to which this chapter applies shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited within 50 feet of the entrance to the building and within the building.
- D. All ashtrays and other smoking accessories offered for on-premises use shall be removed by the building owner, operator, manager, or other person having control of a building or other area where smoking is prohibited by this chapter.
- E. It shall be the responsibility of employers to provide a smoke-free workplace, and neither an employer nor person having legal control of the premises may permit an employee, customer, or other person to smoke inside enclosed areas that are places of employment.

(AO No. 2006-86(S), § 1, 7-1-07)

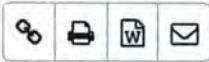
16.65.050 - Violations and penalties.



- A. It shall be unlawful for any person to smoke in any area where smoking is prohibited and for any person who owns, manages, operates, or otherwise controls the use of premises subject to this chapter to fail to comply with the provisions of this chapter.
- B. A person who smokes in an area where smoking is prohibited by the provisions of this chapter shall be subject to a fine of \$100.00.
- C. A person, owner, manager, employer, or operator who controls an enclosed area or place of employment or child care in violation of this chapter shall be subject to the following penalties:
 - 1. A fine not exceeding \$100.00 for a first violation;
 - 2. A fine not exceeding \$200.00 for a second violation; and
 - 3. A fine not exceeding \$500.00 for each additional violation.
- D. Any person aggrieved by a violation or threatened violation of this chapter may bring a civil action under AMC 1.45.010.B to enjoin the violation and to obtain the relief described in that section.

(AO No. 2006-86(S), § 1, 7-1-07)

16.65.060 - Public education.



- A. The Department of Health and Human Services shall engage in a continuing program of education about the public health purposes, benefits and requirements of this chapter for municipal residents and visitors and to guide owners, managers, employers, and operators concerning the requirements of this chapter.
- B. The continuing education program may include publication of a brochure for affected businesses and individuals explaining the provisions of this chapter, the requirement to post "No Smoking" signage, the obligation to provide a smoke-free work place, and other actions consistent with AMC 16.65.040, to property owners, managers, employers, and operators.

(AO No. 2006-86(S), § 1, 7-1-07)

16.65.070 - Non-retaliation and non-discrimination.



No person or employer shall discharge, refuse to hire, or in any other manner retaliate or discriminate against any employee, applicant for employment, or customer because such employee, applicant for employment or customer insists upon compliance with any requirement of this chapter.

(AO No. 2006-86(S), § 1, 7-1-07)

- 18 C Sec. 78-391. - Parking prohibited over 24 hours. | **Code of Ordinances**

- 19 C Sec. 8.5. - When contracts and expenditures prohibited. | **Code of Ordinances**

- 20 C Sec. 78-578. - Driving motorized vehicles in certain areas prohibited. | **Code of Ordinances**

- 21 C Sec. 2-657. - Acceptance of certain "pass through" grants prohibited. | **Code of Ordinances**

- 22 C Sec. 34-123. - Other applicable laws. | **Code of Ordinances**

- 23 C Sec. 26-77. - Prohibited acts. | **Code of Ordinances**

- 24 C Sec. 66-3. - Keeping of prohibited materials. | **Code of Ordinances**

- 25 C Sec. 78-393. - Application of article. | **Code of Ordinances**

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ARTICLE V. - TOBACCO SMOKE



Sec. 34-114. - Definitions.



In this article:

Attached bar means a bar area of a restaurant.

Bar means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is ten percent or less of the total sales. This includes, but is not limited to, taverns, nightclubs, cocktail lounges, and cabarets, and where tobacco smoke cannot filter into any other area where smoking is prohibited through a passageway, ventilation system, or other means.

Business means any sole proprietorship, partnership, joint venture, corporation or other business entity formed for profit-making purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural or other professional services are delivered.

Employee means any person who is employed by any employer in the consideration for direct or indirect monetary wages or profit, and any person who volunteers his or her services for a nonprofit entity.

Employer means any person or entity, partnership, corporation, including a municipal corporation, or nonprofit entity, who employs the services of one or more individual persons.

Enclosed area means all space between a floor and ceiling which is enclosed on all sides by solid walls or windows (exclusive of door or passage ways) which extend from the floor to the ceiling.

Health care facilities means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, dentists, and all specialists within these professions. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities.

Place of employment means any enclosed area or a vehicle under the control of a public or private employer which employees normally frequent during the course of employment, including, but not limited to, work areas, offices, employee lounges and restrooms, conference and classrooms, employee cafeterias and hallways; a private residence is not a "place of employment" unless it is used as a childcare, adult care or health care facility.

Public place means any enclosed area to which the public is invited or in which the public is permitted, including but not limited to, banks, educational facilities, health facilities, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, theaters and waiting rooms. A private residence is not a "public place" unless it is used as a child care, adult care, or health care facility.

Restaurant means any coffee shop, cafeteria, sandwich stand, private and public school cafeteria, and any other eating establishment which gives or offers for sale food to the public, guests, or employees, as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering facilities.

Retail tobacco store means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

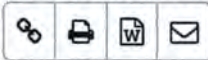
Service line means any indoor line at which one or more persons are waiting for or receiving service of any kind, whether or not service involves the exchange of money.

Smoking means inhaling, exhaling, burning, or carrying any lighted tobacco product including, but not limited to, cigars, cigarettes, or pipes.

Sports arena means sports pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller rinks, curling rinks, ice rinks, bowling alleys and other similar places where members of the general public assemble either to engage in physical exercise, participate in athletic competition, or witness sports events.

(Ord. No. 5574, § 1, 7-12-2004)

Sec. 34-115. - Application of article to municipal facilities.



All enclosed facilities owned by the City of Fairbanks shall be subject to this chapter.

(Ord. No. 5574, § 1, 7-12-2004)

Sec. 34-116. - Prohibition of smoking in public places.



- (a) Smoking is prohibited in all enclosed public places within the City of Fairbanks including, but not limited to, the following places:
- (1) Elevators.
 - (2) Restrooms, lobbies, reception areas, hallways, and any other common-use areas.
 - (3) Buses, taxicabs, and other means of public transit operated in the city, and ticket, boarding, and waiting areas of public transit depots.
 - (4) Service lines.
 - (5) Retail stores.
 - (6) All areas available to and customarily used by the general public in all businesses and nonprofit entities patronized by the public, including but not limited to, attorneys' offices, engineering, accounting and other offices, banks, laundromats, hotels, and motels.
 - (7) Public areas of aquariums, galleries, libraries and museums.
 - (8) Any facility which is primarily used for exhibiting any motion picture, stage, drama, lecture, musical recital or other similar performance.
 - (9) Sports arenas, arcades, pull-tab parlors located in an enclosed shopping mall, convention halls, pool halls and other places of entertainment.
 - (10) Every room, chamber, place of meeting or public assembly, including school buildings under the control of any board, council, commission, committee, including joint committees, during such time as a public meeting is in progress, to the extent such place is subject to the jurisdiction of the City of Fairbanks.
 - (11)

Waiting rooms, hallways, wards, and semiprivate rooms of health facilities, including, but not limited to, hospitals, clinics, physical therapy facilities, doctors' offices, and dentists' offices.

- (12) Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities.
- (13) Polling places.
- (b) Notwithstanding any other provision of this chapter, any owner, operator, manager or other person who controls any establishment or facility may declare that entire establishment or facility as a nonsmoking establishment or facility.

(Ord. No. 5574, § 1, 7-12-2004)

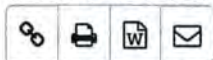
Sec. 34-117. - Same—In places of employment.



- (a) It shall be the responsibility of employers to provide a smoke-free workplace for all employees.
- (b) By the effective date of this chapter, each employer having an enclosed place of employment located within the City of Fairbanks shall adopt, implement, make known and maintain a written smoking policy which shall contain the following requirements: Smoking shall be prohibited in all enclosed facilities within a place of employment without exception. This includes common work areas, auditoriums, classrooms, conference and meeting rooms, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, and all other enclosed facilities.
- (c) The smoking policy shall be communicated to all employees within three weeks of its adoption and to all new employees upon their hire.

(Ord. No. 5574, § 1, 7-12-2004)

Sec. 34-118. - Smoke free distance.



Smoking is prohibited within a distance of ten feet from entrances, doorways, windows, and/or air ventilation systems of an enclosed area where smoking is prohibited, so as to ensure that tobacco smoke does not enter the area where smoking is prohibited.

(Ord. No. 5574, § 1, 7-12-2004)

Sec. 34-119. - Where smoking not regulated.



- (a) Notwithstanding any other provision of this chapter to the contrary, the following areas shall not be subject to the smoking restrictions of this article:
 - (1) Private residences, except those used as a child care, adult care, or health care facility, private offices and private vehicles.

- (2) 30 rooms or 20 percent of hotel and motel rooms rented to guests, whichever is larger.
 - (3) Retail tobacco stores; provided that smoke from these places does not infiltrate into areas where smoking is prohibited under the provisions of this article.
 - (4) Bars, restaurants, bingo halls and pull tab parlors unless located in an enclosed shopping mall.
 - (5) Any separate building which is totally enclosed and set aside for smokers by an employer which has a separate entrance which is at least ten feet from entrances, doorways, windows, and/or air ventilation systems of any enclosed area where smoking is prohibited, provided that no employee is required to enter or pass through the structure to perform any required work function including but not limited to attendance at meetings, retrieval or storage of materials and information, or communications with any person.
- (b) Notwithstanding any other provision of this section, any owner, operator, manager or other person who controls any establishment described in this section may declare that entire establishment as a nonsmoking establishment by permanently affixing a sign thereon.

(Ord. No. 5574, § 1, 7-12-2004)

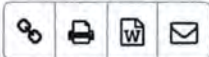
Sec. 34-120. - Posting of signs.



- (a) Every public place where smoking is permitted by this article shall have posted at every entrance a conspicuous sign clearly stating that smoking is permitted.

(Ord. No. 5574, § 1, 7-12-2004)

Sec. 34-121. - Non-retaliation.



No person or employer shall discharge, refuse to hire or in any manner retaliate against any employee, applicant for employment, or customer because such employee, applicant, or customer exercises any right to a smoke-free environment afforded by this article.

(Ord. No. 5574, § 1, 7-12-2004)

Sec. 34-122. - Violations and penalties.



- (a) It shall be unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this article.
- (b) Violation of subsection (a) of this section is an infraction punishable by:
A fine of \$100.00.

Disposition of an offense under this section may be without court appearance pursuant to AS 29.25.070 and the Alaska Minor Offense Rules upon payment of the fine amount listed above and payment of the state surcharge required by AS 12.55.039 and AS 29.25.074.

- (c) Each day on which a violation of this article occurs shall be considered a separate and distinct violation.

(Ord. No. 5574, § 1, 7-12-2004; Ord. No. 5956, § 1, 9-13-2014)

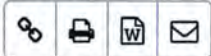
Sec. 34-123. - Other applicable laws.



This article shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

(Ord. No. 5574, § 1, 7-12-2004)

Secs. 34-124—34-200. - Reserved.



Editor's note— Serial No. 2008-05(b), § 2, adopted March 10, 2008, effective April 10, 2008, amended Ch. 36.60, in its entirety, to read as herein set out. Prior to inclusion of said ordinance, Ch. 36.60 pertained to smoking in public places. See also the Code Comparative Table.

36.60.005 - Definitions.



In this chapter:

Bar means a business, other than a restaurant, licensed by the State of Alaska to sell alcoholic beverages.

Business means any sole proprietorship, partnership, joint venture, corporation, nonprofit corporation, or other business entity.

Employee means any person who is employed by any employer for compensation or profit or who works for an employer as a volunteer without compensation.

Employer means any person, partnership, corporation, including a municipal corporation, or nonprofit entity, but not including the state or federal government, who employs the services of one or more individual persons.

Enclosed area means all interior space within a vehicle, building or other facility between a floor and a ceiling that is enclosed on all sides by temporary or permanent walls, windows, or doors extending from the floor to the ceiling.

Enclosed public place means an enclosed area or portion thereof to which the public is invited or into which the public is permitted, including:

- (1) Retail stores, shops, banks, laundromats, garages, salons, or any other business selling goods or services;
- (2) The waiting rooms and offices of businesses providing legal, medical, dental, engineering, accounting, or other professional services;
- (3) Hotels, motels, boardinghouses, hostels, and bed and breakfast facilities, provided that the owner may designate by a permanently affixed sign a maximum of 25 percent of the rooms as exempt from this definition;
- (4) Universities, colleges, schools, and commercial training facilities;
- (5) Arcades, bingo halls, pull-tab parlors, and other places of entertainment;
- (6) Health clubs, dance studios, aerobics clubs, and other exercise facilities;
- (7) Hospitals, clinics, physical therapy facilities;
- (8) Any facility which is primarily used for exhibiting any motion picture, stage, drama, lecture, musical recital, or similar performance;
- (9) Public areas of fish hatcheries, galleries, libraries and museums;
- (10) Polling places;
- (11)

Elevators, restrooms, lobbies, reception areas, waiting rooms, hallways and other common-use areas, including those in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities;

- (12) Restaurants, coffee shops, cafeterias, sandwich stands, private or public schools cafeteria, and any other eating establishment which offers food for sale, and including any kitchen or catering facility in which food is prepared for serving off the premises;
- (13) Sports and exercise facilities, including sports pavilions, gymnasias, health spas, boxing arenas, swimming pools, pool halls, billiard parlors, roller and ice rinks, bowling alleys, and similar places where members of the public assemble to engage in physical exercise, participate in athletic competition, or witness sports events;
- (14) Any line in which two or more persons are waiting for or receiving goods or services of any kind, whether or not in exchange for money;
- (15) Areas used for and during the course of meetings subject to the Alaska Open Meetings Act; and
- (16) Bars, private clubs, and any other enclosed place, where alcoholic beverages are sold, or food is offered for sale.
- (17) Commercial passenger vehicles regulated by the City and Borough under CBJ 20.40

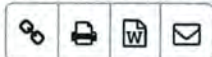
Place of employment means an area or a vehicle under the control of an employer normally used by employees in the course of employment, including work areas, private offices, employee lounges, restrooms, conference rooms, classrooms, cafeterias, elevators, stairways, and hallways.

Private club means an organization, whether incorporated or not, that is the owner, lessee, or occupant of a building or portion thereof used for club purposes, which is operated for a recreational, fraternal, social, patriotic, political, benevolent, athletic, or other purpose.

Smoking means inhaling or exhaling tobacco smoke, or burning or carrying any lighted tobacco product, or the use of any noncombustible product that provides a vapor of liquid nicotine to the user, or relies on vaporization of any liquid or solid nicotine. This term shall include such devices whether they are manufactured as e-cigarettes, e-cigars, e-pipes or under any other product name, but shall not include a tobacco substitute prescribed by a licensed physician or a product that has been approved by the United States Food and Drug Administration for sale as a tobacco use cessation or harm reduction product or for other medical purposes and which is being marketed and sold solely for that approved purpose.

(Serial No. 2008-05(b), § 2, 3-10-2008, eff. 4-10-2008; Serial No. 2010-23(b), § 3, 9-20-2010; Serial No. 2014-34(b), § 2, 6-30-2014, eff. 7-31-2014)

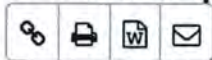
36.60.010 - Smoking prohibited.



- (a) Smoking is prohibited in:
 - (1) Enclosed public places;
 - (2) Enclosed areas that are places of employment;
 - (3) Vehicles and enclosed areas owned by the City and Borough of Juneau, including the Juneau School District;
 - (4) Commercial passenger vehicles regulated by the City and Borough under CBJ 20.40
 - (5) Bus passenger shelters;
 - (6) Private clubs that are licensed by the State of Alaska to sell alcoholic beverages, or that offer food for sale, regardless of the number of employees; and
 - (7) Indoor or outdoor areas designated by "No Smoking" signs meeting the requirements of CBJ 36.60.035
- (b) Notwithstanding any other provision of this chapter, smoking and the use of smokeless tobacco products is prohibited anywhere within the area defined as the "Hospital Tobacco-free Campus."
 - (1) For purposes of this subsection, the "Hospital Tobacco-free Campus" means all buildings and facilities owned or leased by Bartlett Regional Hospital, whether inside or outside the buildings or facilities; the Bartlett House, the Juneau Medical Center, and Wildflower Court, whether inside or outside the buildings or facilities; the vehicle parking areas owned or leased by the hospital; the vehicle parking areas for the Bartlett House, the Juneau Medical Center, and Wildflower Court; and the public streets and public sidewalks adjacent to any of these buildings and facilities; provided, however, the five pavilion areas at Wildflower Court are excluded from the Tobacco-free Campus; all as shown on Exhibit A to Ordinance 2007-20.
 - (2) For purposes of this subsection, use of smokeless tobacco products means use of snuff, chewing tobacco, smokeless pouches, or other forms of loose leaf tobacco.

(Serial No. 2008-05(b), § 2, 3-10-2008, eff. 4-10-2008; Serial No. 2013-04, § 2, 2-11-2013, eff. 3-14-2013)

36.60.020 - Smoking in enclosed areas that are places of employment or commercial passenger vehicles.



- (a) By the effective date of this chapter, any employer subject to this chapter shall adopt and enforce a written policy prohibiting smoking in all enclosed areas that are places of employment and all vehicles owned or operated by that employer and used by those employees.
 - (1) The smoking policy shall be communicated to all employees prior to its adoption.
 - (2) All employers shall supply a written copy of the smoking policy upon request to any current or prospective employee or to an employee of the City and Borough engaged in enforcing this chapter.
- (b) Any person who owns, manages, operates, or otherwise controls any commercial passenger vehicle regulated by the City and Borough under CBJ 20.40 shall adopt and enforce a policy prohibiting smoking in any commercial passenger vehicle owned, managed, operated or otherwise controlled by that person.

(Serial No. 2008-05(b), § 2, 3-10-2008, eff. 4-10-2008; Serial No. 2010-23(b), § 4, 9-20-2010)

36.60.025 - Reasonable distance.



Except as provided in subsection 36.60.030(7), no person may smoke within ten feet of any entrance, open window, or ventilation system intake of any building area within which smoking is prohibited by this chapter; provided, however, no person may smoke or use smokeless tobacco products anywhere within the "Hospital Tobacco-free Campus" as that area is defined in section 36.60.010(b) of this chapter.

(Serial No. 2008-05(b), § 2, 3-10-2008, eff. 4-10-2008)

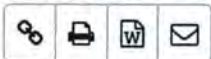
36.60.030 - Exceptions; areas where smoking is not prohibited.



- (a) Smoking is not prohibited in the following places:
- (1) Private residences, including those used as a place of employment, provided this exception does not apply at any time the private residence is open for use as a child care, adult care, or health care facility;
 - (2) Places of employment with a total of four or fewer employees, provided that this exception does not apply to a place of employment that is an enclosed public place or a private club;
 - (3) Private enclosed areas in nursing homes or assisted living facilities;
 - (4) Reserved;
 - (5) Performers smoking as part of a stage performance;
 - (6) Reserved;
 - (7) Outdoor patios, decks, and other outdoor areas used for seating by a bar, restaurant, or other establishment where alcoholic beverages are sold or food is offered for sale, provided that at least two sides of the area are open directly to the outdoors, and provided further that the minimum reasonable distance under section 36.60.025 shall be five feet meaning that no person in these areas may smoke within five feet of any entrance, open window, or ventilation system intake of the building area for the establishment;
 - (8) Federal or state property, or those portions of buildings leased by the federal or state government; and
 - (9) Private property used for residential incarceration under contract to a federal or state correctional agency.
- (b) The owner, operator, or manager of property may by permanently affixing a sign thereon, waive any exception provided in subsection (a) of this section.

(Serial No. 2008-05(b), § 2, 3-10-2008, eff. 4-10-2008)

36.60.035 - Posting of signs.



- (a) Signs prohibiting smoking shall be prominently posted by the owner, operator, manager or other person having control in every place or vehicle where smoking is prohibited by this chapter.
- (b) Every place where smoking is prohibited by this chapter shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.
- (c) The owner, operator, manager or other person having control of any area where smoking is prohibited by this chapter shall remove therefrom all ashtrays and other smoking paraphernalia, except for ashtrays permanently affixed in a vehicle.

(Serial No. 2008-05(b), § 2, 3-10-2008, eff. 4-10-2008; Serial No. 2010-23(b), § 5, 9-20-2010)

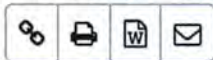
36.60.040 - Non-retaliation.



No person or employer shall discharge, refuse to hire, refuse to serve, or in any manner retaliate against any employee, applicant for employment, or customer because such employee, applicant, or customer exercises any right or seeks any remedy afforded by this chapter.

(Serial No. 2008-05(b), § 2, 3-10-2008, eff. 4-10-2008)

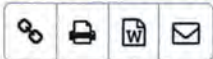
36.60.045 - Violations.



- (a) It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any place or vehicle subject to regulation under this chapter to fail to comply with any of its provisions. Violation of this subsection is an infraction.
- (b) It shall be unlawful for any person to smoke or use a smokeless tobacco product in any place or vehicle where smoking or use of smokeless tobacco products is prohibited by the provisions of this chapter. Violation of this subsection is an infraction.
- (c) In addition to the penalties and remedies available under this Code, the City and Borough or any person aggrieved by a violation or threatened violation of this chapter may bring a civil action to enjoin that violation.

(Serial No. 2008-05(b), § 2, 3-10-2008, eff. 4-10-2008; Serial No. 2010-23(b), § 6, 9-20-2010)

36.60.050 - Other applicable laws.



This chapter shall not be construed to permit smoking where it is otherwise restricted by other applicable laws.

(Serial No. 2008-05(b), § 2, 3-10-2008, eff. 4-10-2008)

18 C 19.38.040 - Objectionable operation prohibited. | **City Code of Ordinances**

19 C 19.36.040 - Objectionable operation prohibited. | **City Code of Ordinances**

20 C 19.32.040 - Objectionable operation prohibited. | **City Code of Ordinances**

21 C 19.22.060 - Objectionable operation prohibited. | **City Code of Ordinances**

22 C 9.32.110 - Nonretaliation; nonwaiver of rights. | **City Code of Ordinances**

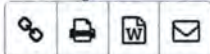
23 C 19.72.020 - Conditions of approval. | **City Code of Ordinances**

24 C 9.24.030 - Restrictions. | **City Code of Ordinances**

25 C 9.24.010 - Definitions. | **City Code of Ordinances**



Chapter 9.32 - SMOKE FREE AIR ACT OF 2010*



Sections:

9.32.010 - Definitions.



The following words, terms and phrases, when used in this title shall have the meanings ascribed to them except where the context clearly indicates a different meaning:

"Bar" means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages.

"Business" means a sole proprietorship, partnership, joint venture, corporation, or other business entity, either for-profit or not-for-profit, including retail establishments where goods or services are sold; professional corporations and other entities where legal, medical, dental, engineering, architectural or other professional services are delivered; and private clubs.

"Common area" means an area inside or outside of a building or facility that is available for use by all members of the public; or employees of a business; or tenants and their guests of multi-unit residential facilities.

"Employee" means a person who is employed by an employer in consideration for direct or indirect monetary wages or profit and a person who volunteers his or her services for a nonprofit entity.

"Employer" means a person, business, partnership, association, corporation, including a municipal corporation, trust, or nonprofit entity that employs the services of one or more individual persons.

"Enclosed area" means all space between a floor and ceiling that is enclosed on all sides by permanent or temporary walls or windows (exclusive of doorways) which extend from the floor to the ceiling.

"Health care facility" means an office or institution providing care or treatment of diseases, whether physical, mental or emotional, or other medical, physiological, or psychological conditions including, but not limited to, hospitals, clinics, nursing homes, long-term care and assisted living facilities, laboratories, and the individual offices within these facilities. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms and wards.

"Non-service area" is an area within a business where employees are not required to provide patrons with any service or goods.

"Place of employment" means an enclosed area under the control of a public or private employer that employees normally frequent during the course of employment, excluding mobile marine vessels. A private residence is not a "place of employment" unless it is used as a child care, adult day care or health care facility.

"Playground" means any park or recreational area designed in part to be used by children that has play or sports equipment installed or that has been designated or landscaped for play or sports activities, or any similar facility located on public or private school grounds or on city grounds.

"Private club" means an organization, whether incorporated or not, which is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes at all times, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent or athletic purpose, and which only sells alcoholic beverages incidental to its operation. The affairs and management of the organization are conducted by a board of directors, executive committee or similar body chosen by the members at an annual meeting. The organization has established bylaws and/or a constitution to govern its activities. The organization has been granted an exemption from the payment of federal income tax as a club under 26 U.S.C. Section 501.

"Public place" means an enclosed area to which the public is invited or in which the public is permitted including, but not limited to, banks, bars, educational facilities, gaming facilities, health care facilities, hotels and motels, laundromats, public transportation vehicles and facilities, taxi cabs, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail and wholesale stores, shopping and office malls, sports arenas, theaters and waiting rooms. A private residence is not a "public place" unless it is used as a child care, adult day care, or health care facility.

"Restaurant" means an eating establishment including, but not limited to coffee shops, cafeterias, sandwich stands and school cafeterias, which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term "restaurant" shall include a bar area within the restaurant.

"Service line" means an indoor or outdoor line in which one (1) or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money including, but not limited to, ATM lines, concert lines, food vendor lines, movie ticket lines and sporting event lines.

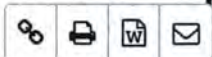
"Shopping mall" means an enclosed public walkway or hall area that serves to connect retail or professional establishments.

"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.

"Sports arena" means sports pavilions, stadiums, playing fields, gymnasiums, swimming pools, roller and ice rinks and other similar places where members of the general public assemble to engage in physical exercise, participate in athletic competition or witness sports or other events.

(Ord. No. 942, § 3, 6-6-2010, eff. 11-1-2010)

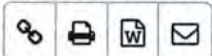
9.32.020 - Application of ordinance to city-owned facilities.



All enclosed facilities, including buildings and vehicles, owned, leased or operated by the City of Petersburg shall be subject to the provisions of this ordinance.

(Ord. No. 942, § 3, 6-6-2010, eff. 11-1-2010)

9.32.030 - Smoking prohibited in enclosed public places.



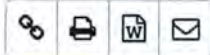
Smoking shall be prohibited in all enclosed public places within the City of Petersburg including, but not limited to:

- A. Galleries, libraries and museums.

- B. Areas available to and customarily used by the general public in businesses and nonprofit entities patronized by the public including, but not limited to, banks, laundromats, professional offices and retail service establishments.
- C. Bars.
- D. Bingo facilities.
- E. Child care and adult day care facilities.
- F. Convention facilities.
- G. Educational facilities, both public and private.
- H. Elevators.
- I. Gaming facilities.
- J. Health care facilities.
- K. Hotels and motels.
- L. Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes and other multiple-unit residential facilities.
- M. Polling places.
- N. Public transportation vehicles, including buses and taxicabs, and ticket, boarding and waiting areas of public transportation facilities, including airport facilities.
- O. Restaurants.
- P. Restrooms, lobbies, reception areas, hallways and other common-use areas.
- Q. Retail stores.
- R. Rooms, chambers, places of meeting or public assembly, including school buildings, under the control of an agency, board, commission, committee or council of the City of Petersburg, or another political subdivision of the state.
- S. Service lines.
- T. Shopping malls.
- U. Sports arenas, including enclosed places in outdoor arenas.
- V. Theaters and other facilities primarily used for exhibiting motion pictures, stage dramas, lectures, musical recitals or other similar performances.

(Ord. No. 942, § 3, 6-6-2010, eff. 11-1-2010)

9.32.040 - Smoking prohibited in places of employment.



- A. Smoking shall be prohibited in all enclosed facilities within places of employment. This includes common work areas, auditoriums, classroom, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, vehicles and all other enclosed facilities.
- B. Prohibition on smoking in the workplace shall be communicated by the employer to all existing employees by the effective date of this ordinance and to all prospective employees upon their application for employment.

(Ord. No. 942, § 3, 6-6-2010, eff. 11-1-2010)

9.32.050 - Smoking prohibited in private clubs.



Smoking shall be prohibited in all private clubs.

(Ord. No. 942, § 3, 6-6-2010, eff. 11-1-2010)

9.32.060 - Smoking prohibited in enclosed residential facilities.

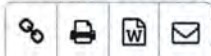


Smoking shall be prohibited in the following enclosed residential facilities:

- A. All private and semi-private rooms in nursing homes, including Petersburg Medical Center Long Term Care facility and City of Petersburg Mountain View Manor Assisted Living and Elderly Housing facilities.
- B. All hotel and motel rooms that are rented to guests.
- C. All bed and breakfast rental units.

(Ord. No. 942, § 3, 6-6-2010, eff. 11-1-2010)

9.32.070 - Smoking prohibited in outdoor areas.



Smoking shall be prohibited in the following outdoor places:

- A. Within five feet distance of outside entrances, operable windows and ventilation systems of enclosed areas where smoking is prohibited, so as to insure that tobacco smoke does not enter those areas.
- B. In and within five feet of outdoor seating or serving areas of restaurants.
- C. In all outdoor arenas, stadiums, and playing fields. Smoking shall also be prohibited in and within five feet of bleachers and grandstands for use by spectators at sporting and other public events.
- D. In and within five feet of all outdoor public transportation stations or shelters.
- E. In all outdoor service lines.
- F. In outdoor common areas of apartment buildings, condominiums, retirement facilities, nursing homes and other multiple-unit residential facilities, except in designed smoking areas, not to exceed twenty-five percent of the total outdoor common area, which must be located at least five feet outside entrances, operable windows and ventilation systems of enclosed areas where smoking is prohibited.
- G. In and within five feet of outdoor playgrounds.
- H. In areas where combustible materials are stored and handled.

(Ord. No. 942, § 3, 6-6-2010, eff. 11-1-2010)

9.32.080 - Where smoking not regulated.



Notwithstanding any other provision of this ordinance to the contrary, the following areas shall be exempt from the provisions of Sections 9.32.030 and 9.32.040:

- A. Private residences, except when used as a childcare, adult day care or health care facility and except as provided in Section 9.32.060
- B. Outdoor areas of places of employment except those covered by the provision of Section 9.32.070
- C. Smoking rooms as provided in Section 9.32.095

(Ord. No. 942, § 3, 6-6-2010, eff. 11-1-2010)

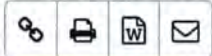
9.32.090 - Declaration of nonsmoking establishment.



An owner, operator, manager, or other person in control of an establishment, facility or outdoor area may declare the entire establishment, facility or outdoor area as a nonsmoking place. Smoking shall be prohibited in any place in which a sign conforming to the requirements of Section 9.32.100(A) is posted.

(Ord. No. 942, § 3, 6-6-2010, eff. 11-1-2010)

9.32.095 - Conditions under which smoking is permitted.



An owner, operator, manager or other person in control of a business may elect to permit smoking in a clearly posted, designated smoking room that meets all of the following requirements:

- A. The smoking room is a non-service area enclosed on all sides by solid, impermeable walls or windows extending from the floor to ceiling with self-closing doors;
- B. The smoking room maintains a negative air pressure (meaning more air is exhausted from the room than is directly supplied by the heating, ventilation or air conditioning (HVAC) systems);
- C. The smoking room's smoke-contaminated air is exhausted directly to the outdoors and is not returned to the HVAC system;
- D. The smoking room and any equipment contained therein are maintained and serviced when the room is not occupied by smokers; and
- E. There is no need for employees, customers or vendors to pass through the smoking room to access restrooms, break areas or any other portion of the place of business which they might need to access, and the business does not require employees, customers or vendors to enter the smoking room when it is occupied by smokers.

(Ord. No. 942, § 3, 6-6-2010, eff. 11-1-2010)

9.32.100 - Posting of signs.



- A. The owner, operator, manager or other person having control of any place or area where smoking is prohibited by this chapter shall post at the main entrance to the place or area a conspicuous sign clearly stating that smoking is prohibited.
- B. Every vehicle that constitutes a place of employment under this ordinance shall have at least one conspicuous sign, visible from the exterior of the vehicle, clearly stating that smoking is prohibited.
- C. Should the city determine that the signs required in subsections A. and B. above be of a specific size, design or material, the city shall provide, at the city's expense, the said signs to all owners of areas where smoking is prohibited by this ordinance.

(Ord. No. 942, § 3, 6-6-2010, eff. 11-1-2010)

9.32.105 - Recepticals.



- A. The city shall supply, service and maintain public receptacles for the disposal of cigarette and cigar butts and other smoking paraphernalia in the downtown commercial area described as: On Nordic Drive, from SingLee Alley north to Petersburg Fisheries Bunk House; on Harbor Way, Chief John Lott Streets and SingLee Alley; on First Street from Haugan Drive north to Dolphin Street; and on all side streets running east and west between First Street and Harbor Way.
- B. The owner, operator, manager or other person having control of any building or area where smoking is prohibited by this ordinance is encouraged to provide receptacles for the disposal of cigarette and cigar butts and other smoking paraphernalia at the entrances to their property. The service and maintenance of these receptacles shall be the responsibility of the property owner, operator, manager or person having control of the property.

(Ord. No. 942, § 3, 6-6-2010, eff. 11-1-2010)

9.32.110 - Nonretaliation; nonwaiver of rights.



- A. No person or employer shall discharge, refuse to hire or in any manner retaliate against an employee, applicant for employment or customer because that employee, applicant or customer exercises any right afforded by this ordinance or reports or attempts to prosecute a violation of this ordinance. Notwithstanding Section 9.32.130, violation of this subsection shall be a misdemeanor, punishable by a fine not to exceed one thousand dollars for each violation.
- B. An employee who works in a setting where an employer allows smoking does not waive or otherwise surrender any legal rights the employee may have against the employer or any other party.

(Ord. No. 942, § 3, 6-6-2010, eff. 11-1-2010)

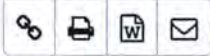
9.32.120 - Enforcement.



- A. This ordinance shall be enforced by the city manager or the manager's designee.
- B. Notice of the provisions of this ordinance shall be given to all applicants for a business license in the City of Petersburg.
- C. Any person who desires to register a complaint under this ordinance may initiate enforcement with the city manager or manager's designee.
- D. The building department and fire department, or their designees shall, while an establishment is undergoing otherwise mandated inspections, inspect for compliance with this ordinance.
- E. An owner, manager, operator, or employee of an establishment regulated by this ordinance shall inform persons violating this ordinance of the appropriate provisions thereof.
- F. Notwithstanding any other provision of this ordinance, an employee or private citizen may bring legal action to enforce this ordinance.
- G. In addition to the remedies provided by the provisions of this section, the city manager or manager's designee or any person aggrieved by the failure of the owner, operator, manager, or other person in control of a public place or a place of employment to comply with the provisions of this ordinance may apply for injunctive relief to enforce those provisions in any court of competent jurisdiction.

(Ord. No. 942, § 3, 6-6-2010, eff. 11-1-2010)

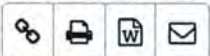
9.32.130 - Violations and penalties.



- A. A person who smokes in an area where smoking is prohibited by the provisions of this ordinance shall be guilty of an infraction, punishable by a fine not exceeding fifty dollars.
- B. Except as otherwise provided in Section 9.32.110(a), a person who owns, manages, operates, or otherwise controls a public place or place of employment and who fails to comply with the provision of this ordinance shall be guilty of an infraction, punishable by:
 - 1. A fine not exceeding one hundred dollars for a first violation.
 - 2. A fine not exceeding two hundred dollars for a second violation within one year.
 - 3. A fine not exceeding five hundred dollars for each additional violation within one year.
- C. Each day on which a violation of this ordinance occurs shall be considered a separate and distinct violation.

(Ord. No. 942, § 3, 6-6-2010, eff. 11-1-2010)

9.32.140 - Other applicable laws.



This ordinance shall not be interpreted or construed to permit smoking where it is

otherwise restricted by other applicable laws.

(Ord. No. 942, § 3, 6-6-2010, eff. 11-1-2010)

9.32.150 - Liberal construction.



This ordinance shall be liberally construed so as to further its purposes.

(Ord. No. 942, § 3, 6-6-2010, eff. 11-1-2010)

Sitka

Chapter 9.20 SMOKING IN PUBLIC PLACES AND PLACES OF EMPLOYMENT

Sections:

- 9.20.005 Definitions.
- 9.20.010 Application to city and borough-owned facilities.
- 9.20.015 Prohibition of smoking in public places.
- 9.20.020 Prohibition of smoking in places of employment.
- 9.20.025 Reasonable distance.
- 9.20.030 Where smoking is not regulated.
- 9.20.035 Declaration of establishment as nonsmoking—Prohibition of children in places where smoking is permitted.
- 9.20.040 Posting of signs.
- 9.20.045 Mineralization.
- 9.20.050 Enforcement.
- 9.20.055 Violations and penalties.
- 9.20.060 Other applicable laws.
- 9.20.070 Popular name.

9.20.005 Definitions.

The following words and phrases, whenever used in this chapter, shall be construed as defined in this section:

- A. "Business" means a sole proprietorship, partnership, joint venture, corporation, or other business entity formed for profit-making purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered.
- B. "Employee" means a person who is employed by an employer in consideration for direct or indirect monetary wages or profit.
- C. "Employer" means a person, business, partnership, association, corporation, including a municipal corporation, trust, or nonprofit entity, that employs the services of one or more individual persons.
- D. "Enclosed area" means all space between a floor and ceiling that is enclosed on all sides by solid walls or windows (exclusive of doorways), which extend from the floor to the ceiling.
- E. "Health care facility" means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including, but not limited to, hospitals, rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, dentists, and all specialists within these professions. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities.

F. "Place of employment" means an area under the control of a public or private employer that employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways, and vehicles. A private residence is not a "place of employment" unless it is used as a child care, adult day care, or health care facility.

G. "Public place" means an enclosed area to which the public is invited or in which the public is permitted, including, but not limited to, banks, educational facilities, health care facilities, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports arenas, theaters, and waiting rooms. A private residence is not a "public place" unless it is used as a child care, adult day care, or health care facility.

H. "Restaurant" means an eating establishment, including, but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere.

I. "Retail tobacco store" means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

J. "Service line" means an indoor line in which one or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money.

K. "Shopping mall" means an enclosed public walkway or hall area that serves to connect retail or professional establishments.

L. "Smoking" means inhaling, exhaling, burning, or carrying any lighted tobacco product in any form, with the exemption of religious ceremonies.

M. "Sports arena" means sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys, and other similar enclosed places where members of the general public assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events.

(Ord. 05-29 § 4 (part), 2005.)

9.20.010 Application to city and borough-owned facilities.

All enclosed facilities, including buildings and vehicles owned, leased, or operated by the city and borough of Sitka shall be subject to the provisions of this chapter. (Ord. 05-29 § 4 (part), 2005.)

9.20.015 Prohibition of smoking in public places.

Smoking shall be prohibited in all enclosed public places within the city and borough of Sitka including, but not limited to, the following places:

A. Aquariums, fish hatcheries, galleries, libraries, and museums.

- B. Areas available to and customarily used by the general public in businesses and nonprofit entities patronized by the public, including, but not limited to, professional offices, banks, laundromats, hotels, and motels.
- C. Areas and/or buildings that host youth agencies.
- D. Bingo facilities.
- E. Convention facilities.
- F. Elevators.
- G. Facilities primarily used for exhibiting a motion picture, stage, drama, lecture, musical recital, or other similar performance.
- H. Health care facilities.
- I. Licensed child care and adult day care facilities.
- J. Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities.
- K. Polling places.
- L. Public transportation facilities, including buses and taxicabs, under the authority of the city and borough of Sitka and ticket, boarding, and waiting areas of public transit depots.
- M. Restaurants.
- N. Restrooms, lobbies, reception areas, hallways, and other common-use areas.
- O. Retail stores.
- P. Rooms, chambers, places of meeting or public assembly, including school buildings, under the control of an agency, board, commission, committee or council of the city and borough of Sitka or a political subdivision of the state when a public meeting is in progress, to the extent the place is subject to the jurisdiction of the city and borough of Sitka.
- Q. Service lines.
- R. Shopping malls.
- S. Sports arenas, including enclosed places in outdoor arenas.
- T. Vessels inspected by the U.S. Coast Guard which are day boats with no overnight accommodations and are larger in capacity than a "six-pack" but have a capacity of less than one hundred fifty passengers.

(Ord. 05-29 § 4 (part), 2005.)

9.20.020 Prohibition of smoking in places of employment.

- A. Smoking shall be prohibited in all enclosed facilities within places of employment without exception. This includes common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, vehicles, and all other enclosed facilities.
- B. This prohibition on smoking shall be communicated to all existing employees by the effective date of the ordinance codified in this chapter and to all prospective employees upon their application for employment.

(Ord. 05-29 § 4 (part), 2005.)

9.20.025 Reasonable distance.

Smoking shall be prohibited near entrances, windows and ventilation systems of all work sites of public places where smoking is prohibited by this regulation. Any individual who owns, manages, operates or otherwise controls the use of any premises subject to jurisdiction under this regulation shall establish a no smoking area which extends a reasonable distance from any entrance, windows and ventilation systems to any enclosed area where smoking is prohibited; such reasonable distance shall be a distance sufficient to ensure that persons entering or leaving the building or facility shall not be subjected to breathing tobacco smoke and to ensure that tobacco smoke does not enter the building or facility through entrances, windows, ventilation systems or any other means. All smoking trash receptacles shall be placed outside the no smoking area in order to discourage smoking within the established boundaries. (Ord. 05-29 § 4 (part), 2005.)

9.20.030 Where smoking is not regulated.

Notwithstanding any other provision of this chapter to the contrary, the following areas shall be exempt from the provisions of Sections 9.20.015 and 9.20.020:

- A. Private residences, except when used as a licensed child care, adult day care, or health care facility.
- B. Private vehicles.
- C. Marine vessels, except vessels inspected by the U.S. Coast Guard which are day boats with no overnight accommodations and are larger in capacity than a "six-pack" but have a capacity of less than one hundred fifty passengers.
- D. Hotel and motel rooms that are rented to guests and are designated as smoking rooms; provided, however, that not more than twenty percent of rooms rented to guests in a hotel or motel may be so designated.
- E. Private and semiprivate rooms in nursing homes and long-term care facilities that are occupied by one or more persons, all of whom are smokers and have requested in writing to be placed in a room where smoking is permitted.
- F. Outdoor areas of places of employment except those covered by the provisions of Section 9.20.025.

G. Any bar, defined as an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, as long as such bar is in a "stand-alone building" and the bar shares no common entries, exits, or internal doors with any public places subject to Sections 9.20.015 and 9.20.020.

H. Private clubs, including but not limited to the Elks, Moose, and American Legion, as long as each such private club is in a "stand-alone building" and the private club shares no common entries, exits, or internal doors with any public places subject to Sections 9.20.015 and 9.20.020.

(Ord. 05-29 § 4 (part), 2005.)

9.20.035 Declaration of establishment as nonsmoking—Prohibition of children in places where smoking is permitted.

Notwithstanding any other provision of this chapter, an owner, operator, manager, or other person in control of an establishment, facility, or outdoor area may declare that entire establishment, facility, or outdoor area as a nonsmoking place. Smoking shall be prohibited in any place in which a sign conforming to the requirements of Section 9.20.040 is posted. Children under the age of eighteen shall not be permitted in any place of employment under Section 9.20.020, or club or bar where smoking is allowed under Section 9.20.030(G) and (H). Furthermore, no cessation of smoking within the smoking facility shall render this section inapplicable unless such facility permanently deems and declares themselves to be a nonsmoking facility. Once the declaration of an establishment, facility, or outdoor area as smoking has been made under this section, it shall not be changed for temporary or special functions. (Ord. 14-02 § 4, 2014; Ord. 05-29 § 4 (part), 2005.)

9.20.040 Posting of signs.

A. "No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly and conspicuously posted in every public place and place of employment where smoking is prohibited by this chapter by the owner, operator, manager, or other person in control of that place.

B. Every public place and place of employment where smoking is prohibited by this chapter shall have posted at every exterior entrance a conspicuous sign clearly stating that smoking is prohibited.

(Ord. 05-29 § 4 (part), 2005.)

9.20.045 Nonretaliation.

No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, or customer because that employee, applicant, or customer exercises any rights afforded by this chapter or reports or attempts to prosecute a violation of this chapter. (Ord. 05-29 § 4 (part), 2005.)

9.20.050 Enforcement.

- A. This chapter shall be enforced by the Sitka police department or by other officials so authorized by the city and borough administrator.
- B. Notice of the provisions of this chapter shall be given to all applicants for a business license in the city and borough of Sitka.
- C. Any citizen who desires to register a complaint under this chapter may request/solicit enforcement from/with the Sitka police department.
- D. The public works department, fire department, or their designees shall, while an establishment is undergoing otherwise mandated inspections, inspect for compliance with this chapter.
- E. An owner, manager, operator, or employee of an establishment regulated by this chapter shall inform persons violating this chapter of the appropriate provisions thereof.
- F. Notwithstanding any other provision of this chapter, an employee or private citizen may bring legal action to enforce this chapter.
- G. In addition to the remedies provided by the provisions of this section, the city and borough administrator or any person aggrieved by the failure of the owner, operator, manager, or other person in control of a public place or a place of employment to comply with the provisions of this chapter may apply for injunctive relief to enforce those provisions in any court of competent jurisdiction.

(Ord. 05-29 § 4 (part), 2005.)

9.20.055 Violations and penalties.

- A. A person who smokes in an area where smoking is prohibited by the provisions of this chapter shall be guilty of an infraction, punishable by a fine not exceeding fifty dollars.
- B. A person who owns, manages, operates, or otherwise controls a public place or place of employment and who willfully fails to comply with the provisions of this chapter shall be guilty of an infraction, punishable by:
 - 1. A fine not exceeding one hundred dollars for a first violation.
 - 2. A fine not exceeding two hundred dollars for a second violation within one year.
 - 3. A fine not exceeding three hundred dollars for each additional violation within one year.
- C. Each day on which a violation of this chapter occurs shall be considered a separate and distinct violation.

(Ord. 05-29 § 4 (part), 2005.)

9.20.060 Other applicable laws.

This chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws. (Ord. 05-29 § 4 (part), 2005.)

9.20.070 Popular name.

This law shall be known as the Sitka Clean Indoor Air Law of 2005. (Ord. 05-29 § 4 (part), 2005.)

The Sitka Municipal Code is current through Ordinance 14-40, passed December 23, 2014.

Disclaimer: The City and Borough Clerk's Office has the official version of the Sitka Municipal Code. Users should contact the City and Borough Clerk's Office for ordinances passed subsequent to the ordinance cited above.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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FAX (907) 465-2029
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State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 2, 2014

SUBJECT: CSSB 209(): Constitutional problems with local option addition
(Work Order No. 28-LS1539C)

TO: Senator Peter Micciche
Attn: Mindy Rowland

FROM: Kathleen Strasbaugh
Legislative Counsel

This memo addresses an issue with the local option provisions added to the newest draft of CSSB 209(): whether permitting a municipality to negate a law of statewide application is constitutional.

The Alaska statutes provide communities with the ability to adopt a local option with respect to alcoholic beverages and to certain gaming activity.¹ State law also authorizes municipal governments to adopt certain measures within parameters set by state law.² The Alaska Court of Appeals upheld a conviction under the alcohol local option law challenged on the grounds that it was unconstitutional because it unlawfully delegated the legislature's authority:

The fact that the local community is not itself enacting a state law when it holds a local option election disposes of Shettters' other arguments that local options are unconstitutionally enacted. It does not violate due process for local voters to elect to adopt a state law regulating alcoholic beverages without the opportunity to specifically vote on all the provisions of the state law. Nor does the possibility that a community might frequently change its local option establish an unlimited delegation of legislative power. Finally, because the community voters were not empowered to and in fact did not enact a state law, the elections were not subject to the constitutional provisions on initiative measures.

Shettters v. State, 832 P. 2d 181, 185 (Alaska Ct. App. 1992). In contrast, the local option requested for this bill would allow a community to opt to nullify the application of a state law. There is no precedent for this that I am aware of. Further it is not clear from the

¹ AS 04.11.490 - 04.11.509; AS 05.15.620 - 05.15.625.

² See generally, state law restrictions identified in AS 29.10.200.

Senator Peter Micciche

April 2, 2014

Page 2

legislation that the exercise of the local option serves a beneficial public purpose, unlike the public health purpose that is served by permitting a community to limit access to alcohol. And unlike the alcohol local option law, this bill's local option is essentially just an up or down vote on whether state law should apply. Given these factors, a challenge based on improper delegation of legislative authority may be more likely to be successful than it was in *Shetters*. See *State v. Fairbanks North Star Borough*, 736 P.2d 1140 (Alaska 1987).

Time does not permit an extended exploration or discussion of this issue, but I did want to alert you that the local option provision may be fatally flawed.

If I may be of further assistance, please advise.

KJS:lem

14-169.lem

Enclosure

LEGAL SERVICES

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MEMORANDUM

April 7, 2014

SUBJECT: CSSB 209(): Smoking in Public Places
(Work Order No. 28-LS1539P)

TO: Senator Peter Micciche
Attn: Mindy Rowland

FROM: Kathleen Strasbaugh
Legislative Counsel

Please find enclosed a new version of SB 209 that adds e-cigarettes stores to the exemptions and delays the effective date of the local option provisions of the bill for two years. I have also made some adjustments to AS 18.35.201 to acknowledge the local option exception, and eliminated "airport fuel facility" from the list of prohibited places because such facilities are covered by other safety laws -- and this bill is designed to deal with the health, not safety, aspects of smoking.

This memo addresses further the potential legal problem with the local option provisions of the law discussed in a previous memo.¹ As previously noted, there are other local option election provisions in the Alaska Statutes.² There are also circumstances under which by ordinance a local government can elect to participate in a state program.³ There is some precedent for the exercise of an option that permits a municipal government to opt out of a state law program, an example I had not recalled when I wrote to you last. *See, e.g.*, the local option provisions of the Public Employment Relations Act (PERA):

This Act is applicable to organized boroughs and political subdivisions of the state, home rule or otherwise, unless the legislative body of the political subdivision, by ordinance or resolution, rejects having its provisions apply.

¹ The earlier memo was sent to you with version "C" on April 2, 2014.

² AS 04.11.490 - 04.11.509; AS 05.15.620 - 05.15.625.

³ *See* AS 28.10.431, which allows a municipality to elect to assess a vehicle registration tax and have the state collect it.

Senator Peter Micciche
April 7, 2014
Page 2

Ch. 113, § 4, SLA 1972.⁴

Here, however, the municipality would be opting out of a statute of otherwise statewide application that is enacted to benefit the public health, the violation of which can result in the imposition of a penalty that is enforced through the criminal justice system. In other circumstances, Alaska's appellate courts have struck down municipal enactments that conflict with, or are significantly inconsistent with laws of statewide application. For example, an ordinance that provided for a maximum penalty that was higher than that in state law for the same offense was struck down as unlawful in *Anderson v. Municipality of Anchorage*, 645 P.2d 205, 213 (Alaska Ct. App. 1982). In overruling a municipal drunk driving ordinance that differed from state law, the Alaska Court of Appeals held that despite the liberal powers of self government granted to Alaska municipalities, the Municipality of Anchorage could not enforce an ordinance that was inconsistent with state law. *Simpson v. Municipality of Anchorage*, 635 P.2d 1197, 1200 (Alaska Ct. App. 1981).⁵ In *Adkins v. Lester*, 530 P.2d 11, 14 (Alaska 1974), the Alaska Supreme Court struck down a Fairbanks ordinance that required that emergency vehicles use audible signals at all times where state law permitted such vehicles to be driven without audible signals under some circumstances, on the grounds that the commissioner of public safety was authorized to adopt a statewide scheme of traffic safety regulations, and the local ordinance interfered with the regulation in question.⁶

There are significant distinctions between the PERA exemptions and the gaming and alcoholic beverage local option laws. The improper delegation of legislative authority issue as explained in the previous memorandum issued to you on this subject remains significant.

In addition, if the law were challenged, it might be on the grounds that a person's right to equal protection would be violated because of the different treatment a person might receive if the person lived in a community that did not opt out (and was subject to a penalty for violation of the law), or the public health benefits a person might lose if the person lived in a community that opted out. Alcoholic beverage local option law has been upheld against equal protection challenges because of the great harm caused by

⁴ However, a municipality was not permitted to opt out of the law where the purpose of doing so was to thwart organizing activities by employees seeking to avail themselves of the rights conferred by PERA. *Kodiak Island Borough v. State, Department of Labor*, 853 P.2d 1111, 1114 (Alaska 1993).

⁵ *But see Cremer v. Anchorage*, 575 P.2d 306, 307 - 08 (Alaska 1978) (local "driving while suspended or revoked" ordinance upheld that applied on private property held not inconsistent with state law, which was limited to public property).

⁶ Additionally, state motor vehicle statutes have specific provisions concerning consistency between state and local law.

Senator Peter Micciche
April 7, 2014
Page 3

alcohol abuse warrants criminalizing alcohol offenses in communities where the option has been exercised:

[T]he state has a "compelling interest in curbing the problem of alcohol abuse." *Harrison v. State*, 687 P.2d 332, 340 (Alaska App. 1984).

In *Harrison*, we discussed the numerous problems facing this state as a result of alcohol abuse. We pointed out that "in response to the growing evidence of a strong relationship between alcohol abuse and crime, Alaska's local option law was enacted in 1980." *Id.* at 335. The statutes that Burnor questions in this case are part of the fabric of the local option law. See *Tuckfield v. State*, 805 P.2d 982, 983-84 (Alaska App. 1991). In discussing *Harrison's* contention that the local option law violated equal protection because it permitted one community to ban the importation of alcoholic beverages and simultaneously permitted other communities to allow importation of alcoholic beverages, we stated:

The question is whether differences in treatment are reasonable in light of the balance between the importance of the legislative intent, on the one hand, and the interest of the individual on the other.... We see no basis for concluding that differences in the treatment of citizens from different communities under the local option law should be considered constitutionally significant when those differences result only from the extent to which individual communities elect to implement that law. When the state attacks a complex problem it need not choose between attacking every aspect of that problem and doing nothing at all.

Harrison, 687 P.2d at 341 (citation omitted).

Burnor v. State, 829 P.2d 837, 840 (Alaska Ct. App. 1992). Here, the local option is to allow smoking in public places to continue, an objective that does not appear to be in keeping with the overall purpose of the legislation, making it more vulnerable than it might otherwise be to challenge.

If I may be of further assistance, please advise.

KJS:ray
14-162.ray

Enclosure

◆ Positive Last updated January 27, 2015 11:50:40 am AKST
◆ Positive When saved to folder January 27, 2015 11:48:23 am AKST
◆ Positive
As of: January 27, 2015 3:54 PM EST

Fraternal Order of Eagles v. City & Juneau-Douglas Aerie 4200

Supreme Court of Alaska
July 1, 2011, Decided
Supreme Court No. S-13748, No. 6574

Reporter

254 P.3d 348; 2011 Alas. LEXIS 57

FRATERNAL ORDER OF EAGLES, JUNEAU-DOUGLAS AERIE 4200, MARK PAGE, BRIAN TURNER, R.D. TRUAX, and LARRY PAUL, Appellants, v. CITY AND BOROUGH OF JUNEAU, Appellee.

Prior History: [**1] Appeal from the Superior Court of the State of Alaska, First Judicial District, Juneau, Philip M. Pallenberg, Judge. Superior Court No. 1JU-08-00730 CI.

Core Terms

smoking, private club, ban, ordinance, right to privacy, tobacco, regulation, intimate association, privacy, superior court, fundamental rights, intimate, smokers, rights, ingestion, interfere, freedom of association, restaurants, second-hand, personal autonomy, summary judgment, smoking ban, membership, infringed, alcoholic beverage, associational, implicate, alcohol, Cancer, places

Case Summary

Procedural Posture

Appellants, a private club and its members, sued respondent, the City and Borough of Juneau, Alaska, claiming a smoking ban infringed upon their freedom of association under the First Amendment and their privacy rights under Alaska Const. art. 1, § 22. The Superior Court of the State of Alaska, First Judicial District, Juneau, denied appellants' motion for summary judgment and granted summary judgment to the City. Appellants filed an appeal.

Overview

Appellants, a private club and its members, challenged an ordinance banning smoking in private clubs, City and Borough of Juneau, Alaska, Code § 36.60. The Supreme Court of Alaska upheld the ordinance. Because the smoking ban regulated only conduct, it did not implicate the freedom of association protected by U.S. Const. amend. 1. The smoking ban did not violate appellants' right to privacy under Alaska Const. art. 1, § 22, because private clubs did not enjoy privacy protections afforded in the home. As smoking tobacco was not a fundamental right of personal autonomy, strict scrutiny did not apply. The ban on smoking in private clubs bore a close and substantial relationship to the legitimate state purpose of protecting the public health.

Outcome

The judgment was affirmed.

LexisNexis® Headnotes

Business & Corporate Compliance > ... > Governments > Agriculture & Food > Smoking Bans
Governments > Local Governments > Ordinances & Regulations

Micciche Peter

HN1 The City and Borough of Juneau, Alaska, has adopted a "Smoking in Public Places Code," City and Borough of Juneau, Alaska, Code § 36.60.

Business & Corporate Compliance > ... > Governments > Agriculture & Food > Smoking Bans
 Governments > Legislation > Effect & Operation > Amendments
 Governments > Local Governments > Ordinances & Regulations

HN2 City and Borough of Juneau, Alaska, Code § 36.60, the anti-smoking ordinance, has been amended several times. Originally it exempted enclosed areas used for conferences or meetings in restaurants, service clubs, hotels, or motels while the spaces are in use for private functions as well as bars and bar restaurants. In 2004 it was amended to ban smoking in "bar restaurants" effective January 2, 2005, and to ban smoking in "bars" effective January 2, 2008. In 2007 it was amended to prohibit smoking and the use of smokeless tobacco products at several public and private medical facilities, including the public streets and sidewalks adjacent to those facilities. It has also been amended to prohibit smoking in bus passenger shelters.

Business & Corporate Compliance > ... > Governments > Agriculture & Food > Smoking Bans
 Governments > Legislation > Effect & Operation > Amendments
 Governments > Local Governments > Ordinances & Regulations

HN3 In 2008, an amendment to City and Borough of Juneau, Alaska, Code § 36.60 changed the name from the "Smoking in Public Places Code" to the "Second-Hand Smoke Control Code" and eliminated the exception for smoking in retail tobacco stores. The amended ordinance broadened the definition of a "bar;" eliminated the exception to the smoking ban for "private functions;" and specifically prohibited smoking in private clubs that offer food or alcoholic beverages for sale, regardless of the number of employees.

Civil Procedure > Appeals > Summary Judgment Review > Standards of Review
 Civil Procedure > Appeals > Standards of Review > De Novo Review

HN4 The Supreme Court of Alaska reviews a grant of summary judgment de novo while drawing all factual inferences in favor of, and viewing the facts in the light most favorable to the non-prevailing party. A grant of summary judgment will be affirmed when there are no genuine issues of material fact, and the prevailing party was entitled to judgment as a matter of law.

Civil Procedure > Appeals > Standards of Review > De Novo Review
 Civil Procedure > Appeals > Standards of Review > Questions of Fact & Law

HN5 The Supreme Court of Alaska applies its independent judgment to questions of constitutional law and will adopt the rule of law that is most persuasive in light of precedent, reason, and policy.

Governments > Local Governments > Duties & Powers

HN6 *Alaska Const. art. X, § 11* provides home rule municipalities with broad powers: A home rule borough or city may exercise all legislative powers not prohibited by law or by charter. The Alaska Constitution also requires that a liberal construction shall be given to the powers of local government units. *Alaska Const. art. X, § 1*.

Constitutional Law > ... > Case or Controversy > Constitutionality of Legislation > Inferences & Presumptions
 Governments > Local Governments > Ordinances & Regulations

HN7 A duly enacted law or rule, including a municipal ordinance, is presumed to be constitutional. Courts should construe enactments to avoid a finding of unconstitutionality to the extent possible.

254 P.3d 348, *348; 2011 Alas. LEXIS 57, **1

Constitutional Law > Bill of Rights > Fundamental Freedoms > Freedom of Association

Constitutional Law > ... > Fundamental Rights > Procedural Due Process > General Overview

HN8 The right to associate is a fundamental right protected by the First Amendment and the Due Process Clause of the Fourteenth Amendment. The United States Supreme Court has recognized that individuals have a First Amendment right to associate in two situations: (1) intimate association, when individuals enter into and maintain certain intimate human relationships; and (2) expressive association, when individuals associate for the purpose of engaging in those activities protected by the First Amendment — speech, assembly, petition for the redress of grievances, and the exercise of religion.

Constitutional Law > Bill of Rights > Fundamental Freedoms > Freedom of Association

Business & Corporate Compliance > ... > Governments > Agriculture & Food > Smoking Bans

HN9 While smoking bans restrict where a person may smoke, it is a far cry to allege that such restrictions unduly interfere with smokers' right to associate freely with whomever they choose. Nothing in the Constitution engrafts upon First Amendment protections any other collateral social interaction, whether eating, drinking, dancing, gambling, fighting, or smoking.

Constitutional Law > Bill of Rights > Fundamental Freedoms > Freedom of Association

Business & Corporate Compliance > ... > Governments > Agriculture & Food > Smoking Bans

HN10 An ordinance prohibiting smoking in bars and restaurants, no matter how applied, cannot infringe on the right of expressive association.

Constitutional Law > Bill of Rights > Fundamental Freedoms > Freedom of Association

Business & Corporate Compliance > ... > Governments > Agriculture & Food > Smoking Bans

Governments > Local Governments > Ordinances & Regulations

HN11 An ordinance banning smoking in private clubs does not implicate the right to intimate association under the First Amendment.

Constitutional Law > Bill of Rights > Fundamental Freedoms > Freedom of Association

HN12 The First Amendment protects the ability to choose one's intimate associates freely, not the ability to engage in any conduct in any place so long as one is interacting with his or her intimate associates.

Constitutional Law > Substantive Due Process > Privacy > General Overview

HN13 See Alaska Const. art. I, § 22.

Constitutional Law > Substantive Due Process > Privacy > General Overview

HN14 The explicit guarantee of privacy under Alaska Const. art. I, § 22 provides Alaskan citizens with greater protection than the federal constitution. Although the Supreme Court of Alaska has recognized a strong right to personal autonomy and privacy under the Alaska Constitution, it has also clearly stated that the rights to privacy and liberty are neither absolute nor comprehensive; their limits depend on a balance of interests that will vary depending on the importance of the rights infringed. When the state interferes with a fundamental aspect of the right to privacy, the government must demonstrate a compelling governmental interest and the absence of a less restrictive means to advance that interest. For interference with a non-fundamental aspect of privacy, the state must show a legitimate interest and a close and substantial relationship between its interest and its chosen means of advancing that interest.

Constitutional Law > Substantive Due Process > Privacy > General Overview

HN15 The Supreme Court of Alaska has held two categories of privacy rights are fundamental: those concerning personal autonomy and those protecting a distinctive situs — the home. There is some overlap between these two areas because the right to privacy in the home is directly linked to a notion of individual autonomy.

Constitutional Law > Substantive Due Process > Privacy > General Overview
 Business & Corporate Compliance > ... > Governments > Agriculture & Food > Smoking Bans

HN16 Smoking tobacco is not a fundamental right of personal autonomy.

Constitutional Law > Bill of Rights > Fundamental Rights > General Overview
 Criminal Law & Procedure > ... > Controlled Substances > Possession > General Overview

HN17 There is no fundamental right, either under the Alaska or federal constitutions, either to possess or ingest marijuana.

Constitutional Law > Bill of Rights > Fundamental Rights > General Overview

HN18 There is no fundamental right to possess or consume alcohol.

Constitutional Law > Bill of Rights > Fundamental Rights > General Overview
 Business & Corporate Compliance > ... > Governments > Agriculture & Food > Smoking Bans

HN19 There is not a fundamental right of personal autonomy under the Alaska Constitution to ingest tobacco.

Constitutional Law > Substantive Due Process > Privacy > General Overview
 Criminal Law & Procedure > ... > Controlled Substances > Possession > General Overview

HN20 Because of the distinctive nature and importance of the home, Alaskans have a fundamental right to privacy in their homes. This fundamental right to privacy in the home encompasses the possession and ingestion of substances such as marijuana, subject to two important limitations: First, the use or possession must be limited to a purely personal, non-commercial context in the home; and second, the right must yield when it interferes in a serious manner with the health, safety, rights and privileges of others or with the public welfare.

Constitutional Law > Substantive Due Process > Privacy > General Overview
 Criminal Law & Procedure > ... > Controlled Substances > Possession > General Overview

HN21 The right to possess and ingest certain substances encompassed by the right to privacy is strictly limited to a purely personal, non-commercial context in the home. It is the distinctive nature of an individual's home that is recognized as deserving of special protection.

Constitutional Law > Substantive Due Process > Privacy > General Overview
 Governments > Police Powers

HN22 Alaska cases do not support the argument that the government may not abridge any aspect of personal privacy unless it involves conduct posing a threat of harm to another. The Supreme Court of Alaska has rejected the argument that the state cannot regulate conduct that poses a threat of harm to others if the potential victims consent to the harm.

Constitutional Law > Substantive Due Process > Privacy > General Overview

HN23 No one has an absolute right to do things in the privacy of his own home which will affect himself or others adversely.

254 P.3d 348, *348; 2011 Alas. LEXIS 57, **1

Healthcare Law > Medical Treatment > End-of-Life Decisions > Assisted Suicide

HN24 A physician who assists in a suicide undeniably causes harm to others even with the patient's consent.**Counsel:** Paul H. Grant, Law Office of Paul H. Grant, Juneau, for Appellants.

John W. Hartle, City Attorney, Juneau, for Appellee.

Peter J. Maassen, Ingaldson, Maassen & Fitzgerald, P.C., Anchorage, for Amicus Curiae American Cancer Society Cancer Action Network.

Judges: Before: Carpeneti, Chief Justice, Fabe, Winfree, Christen, and Stowers, Justices.**Opinion by:** FABE

Opinion

[*350] FABE, Justice.

I. INTRODUCTION

The City and Borough of Juneau has an ordinance that prohibits smoking in certain places. In March 2008 the City Assembly amended that ordinance to prohibit smoking in "private clubs" that offer food or alcoholic beverages for sale. The Fraternal Order of Eagles, Juneau-Douglas Aerie 4200 and three of its members challenged the ban on smoking in private clubs both on its face and as applied to their Aerie facility. The Eagles argued that the prohibition on smoking in private clubs violates both their First Amendment rights under the United States Constitution and their privacy rights under the Alaska Constitution. We conclude that the ban on smoking in private clubs is a regulation [*2] of conduct that does not implicate the freedom of association under the *First Amendment to the United States Constitution* and that the ban on smoking in private clubs does not violate the Eagles' right to privacy under *article I, section 22 of the Alaska Constitution*. We therefore affirm the superior court's order granting the City and Borough of Juneau's motion for summary judgment.

II. FACTS AND PROCEEDINGS

In October 2001 **HN1** the City and Borough of Juneau (the City) adopted the first version of its "Smoking in Public Places Code," City and Borough of Juneau Code (CBJ) 36.60. The City Assembly found that "in order to protect the public health it is necessary to control the amount of tobacco smoke in public places." The City Assembly also included in its findings the conclusions of a 1992 report published by the United States Environmental Protection Agency, titled *Respiratory Health Effects of Passive Smoking: Lung Cancer and Other Disorders*, that outlined the dangers of second-hand smoke, including increased risks for lung cancer and coronary heart disease among nonsmokers, increased risk of death from lung cancer and coronary heart disease, respiratory problems in children, and lower [*3] respiratory tract infections.

Since 2001 **HN2** the City's anti-smoking ordinance has been amended several times. Originally it exempted "enclosed areas used for conferences or meetings in restaurants, service clubs, hotels, or motels while the spaces are in use for private functions" as well as "bars and bar restaurants." In 2004 it was amended to ban smoking in "bar restaurants" effective January 2, 2005, and to ban smoking in "bars" effective January 2, 2008. In 2007 it was amended to prohibit smoking and the use of smokeless tobacco products at several public and private medical facilities, including the public streets and sidewalks adjacent to those facilities.¹ Later that year it was also amended to prohibit smoking in bus passenger shelters.

¹ The prohibitions on smokeless tobacco appear only in the provisions regulating medical facilities and are not at issue in this appeal. CBJ 36.60.010(b) (2008).

But the ban on smoking in "bars" and "bar restaurants" did not include private clubs until 2008, when a concern was raised that private clubs selling food or alcohol had an unfair business advantage. In response the City Assembly directed the City Attorney to prepare a new amendment to the [**4] ordinance that would "clearly prohibit smoking in all places where either alcoholic beverages or food are offered for sale." *HN3* In March 2008 the City Assembly adopted the amendment to the ordinance now at issue in this appeal. This amendment made several changes to the ordinance, including changing the name from the "Smoking in Public Places Code" to the "Second-Hand Smoke Control Code" and eliminating the exception for smoking in retail tobacco stores. The amended ordinance [**351] broadened the definition of a "bar"; eliminated the exception to the smoking ban for "private functions"; and specifically prohibited smoking in private clubs that offer food or alcoholic beverages for sale, regardless of the number of employees.²

The Fraternal Order of Eagles, Juneau-Douglas Aerie 4200 is a private nonprofit charitable corporation organized under the laws of the State of Alaska. Aerie 4200 is a local chapter of the international organization known as the Fraternal [**5] Order of Eagles. Aerie 4200 has 262 full members, including both men and women, and 134 ladies auxiliary members. Members pay a \$15 initiation fee and \$35 in annual dues. New members must be approved by a unanimous vote of the existing members. All members must subscribe to the club rules. The club rules contain an expectation that members will treat the Aerie facility as "an extension of the members' homes" and that the members will have an expectation of privacy while in the facility.

Aerie 4200 holds a license to sell alcoholic beverages in the Aerie facility and is thus subject to Title 4 of the Alaska Statutes, titled "Alcoholic Beverages." *Alaska Statute 04.16.010* requires that establishments licensed to sell alcohol, such as the Aerie facility, be closed between 5:00 a.m. and 8:00 a.m. every day. Aerie 4200 employs four part-time bartenders, in addition to a business manager who also serves as a bartender. All five of these employees are members of Aerie 4200 and all five are smokers.³

Aerie 4200's activities are "intended to produce a financial base" [**6] from which contributions to worthy causes are made. In 2007 Aerie 4200 contributed almost \$25,000 to various charities. Aerie 4200 has observed a decline in applications for new membership and estimate that revenues from their Aerie facility have declined 25% since the extension of the smoking ban to private clubs.

The Aerie facility is available only to members, auxiliary members, and their guests. Guests must be signed into the guestbook and sponsored by a member who is present. Each guest is permitted to visit three times before being expected to apply for membership. These requirements are occasionally relaxed in situations such as "providing assistance to people in distress or allowing prospective members to evaluate the club." The Aerie facility is also opened up to the general public four times each year for fundraising events, but no smoking is allowed in the facility during these events. Except on these public occasions, smoking is allowed by a "House Rule" adopted unanimously by Aerie 4200's membership in April 2008.

In July 2008 Aerie 4200 and three of its members (collectively, the Eagles) filed suit against the City, alleging that the portion of the Second-Hand Smoke Control [**7] Code that bans smoking in private clubs is unconstitutional both on its face and as applied to Aerie 4200. Specifically, the Eagles claimed that the smoking ban infringed upon their freedom of association under the *First Amendment to the United States Constitution* and their privacy rights under *article 1, section 22 of the Alaska Constitution*.

Both the Eagles and the City agreed that the case could be resolved as a matter of law on summary judgment. The superior court considered memoranda from both parties as well as an amicus memorandum from the American

² For places of employment other than private clubs, the ordinance currently contains an exception to the smoking ban if there are four or fewer employees, unless the place of employment is an "enclosed public place." CBJ 36.60.030(a)(2) (2008).

³ According to an affidavit from the Grand Worthy President of Aerie 4200, approximately 85% of Aerie 4200's members are smokers.

Cancer Society.⁴ The amicus memorandum addressed the legal issues presented but also provided more recent factual information about the dangers of second-hand smoke, including various studies detailing the positive public health effects of anti-smoking ordinances. On October 14, 2009, [*352] the superior court denied the Eagles' motion for summary judgment and granted summary judgment to the City on both the federal association claim and the state privacy claim.⁵ The superior court entered final judgment on December 11, 2009. The Eagles appeal.

III. STANDARD OF REVIEW

HN4 We review a grant of summary judgment de novo while drawing "all factual inferences in favor of, and viewing the facts in the light most favorable to the non-prevailing party."⁶ A grant of summary judgment will be affirmed "when there are no genuine issues of material fact, and the prevailing party . . . was entitled to judgment as a matter of law."⁷ Here, the parties [*9] agreed that the case could be decided on summary judgment and do not contend that there are material facts in dispute. **HN5** We apply our independent judgment to questions of constitutional law⁸ and will "adopt the rule of law that is most persuasive in light of precedent, reason, and policy."⁹

HN6 *Article X, section 11 of the Alaska Constitution* provides home rule municipalities with broad powers: "A home rule borough or city may exercise all legislative powers not prohibited by law or by charter." The Alaska Constitution also requires that "[a] liberal construction shall be given to the powers of local government units."¹⁰ We have made clear that **HN7** "[a] duly enacted law or rule, including a municipal ordinance, is presumed to be constitutional"¹¹ and that "[c]ourts should construe enactments to avoid a finding of unconstitutionality to the extent possible."¹²

IV. [*10] DISCUSSION

A. The Ban On Smoking In Private Clubs Is A Regulation Of Conduct That Does Not Implicate The Eagles' Freedom Of Association Under The *First Amendment To The United States Constitution*.

HN8 "The right to associate is a fundamental right protected by the *First Amendment* and the *due process clause of the Fourteenth Amendment*."¹³ The United States Supreme Court has recognized that individuals have a First Amendment right to associate in two situations: (1) "intimate association," when individuals "enter into and maintain certain intimate human relationships," and (2) "expressive association," when individuals "associate for

⁴ The superior court granted the American Cancer Society's motion for leave to participate as amicus [*8] curiae on December 22, 2008. The American Cancer Society also submitted an amicus brief to this court.

⁵ The Eagles also raised several other claims in their complaint, including that their right to association under the Alaska Constitution was violated, that the anti-smoking ordinance was preempted by a comprehensive state scheme for regulating alcohol and tobacco, and that the Juneau police have unlawfully intruded into the Aerie facility when seeking to enforce the ban on smoking. In its decision on summary judgment, the superior court requested that the Eagles file a status report indicating whether they were choosing to proceed with these remaining claims. The Eagles filed a Notice Regarding Additional Claims on November 20, 2009, advising the court that they did not intend to pursue these claims.

⁶ *Rockstad v. Erikson*, 113 P.3d 1215, 1219 (Alaska 2005).

⁷ *Id.*

⁸ *State, Dep't of Health & Soc. Servs. v. Planned Parenthood of Alaska, Inc.*, 28 P.3d 904, 908 (Alaska 2001).

⁹ *Alaskans for Efficient Gov't, Inc. v. State*, 153 P.3d 296, 298 (Alaska 2007) (quoting *Sonneman v. State*, 969 P.2d 632, 636 (Alaska 1998)).

¹⁰ Alaska Const. art. X, § 1.

¹¹ *Treacy v. Municipality of Anchorage*, 91 P.3d 252, 260 (Alaska 2004).

¹² *Id.*

¹³ *In re Mendel*, 897 P.2d 68, 76 (Alaska 1995) (citing *NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449, 460, 78 S. Ct. 1163, 2 L. Ed. 2d 1488 (1958)).

the purpose of engaging in those activities protected by the *First Amendment* — speech, assembly, petition for the redress of grievances, and the exercise of religion." ¹⁴

For the Eagles to prevail on their challenge to the City's ban on smoking in private clubs they "must demonstrate that the ordinance infringes on one of these two protected [*353] areas of association." ¹⁵ The Eagles focus their arguments [**11] on the "intimate association" prong. ¹⁶ The Eagles argue that (1) the "specific and unique characteristics" of their group and the Aerie facility, such as its small membership and restrictive policies for admitting guests and new members, make the relationships among their members the type of intimate association protected under the *First Amendment*; and (2) because approximately 85% of their members are smokers, prohibiting smoking in the Aerie facility unduly interferes with those relationships by essentially "telling members to 'go elsewhere.'"

To support this argument the Eagles point to the United States Supreme Court decision in *Roberts v. United States Jaycees*, which [**12] held that state human rights legislation requiring the Jaycees to admit women did not abridge the male members' freedom of association. ¹⁷ In *Roberts*, the Court noted that "choices to enter into and maintain certain intimate human relationships must be secured against undue intrusion by the State" because such relationships are "a fundamental element of personal liberty." ¹⁸ In order to enjoy this protection, however, a relationship must be "highly personal." ¹⁹ Noting that family bonds are the clearest example of such highly personal relationships, the Court explained that relationships "distinguished by such attributes as relative smallness, a high degree of selectivity in decisions to begin and maintain the affiliation, and seclusion from others in critical aspects of the relationship" will trigger the protections of the *First Amendment*. ²⁰ Therefore, "[d]etermining the limits of state authority over an individual's freedom to enter into a particular association . . . unavoidably entails a careful assessment of where that relationship's objective characteristics locate it on a spectrum from the most intimate to the most attenuated of personal attachments." ²¹ The Eagles argue that [**13] this language requires us to first determine whether Aerie 4200 consists of the type of intimate relationships protected under the freedom to associate.

The City counters that the ordinance does not implicate the freedom of association because it "does not regulate who may associate with whom" but instead only "regulates certain *conduct* in certain places." (Emphasis in original.) The superior court also emphasized the distinction between the cases cited by the Eagles, including *Roberts*, which involve "the regulation of the *membership* of private clubs," and regulations that only pertain to "the *conduct* of members." (Emphasis in original.) As the superior court explained, cases involving the regulation of membership have a direct impact on individuals' choice of whom to associate with, while this case concerns "what people can choose to do while associating." Because of this conclusion, the superior court did not reach the question whether Aerie 4200 consists of intimate relationships possessing the "distinctive characteristics" ²² that would afford heightened constitutional protection.

¹⁴ *Roberts v. U.S. Jaycees*, 468 U.S. 609, 617-18, 104 S. Ct. 3244, 82 L. Ed. 2d 462 (1984).

¹⁵ *Taverns For Tots, Inc. v. City of Toledo*, 341 F. Supp. 2d 844, 849 (N.D. Ohio 2004).

¹⁶ While the Eagles maintain that their exercise of expressive (as opposed to intimate) association rights has been "hampered by the ordinance because members have been made to feel unwelcome and have been discouraged from attendance," they admit that "all evidence on this point is anecdotal" and that "any attempt to conclusively link the ordinance with a chilling of [the Eagles'] expressive associational rights is difficult at best."

¹⁷ 468 U.S. 609, 104 S. Ct. 3244, 82 L. Ed. 2d 462 (1984).

¹⁸ *Id.* at 617-18.

¹⁹ *Id.* at 618.

²⁰ *Id.* at 619-20.

²¹ *Id.* at 620.

²² See *id.* at 621.

Numerous [*14] state and federal courts have reached similar conclusions when considering First Amendment challenges to ordinances that restrict smoking. As the Washington Supreme Court noted: "Other courts have universally rejected challenges to smoking bans on the grounds they interfere with freedom of association." ²³

[*354] The first group of these cases considered ordinances banning smoking in places of public accommodation such as restaurants or bars. In *NYC C.L.A.S.H., Inc. v. City of New York*, the federal district court rejected the "expressive association" argument that state and city laws prohibiting smoking in bars and restaurants interfered with the rights of smokers to associate while exercising their First Amendment rights. ²⁴ In *C.L.A.S.H.*, a smokers'-rights organization [*15] argued that "to bar the act of smoking in all privately owned places that are open to the public deprives smokers of a necessary venue for conducting their private social lives." ²⁵ The federal district court concluded that *HN9* "[w]hile the Smoking Bans restrict where a person may smoke, it is a far cry to allege that such restrictions unduly interfere with smokers' right to associate freely with whomever they choose" and that "[n]othing in the Constitution engrafts upon First Amendment protections any other collateral social interaction, whether eating, drinking, dancing, gambling, fighting, or smoking." ²⁶ As the *C.L.A.S.H.* court noted, the effect of this "'association PLUS' theory would be to embellish the First Amendment with extra-constitutional protection for any ancillary practice adherents may seek to entwine around fundamental freedoms, as a consequence of which the government's power to regulate socially or physically harmful activities may be unduly curtailed." ²⁷

In *Taverns for Tots v. City of Toledo*, a federal district court in Ohio similarly found that *HN10* an ordinance prohibiting [*16] smoking in bars and restaurants, "no matter how applied, cannot infringe on the right of expressive association." ²⁸ That court quoted the opinion in *NYC C.L.A.S.H.* and further explained that the ordinance "do[es] not interfere with the ability of members [of Taverns for Tots] to get together for any lawful purpose, including the exercise of expressive activity. . . . The ordinance only prevents smoking in public places." ²⁹

Several other decisions, both at the federal and state level, have addressed the direct question whether an ordinance prohibiting smoking in private clubs unconstitutionally interferes with intimate associational rights. In *Players, Inc. v. City of New York*, the federal district court for the Southern District of New York again ruled that New York City's smoking ban was [*17] constitutional, even when it banned smoking in a private club "with a long and storied past." ³⁰ The court rejected the club's argument under the intimate association prong, writing:

[E]ven if Players had not waived the opportunity to present facts in support of its claim to the right of intimate association . . . the Court finds that the Club could not demonstrate that any such right was infringed by the Smoking Bans. Players does not cite to, and the Court cannot locate, any provision of the Smoking Bans or their regulatory schemes that purports to regulate members, or interaction among

²³ *Am. Legion Post #149 v. Washington State Dep't of Health*, 192 P.3d 306, 323 (Wash. 2008); see, e.g., *Players, Inc. v. City of New York*, 371 F. Supp. 2d 522, 544-45 (S.D.N.Y. 2005); *Taverns for Tots, Inc. v. City of Toledo*, 341 F. Supp. 2d 844, 849-53 (N.D. Ohio 2004); *City of Tucson v. Grezaffl*, 200 Ariz. 130, 23 P.3d 675, 681 (Ariz. App. 2001); *Am. Lithuanian Naturalization Club v. Board of Health of Athol*, 446 Mass. 310, 844 N.E.2d 231, 242 (Mass. 2006).

²⁴ 315 F. Supp. 2d 461, 472-76 (S.D.N.Y. 2004).

²⁵ *Id.* at 473 (citation omitted).

²⁶ *Id.* at 473-74.

²⁷ *Id.* at 474.

²⁸ 341 F. Supp. 2d at 852.

²⁹ *Id.* at 851. The federal district court in *Taverns for Tots* also rejected the plaintiff's intimate association claim, but on the basis that the purpose of Taverns for Tots was to evade the anti-smoking ordinance and that such an organization "is not the kind of intimate associational activity that either enjoys or deserves protection under the First Amendment." *Id.* at 850.

³⁰ 371 F. Supp. 2d 522, 525 (S.D.N.Y. 2005).

members, in any clubs covered by the statutes. Smokers' ability to join Players is completely unaffected by the Smoking Bans. At worst, interaction among members could be affected by the laws only incidentally.³¹

With regard to Players' expressive associational rights, the court cited *NYC C.L.A.S.H.* to again reject the club's First Amendment [*355] argument.³²

State courts have also upheld anti-smoking ordinances, even when applied to private clubs. In *American Lithuanian Naturalization Club v. Board of Health of Athol*, the Supreme Judicial [**18] Court of Massachusetts upheld a challenge to a smoking ban that prohibited smoking in all enclosed areas of local private clubs.³³ The court rejected the intimate association argument advanced by three private clubs that their members would no longer socialize at their facilities if smoking was banned, holding that there was "no showing that enforcement of the town regulation will infringe the members' right to maintain relationships with each other."³⁴

In the closest factual analogy to this case, *American Legion Post #149 v. Washington State Department of Health*, the Washington Supreme Court considered a challenge to a statute and ordinance prohibiting smoking in any place of employment.³⁵ Although the Washington Supreme Court considered the relevant factors and determined that American Legion Post #149 was not an intimate association because of its large membership, the court indicated that there would be no violation of the group's rights even if it had been deemed an intimate association: "Even if the Post were deemed to facilitate intimate human relationships, the ban does not directly interfere with such relationships or a person's [**19] ability to join the Post. Instead, it merely prohibits smoking in the Post's building when employees are present."³⁶

We agree with these other courts that *HN11* an ordinance banning smoking in private clubs does not implicate the right to intimate association under the *First Amendment*. Even assuming the Eagles' relationships are of the highly personal type that receive heightened constitutional protection, the ordinance does not regulate or interfere with the members' "choices to enter into and maintain"³⁷ those relationships. The ordinance does not regulate the membership of Aerie 4200 or who may associate with whom; it only regulates the conduct of members in certain places.

The Eagles argue that the ordinance unduly interferes with "how, when, and where club members choose to partake of their intimate associations." The Eagles essentially urge us (1) to adopt the "association plus" theory in spite of the uniform decisions of other courts and (2) to hold that "the right of intimate association includes a right to engage in any lawful activities the participants may choose." But *HN12* the *First Amendment* [**20] protects the ability to choose one's intimate associates freely, not the ability to engage in any conduct in any place so long as one is interacting with his or her intimate associates. As Judge Pallenberg persuasively explained:

One could not seriously argue that application of other penal laws, such as the laws against drug possession, theft, sexual contact with minors, or prostitution, to the conduct of members within the confines of a private club infringes upon the members' freedom of association. All such laws regulate the actions of the members, not their choice of the people with whom they associate. In terms of its impact on freedom of association, regulation of smoking as an activity is not different in kind from regulation of these

³¹ *Id.* at 545.

³² *Id.* at 545-46.

³³ 446 Mass. 310, 844 N.E.2d 231 (Mass. 2006).

³⁴ *Id.* at 242.

³⁵ 164 Wn.2d 570, 192 P.3d 306 (Wash. 2008).

³⁶ *Id.* at 323.

³⁷ *Roberts v. U.S. Jaycees*, 468 U.S. 609, 617, 104 S. Ct. 3244, 82 L. Ed. 2d 462 (1984).

other activities. . . . People are free to join the Eagles or not; they are just prohibited from smoking inside the club.

Because the smoking ban regulates only conduct, we hold that it does not implicate the freedom of association protected by the *First Amendment to the United States Constitution*. We do not reach the question whether Aerie 4200 consists of the highly personal relationships that receive heightened protection under the right to intimate [**21] association.

[*356] **B. The Ban On Smoking In Private Clubs Does Not Violate The Eagles' Right To Privacy Under *Article I, Section 22 Of The Alaska Constitution*.**

HN13 *Article I, section 22 of the Alaska Constitution* states that "the right of the people to privacy is recognized and shall not be infringed." We have held that **HN14** this explicit guarantee of privacy provides Alaskan citizens with greater protection than the federal constitution.³⁸ But although we have recognized a strong right to personal autonomy and privacy under the Alaska Constitution, we have also clearly stated that "the rights to privacy and liberty are neither absolute nor comprehensive . . . their limits depend on a balance of interests" that will vary depending on the importance of the rights infringed.³⁹ When the state interferes with a fundamental aspect of the right to privacy, the government must demonstrate a "compelling governmental interest and the absence of a less restrictive means to advance that interest."⁴⁰ For interference with a non-fundamental aspect of privacy, "the state must show a legitimate interest and a close and substantial relationship between its interest and its chosen means of advancing that interest." [**22]⁴¹ Thus, to determine whether the Eagles' right to privacy has been violated, we must first evaluate the nature of the Eagles' rights, if any, that are abridged by the ban on smoking in private clubs, and then consider whether that abridgement is justified.⁴²

HN15 We have held that two categories of privacy rights are fundamental: those concerning personal autonomy and those protecting a distinctive situs — the home.⁴³ We have recognized that there is some overlap between these two areas because "the right to privacy in the home is directly linked to a notion of individual autonomy."⁴⁴ In this case, the Eagles ask us to hold that there is a fundamental privacy right "to ingest a legal substance — tobacco — in a private club facility." The Eagles argue that the Aerie facility serves as an extension of the members' homes and that the ingestion of tobacco within the [**23] Aerie facility should be protected under our decision in *Ravin v. State*, which held that the right to privacy protects the possession by adults of small quantities of marijuana in the home for personal use.⁴⁵ The City counters that smoking is not a fundamental right of personal autonomy and that the Aerie facility should not receive the same special protection as the home. The superior court found that the regulation of smoking does not "implicate the fundamental right of personal autonomy" and that the Aerie facility is not the equivalent of a home.

1. Smoking tobacco is not a fundamental right of personal autonomy.

We agree with the superior court that, standing alone, **HN16** smoking tobacco is not a fundamental right of personal autonomy. This conclusion flows directly from our previous cases. Our decision in *Ravin* was firmly rooted in the constitutional protection for privacy in the home, and specifically held that **HN17** "there is no fundamental

³⁸ *Woods & Rohde, Inc. v. State, Dep't of Labor*, 565 P.2d 138, 150 (Alaska 1977).

³⁹ *Sampson v. State*, 31 P.3d 88, 91 (Alaska 2001).

⁴⁰ *Id.*; see *State v. Erickson*, 574 P.2d 1, 11-12 (Alaska 1978); *Ravin v. State*, 537 P.2d 494, 497-98 (Alaska 1975).

⁴¹ *Sampson*, 31 P.3d at 91.

⁴² See *Harrison v. State*, 687 P.2d 332, 337 (Alaska App. 1984).

⁴³ See *Sampson*, 31 P.3d at 93-94 (describing the holdings in several personal autonomy cases and in *Ravin*).

⁴⁴ *Id.* at 94 (citing *Ravin*, 537 P.2d at 503-04).

⁴⁵ 537 P.2d at 504.

right, either under the Alaska or federal constitutions, either to possess or ingest [**24] marijuana." ⁴⁶ Similarly, in *State v. Erickson*, we rejected the argument that the right to privacy protected the use of cocaine within the home and held that "the defendants' particular rights to privacy and autonomy involved cannot be read so as to make the ingestion, sale or [*357] possession of cocaine a fundamental right." ⁴⁷

Aerie 4200 argues that these holdings in *Ravin* and *Erickson* are distinguishable because tobacco, unlike marijuana or cocaine, is a legal substance. The court of appeals addressed a similar argument in *Harrison v. State*, which upheld the constitutionality of Alaska's local option law, and concluded that **HN18** "there is no fundamental right to possess or consume alcohol." ⁴⁸ We agree with this conclusion of the court of appeals in *Harrison* and conclude that it applies here as well. **HN19** There is not a fundamental right of personal autonomy under the Alaska Constitution to ingest tobacco.

2. The ban on smoking in private clubs does not violate the fundamental right to privacy in the home.

In *Ravin*, however, we recognized that we could not dispose of *Ravin's* privacy claims simply by holding that there [**25] was no constitutional right to possess or smoke marijuana. ⁴⁹ We thus conducted "a more detailed examination of the right to privacy and the relevancy of where the right is exercised." ⁵⁰ This examination led us to conclude that **HN20** because of the distinctive nature and importance of the home, Alaskans have a fundamental "right to privacy in their homes." ⁵¹ We concluded that this fundamental right to privacy in the home encompassed "the possession and ingestion of substances such as marijuana," subject to two important limitations: First, the use or possession must be limited to "a purely personal, non-commercial context in the home"; and second, the right "must yield when it interferes in a serious manner with the health, safety, rights and privileges of others or with the public welfare." ⁵²

The Eagles urge us to extend this reasoning to the ingestion of tobacco within their Aerie facility. We decline to do so because the Aerie facility is not a home and because smoking tobacco within the Aerie facility does not occur in "a purely personal, non-commercial context."

Our decision in *Ravin* does not invalidate the ordinance at issue here because [**26] a private club is not a home. The Eagles argue that "*Ravin* does not set up a dichotomy between 'homes' and 'everywhere else' " but instead recognizes a spectrum of location-based privacy rights, with possession or ingestion within a private home at one end. ⁵³ Our conclusion in *Ravin*, however, made clear that **HN21** the right to possess and ingest certain substances encompassed by the right to privacy was strictly limited to a "purely personal, non-commercial context *in the home*." ⁵⁴ It is the "distinctive nature" of an individual's home that we have recognized as deserving of special protection. ⁵⁵

For this reason, the Eagles' arguments that the Aerie facility is "an extension" of the members' homes and "has many attributes of a home" are not persuasive. A home is a private residence. Private clubs, including the Aerie

⁴⁶ *Id.* at 502.

⁴⁷ 574 P.2d 1, 12 (Alaska 1978).

⁴⁸ 687 P.2d 332, 338 (Alaska App. 1984).

⁴⁹ *Ravin*, 537 P.2d at 502.

⁵⁰ *Id.*

⁵¹ *Id.* at 504.

⁵² *Id.*

⁵³ See *Ravin*, 537 P.2d at 502-03.

⁵⁴ *Id.* at 504 (emphasis added).

⁵⁵ *Id.* at 503.

facility, are not homes. The Aerie facility is owned by a non-profit corporation organized under the laws of Alaska; it sells liquor and holds a liquor license that subjects it to the State of Alaska's comprehensive regulations for the sale of alcohol; and it employs five people, including a designated [**27] business manager.

Furthermore, when members of Aerie 4200 smoke tobacco in the Aerie facility, they are not ingesting that substance in a "purely personal, non-commercial context."⁵⁶ Aerie 4200 could choose not to sell alcohol in the Aerie facility. But Aerie 4200 functions as both a social club and a commercial enterprise that conducts activities "intended to produce a financial base." The fact that Aerie 4200 uses its revenue to support charitable [**358] causes does not change the commercial nature of its Aerie facility. Because the Aerie facility is not a home and operates in a commercial context, it does not fall under the privacy protections established in *Ravin*.

3. The ban on smoking in private clubs bears a close and substantial relationship to the legitimate state purpose of protecting the public health.

Because the ban on smoking in private clubs does not implicate a fundamental aspect of the right to privacy, we do not evaluate the ban under strict scrutiny. Instead, we apply the less stringent test of whether the City has demonstrated a legitimate interest in protecting the public health and welfare and a close and substantial relationship between that interest and the [**28] ban on smoking in private clubs.⁵⁷

The superior court found that "[t]he toll of death and injury caused by consumption of tobacco is not subject to serious dispute," and the amicus brief filed by the American Cancer Society discusses in detail the "harmful effects of exposure to second-hand smoke and the beneficial impact of smoke-free legislation." The Eagles do not dispute these health claims and concede that there is a legitimate state interest in enacting "a broad smoking ban in places where the public may be found, such as bars and restaurants."

The Eagles argue, however, that there is not a close and substantial relationship between protecting the public from the harmful effects of tobacco smoke and banning smoking in their private club. The Eagles emphasize that their club rule allowing smoking was adopted by a unanimous vote; that 85% of Aerie 4200's members, including all five of its employees, are smokers; and that the Aerie facility does not allow smoking when it opens to the general public a few times each year. From the perspective of the Eagles, this demonstrates that the ban on smoking in private clubs has no relationship [**29] to the welfare of the "general public," let alone a close and substantial one, but instead applies only to "private and consenting adults." The Eagles essentially claim that they have the right to engage in conduct which harms only themselves.

We rejected a similar argument in *Sampson v. State*, which held that the right to privacy does not include a right to physician-assisted suicide.⁵⁸ In *Sampson*, we explained that *HN22* our cases do not support the argument "that the government may not abridge any aspect of personal privacy unless it involves conduct posing a threat of harm to another."⁵⁹ Our decision in *Sampson* also rejected the argument that the state cannot regulate conduct that poses a threat of harm to others if the potential victims consent to the harm.⁶⁰ The Supreme Judicial Court of Massachusetts rejected a similar argument in *American Lithuanian Naturalization Club v. Board of Health of Athol*,

⁵⁶ *Id.* at 504.

⁵⁷ See *Sampson v. State*, 31 P.3d 88, 91 (Alaska 2001).

⁵⁸ 31 P.3d 88.

⁵⁹ *Id.* at 95; see also *State v. Erickson*, 574 P.2d 1, 21 (1978) [**30] ("*HN23* No one has an absolute right to do things in the privacy of his own home which will affect *himself* or others adversely.") (emphasis added).

⁶⁰ *Sampson*, 31 P.3d at 95 (finding that *HN24* "a physician who assists in a suicide undeniably causes harm to others" even with the patient's consent).

holding that there was a rational connection between the state's interest in public health and the ban on smoking in private clubs, particularly given the exposure of non-smoking club members to second-hand smoke.⁶¹

All of Aerie 4200's members, including the smokers and the non-smokers, are harmed by exposure to second-hand smoke in the enclosed space of the Aerie facility. Their consent does not change the analysis of the City's interest in protecting their health. As the superior court observed:

It is not enough to say that the persons exposed to second-hand smoke have chosen to be in the Eagles Aerie Home. If it were, then no anti-smoking ordinance could be upheld as long as other persons present were there voluntarily. If a workplace, or a bar, or a restaurant is posted as [*359] a smoking zone, then everyone present has chosen to be there knowing there is smoke.

The City has a legitimate interest in protecting the public, non-smokers and smokers alike, from the well-established dangers of second-hand tobacco smoke. Aerie 4200 has elected to obtain a state-regulated liquor license [**31] and sell alcoholic beverages in its Aerie facility. Establishments that offer alcoholic beverages for sale are likely to be places where members of the public frequently gather. Therefore, the City's decision to ban smoking in any enclosed place that offers food or alcohol for sale, including private clubs, bears a close and substantial relationship to the public health.

V. CONCLUSION

For the foregoing reasons, we AFFIRM the superior court's order granting summary judgment to the City and Borough of Juneau.

⁶¹ See 446 Mass. 310, 844 N.E.2d 231, 238-39 (Mass. 2006).

SSSB 1

The "Take It Outside" Act




On behalf of bill sponsor Senator Micciche

In Cooperation with the Smoke-Free Alaska effort - Alaska Native Health Board, American Cancer Society, American Heart Association, American Lung Association, and AARP

SSSB 1 - Saving Lives, Saving Dollars

- Senate Bill 1 is about healthier citizens and spending less on healthcare
- Senate Bill 1 will provide a smoke free work environment for every worker in Alaska
- Senate Bill 1 creates a statewide standard with regard to secondhand smoke that puts all businesses and workplaces across Alaska on a level playing field



Right now, only half of Alaska's population is covered by a smoke-free workplace law. A 2012 Dittman Research survey shows 82% of Alaskans support a statewide smoke-free indoor air law that includes restaurants and bars.

Over 800 Alaska businesses and organizations have signed resolutions in support of statewide smoke-free indoor workplaces.

There is conclusive proof that smoke-free air laws do not have adverse economic consequences for restaurants and bars subject to them.

What does SSSB 1 not do?

- prohibit smoking; it only requires that those who choose to smoke do so in a manner that does not cause or irritate others
- prohibit e-cigarettes



What does SSSB 1 do?

- ❑ Provides a statewide smoking prohibition in enclosed public spaces, public transportation vehicles and facilities, places of employment, government owned or operated places, buildings or residences used to provide paid child care, health care facilities, Alaska Pioneer Homes and Veterans' Homes, vehicles that are places of employment, and certain marine vessels.
- ❑ Included are school grounds or public parks for children, outdoor arena seating, and areas within certain distances from entrances, open windows, and air intake vents of places where smoking is prohibited.
- ❑ The bill requires the Commissioner to adopt regulations for filing, processing, and investigating reports of violations of the smoking prohibition, which may include filing complaints and issuing citations.

SSSB1 Cont'd

- ❑ The Department of HSS role in enforcing and implementing the statewide smoking prohibition is to provide education and respond to complaints.
- ❑ The bill allows the HSS Commissioner to delegate to other agencies any of the responsibilities to enforce the bill's provisions.
- ❑ The bill also requires a person who is in charge of a place where smoking is prohibited to display specific signage. Sec. 18.35.306(c) requires the department to furnish signs to any person who requests them.
- ❑ The Division of Public Health's Tobacco Prevention and Control Program would be responsible for developing public education materials regarding the requirements within the law and for educating business owners, grantees and the public on the specifics of the law.

2014 Surgeon General Report

The Health Consequences of Smoking 50 Years of Progress

- ❑ Over the past 50 years, 31 Surgeon General's reports have utilized the best available evidence to expand our understanding of the health consequences of smoking and involuntary exposure to tobacco smoke.
- ❑ We have all heard the staggering statistics about the repercussions of exposure to second-hand smoke.
- ❑ The recent data on public health impacts from secondhand smoke suggest a public health emergency.

Estimated total deaths caused by smoking and exposure to secondhand smoke, 1965–2014

Cause of death	Total
☐ Smoking-related cancers	6,587,000
☐ Cardiovascular and metabolic diseases	7,787,000
☐ Pulmonary diseases	3,804,000
☐ Conditions related to pregnancy and birth	108,000
☐ Residential fires	86,000
☐ Lung cancers caused by exposure to secondhand smoke	263,000
☐ Heart disease caused by exposure to secondhand smoke	2,194,000
☐ Total	20,830,000

Between 1965 and 2014

- Over 20 million Americans died because of smoking, including
 - 2.5 million nonsmokers
 - More than 100,000 babies
- In context:
 - 68 times the number of American combat deaths in WWII
 - 30 times the number of US deaths from 1918 flu pandemic

What We've Learned in 50 Years

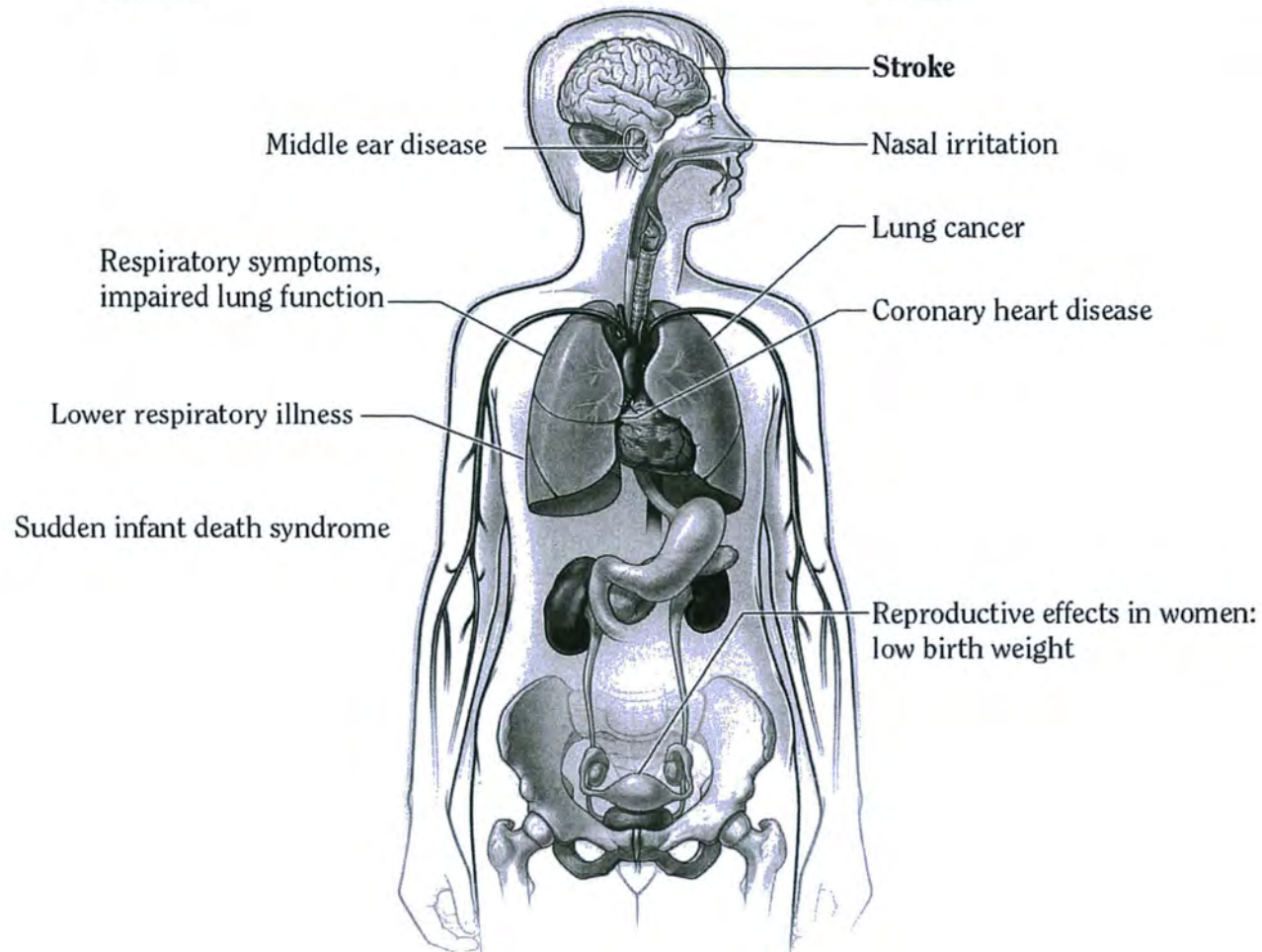
- ❑ Smoking and passive smoking causes disease in nearly every organ. Exposure to SHS is now causally linked to cancer, respiratory, and cardiovascular diseases, and to adverse effects on the health of infants and children
- ❑ Secondhand smoke kills nearly 41,000 nonsmokers every year
- ❑ This is four (4) X the number of DUI fatalities in 2013 (10,046)
- ❑ 50 yr history of our DUI laws - .15, .10, .08, mandatory jail – national standard in all 50 states





Health Consequences Causally Linked to Secondhand Smoke Exposure

Children

Adults



- 
- ❑ The annual number of deaths attributable to smoking and exposure to secondhand smoke is now approaching 500,000
 - ❑ Exposure to secondhand smoke has an immediate (within 30 minutes) adverse impact on the cardiovascular system, damaging blood vessels, making blood more likely to clot, and increasing the risks for heart attack and stroke.
 - ❑ There is no safe level of SHS exposure
 - ❑ Exposure to secondhand smoke is now causally associated with a 20 – 30% increased risk for stroke



National cost - \$5.6 billion (in 2006) for lost productivity due to exposure to secondhand smoke

Alaska cost – 60 deaths and more than \$1,000,000/year based on estimates of American Cancer Society

The evidence is sufficient to infer a causal relationship between the implementation of a smoke-free law or policy and a reduction in coronary events among people younger than 65 years of age

This is a question of rights – the choice to smoke vs the need to breathe. A clean indoor air policy does not prohibit smoking, it only requires that those who choose to smoke do so in a manner that does not threaten or harm others

What About E-cigarettes?

- ❑ Unlike traditional cigarettes, e-cigarettes are generally battery-operated and use an atomizer to heat liquid from a cartridge until it becomes a chemical-filled aerosol.
- ❑ The aerosol exhaled contains nicotine, ultra-fine metal particles, volatile organic compounds and other carcinogenic toxins.
- ❑ There are almost 470 different brands of e-cigarettes on the market today, including 7,700 flavors.
- ❑ One study found e-cigarette aerosol that contained hazardous nickel and chromium at four times the level they appear in traditional cigarette smoke.

E-Cigarettes cont'd

- According to Alaska state law, it is illegal to sell or give any product containing nicotine to anyone under 19 years old (AS 11.76.109)
- Because e-cigarette retailers do not need a sales license endorsement to sell their products like tobacco retailers do, there is no program of compliance checks for youth sales in place for these retailers

Proven Interventions

- Comprehensive Tobacco Prevention and Control Programs – AS 44.29.020(a)(14)(C) establishes DHSS responsibility for a comprehensive smoking education, tobacco use prevention, and tobacco control program. The department's program must promote cessation among tobacco users and educate the public about the lethal effects of exposure to secondhand smoke
- Smoke-free workplace and public places laws

Why Smoke-Free Workplaces?

- ❑ Implementation of comprehensive clean indoor air laws has been shown to significantly reduce the incidence of heart attacks (acute myocardial infarction or “AMI”).
- ❑ Separating smokers from non-smokers, air cleaning technologies and ventilation systems cannot effectively and reliably protect public health
- ❑ In addition to eliminating exposure of nonsmokers to secondhand smoke, smoke-free workplace laws also help to reduce tobacco use among smokers.

Why Smoke-Free Workplaces?

- ❑ Clean indoor air laws recognize that while an individual smoker or e-cigarette user may elect to harm themselves, they should not be allowed to injure others while doing so.
- ❑ “The right of smokers to smoke ends where their behavior affects the health and well-being of others; furthermore, it is the smokers’ responsibility to ensure that they do not expose nonsmokers....”

-Surgeon General C. Everett Koop

Smoke-free Laws in Alaska

- ❑ Only half of Alaska's population is protected by a local law from secondhand smoke at work.
- ❑ The remaining large population boroughs do not have the legal health powers to enact local smoke-free laws.

AK Smoke-free Local Laws

- Bethel
 - Anchorage
 - Juneau*
 - Barrow
 - Dillingham
 - Haines
 - Skagway
 - Petersburg
 - Klawock
 - Nome*
 - Unalaska
 - Palmer*
- * *Includes e-cigarettes*

Alaskans Support Smoke-Free Workplaces

- 82% agree that “All Alaskan workers should be protected from secondhand smoke in the workplace.”
- Support for smoke-free indoor workplaces includes a strong majority of current smokers in Alaska.
- Alaskan support for smoke-free indoor workplaces is high throughout all regions of the state, ranging from 75% to 84%.

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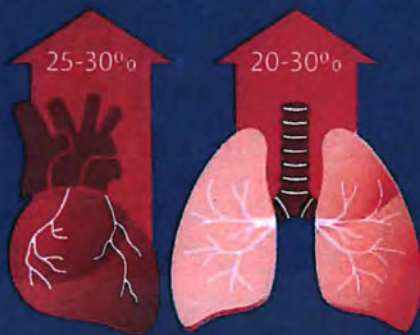
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Secondhand Smoke

Secondhand smoke (SHS) is the combination of smoke from the burning end of a cigarette, cigar or pipe tip and the smoke exhaled by the smoker. SHS is harmful to the health of everyone who comes in contact with it.

Health Effects: Adults and Workers



Nonsmokers who are exposed to SHS at work or home increase their risk of heart disease by 25-30% and risk of lung cancer by 20-30%.²

Smokefree workplace laws lead to less smoking, increases in quit attempts and an increase in cessation rates among protected workers.

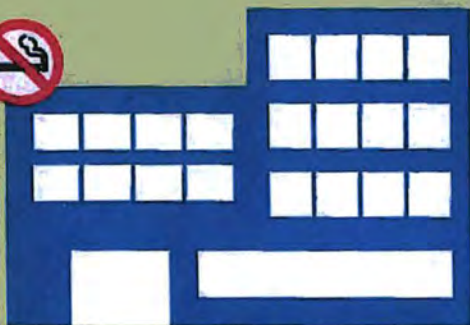


Nine out of 10 Alaska adults think smoking should be prohibited in Alaska workplaces.³



For every eight smokers who die from smoking, one nonsmoker dies from exposure to SHS.⁴

BOTTOM LINE: There is no risk-free level of secondhand smoke; even brief exposure can be harmful.² **Eliminating smoking in indoor spaces is the only way to fully protect nonsmokers from SHS exposure. Separating smokers from nonsmokers, cleaning the air and ventilating rooms or buildings does not eliminate SHS exposure.²**



What Can You Do?

- Encourage businesses to go smokefree.
- Before signing a lease or purchase agreement, ensure the rental property or association has a smokefree housing policy.
- Maintain a 100% smokefree home and car, even if you smoke.
- Choose restaurants and bars that are smokefree.
- Support federal, statewide and local tobacco-prevention efforts like smokefree laws, higher tobacco taxes and funding for tobacco prevention programs.

If You Smoke, Take Precautions

- Always smoke outdoors – never in the home or other enclosed environments.
- Do not smoke around others, especially pregnant women, infants, the elderly and children.
- Consider using a nicotine replacement therapy (NRT) such as patches or gum, which help to lessen nicotine withdrawal and cravings and make it easier to quit.
- If you smoke, quit. If you can't quit, keep trying.

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Secondhand Smoke (SHS) Facts

- [Overview](#)
- [Health Effects: Children](#)
- [Health Effects: Adults](#)
- [Estimates of Secondhand Smoke Exposure](#)
- [Disparities in Secondhand Smoke Exposure](#)
- [References](#)
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Overview

Secondhand smoke is a mixture of gases and fine particles that includes:

- Smoke from a burning tobacco product such as a cigarette, cigar, or pipe^{1,2}
- Smoke that has been exhaled or breathed out by the person or people smoking²
- More than 7,000 chemicals, including hundreds that are toxic and about 70 that can cause cancer¹

Most exposure to secondhand smoke occurs in homes and workplaces. Secondhand smoke exposure also continues to occur in public places such as restaurants, bars, and casinos, as well as multiunit housing and vehicles.³

Eliminating smoking in indoor spaces is the only way to fully protect nonsmokers from secondhand smoke exposure.³

Separating smokers from nonsmokers within the same air space, cleaning the air, opening windows, and ventilating buildings does not eliminate secondhand smoke exposure.³

Since 1964, 2.5 million nonsmokers have died from exposure to secondhand smoke.¹

Health Effects: Children

In children, secondhand smoke causes the following:^{1,3}

- Ear infections
- More frequent and severe asthma attacks
- Respiratory symptoms (e.g., coughing, sneezing, shortness of breath)
- Respiratory infections (i.e., bronchitis, pneumonia)
- A greater risk for sudden infant death syndrome (SIDS)

In U.S. children aged 18 months or younger, secondhand smoke exposure is responsible for:³

- An estimated 150,000–300,000 new cases of bronchitis and pneumonia annually
- Approximately 7,500–15,000 hospitalizations annually

Health Effects: Adults

In adults who have never smoked, secondhand smoke can cause cardiovascular disease and lung cancer.^{1,5}

Cardiovascular Disease

- For nonsmokers, breathing secondhand smoke has immediate harmful effects on the cardiovascular system that can increase the risk for heart attack. People who already have heart disease are at especially high risk.^{1,3}
- Nonsmokers who are exposed to secondhand smoke increase their heart disease risk by 25–30%.³
- It is estimated that secondhand smoke exposure caused nearly 34,000 heart disease deaths annually (during 2005–2009) among adult nonsmokers in the United States.¹
- Stroke is caused by exposure to secondhand smoke.¹

Lung Cancer

- Nonsmokers who are exposed to secondhand smoke at home or work increase their lung cancer risk by 20–30%.³
- Secondhand smoke exposure causes an estimated more than 7,300 lung cancer deaths annually (for 2005–2009) among adult nonsmokers in the United States.¹

There is no risk-free level of secondhand smoke exposure; even brief exposure can be harmful to health.^{1,3,4}

Smoke-free laws can reduce the risk of heart disease and lung cancer among nonsmokers.¹

Estimates of Secondhand Smoke Exposure

When a nonsmoker breathes in secondhand smoke, the body begins to metabolize or break down the nicotine that was in the smoke. During this process, a nicotine byproduct called cotinine is created. Exposure to nicotine and secondhand smoke can be measured by testing saliva, urine, or blood for the presence of cotinine.³

Secondhand Smoke Exposure Has Decreased in Recent Years

- Measurements of cotinine have shown how exposure to secondhand smoke has steadily decreased in the United States over time.⁵
 - During 1988–1991, approximately 87.9% of nonsmokers had measurable levels of cotinine.
 - During 1999–2000, approximately 52.5% of nonsmokers had measurable levels of cotinine.
 - During 2007–2008, approximately 40.1% of nonsmokers had measurable levels of cotinine.
- The decrease in exposure to secondhand smoke is due to the growing number of laws that prohibit smoking in workplaces and public places, including restaurants and bars, the increase in the number of households with voluntary smoke-free home rules, and the decreases in adult and youth smoking rates.^{1,5,6,7,8}

*This information will be updated in 2014.

Many in the United States Continue to be Exposed to Secondhand Smoke*

- An estimated 88 million nonsmokers in the United States were exposed to secondhand smoke in 2007–2008.⁵
- Children are at particular risk for exposure to secondhand smoke: 53.6% of young children (aged 3–11 years) were exposed to secondhand smoke in 2007–2008.⁵
- While only 5.4% of adult nonsmokers in the United States lived with someone who smoked inside their home, 18.2% of children (aged 3–11 years) lived with someone who smoked inside their home in 2007–2008.⁵
- Among children who live in homes in which no one smokes inside, those who live in multiunit housing have 45% higher cotinine levels compared to those who live in detached homes.⁹
- Today about half of the children between ages 3 and 18 in the U.S. are exposed to cigarette smoke regularly, either at home or in places such as restaurants that still allow smoking.¹⁰

*This information will be updated in 2014.

Disparities in Secondhand Smoke Exposure

Racial and Ethnic Groups⁵

- Although declines in cotinine levels have occurred in all racial and ethnic groups, cotinine levels have consistently been found to be higher in non-Hispanic black Americans than in non-Hispanic white Americans and Mexican Americans. In 2007–2008:
 - 55.9% of non-Hispanic blacks were exposed to secondhand smoke.
 - 40.1% of non-Hispanic whites were exposed to secondhand smoke.
 - 28.5% of Mexican Americans were exposed to secondhand smoke.

Low Income⁵

- Secondhand smoke exposure tends to be high for persons with low incomes: 60.5% of persons living below the poverty level in the United States were exposed to secondhand smoke in 2007–2008.

Occupational Disparities⁸

- Occupational disparities in secondhand smoke exposure decreased over the past two decades, but substantial differences in exposure among workers remain.
- African-American male workers, construction workers, and blue collar workers and service workers are some of the groups who continue to experience particularly high levels of secondhand smoke exposure relative to other workers.

Eliminating smoking in indoor spaces is the only way to fully protect nonsmokers from secondhand smoke exposure. Separating smokers from nonsmokers within the same air space, cleaning the air, opening windows, and ventilating buildings does not eliminate secondhand smoke exposure.³

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For Further Information

Centers for Disease Control and Prevention
National Center for Chronic Disease Prevention and Health Promotion
Office on Smoking and Health
E-mail: tobaccoinfo@cdc.gov (<mailto:tobaccoinfo@cdc.gov>)
Phone: 1-800-CDC-INFO

Media Inquiries: Contact CDC's Office on Smoking and Health press line at 770-488-5493.

Fact Sheets

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Youth and Young Adult Data	

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Lancet. 2014 May 3;383(9928):1549-60. doi: 10.1016/S0140-6736(14)60082-9. Epub 2014 Mar 28.

Effect of smoke-free legislation on perinatal and child health: a systematic review and meta-analysis.

Been JV¹, Nurmatov UB², Cox B³, Nawrot TS⁴, van Schayck CP⁵, Sheikh A⁶.

Author information

Abstract

BACKGROUND: Smoke-free legislation has the potential to reduce the substantive disease burden associated with second-hand smoke exposure, particularly in children. We investigated the effect of smoke-free legislation on perinatal and child health.

METHODS: We searched 14 online databases from January, 1975 to May, 2013, with no language restrictions, for published studies, and the WHO International Clinical Trials Registry Platform for unpublished studies. Citations and reference lists of articles of interest were screened and an international expert panel was contacted to identify additional studies. We included studies undertaken with designs approved by the Cochrane Effective Practice and Organisation of Care that reported associations between smoking bans in workplaces, public places, or both, and one or more predefined early-life health indicator. The primary outcomes were preterm birth, low birthweight, and hospital attendances for asthma. Effect estimates were pooled with random-effects meta-analysis. This study is registered with PROSPERO, number CRD42013003522.

FINDINGS: We identified 11 eligible studies (published 2008-13), involving more than 2.5 million births and 247,168 asthma exacerbations. All studies used interrupted time-series designs. Five North American studies described local bans and six European studies described national bans. Risk of bias was high for one study, moderate for six studies, and low for four studies. Smoke-free legislation was associated with reductions in preterm birth (four studies, 1,366,862 individuals; -10.4% [95% CI -18.8 to -2.0]; $p=0.016$) and hospital attendances for asthma (three studies, 225,753 events: -10.1% [95% CI -15.2 to -5.0]; $p=0.0001$). No significant effect on low birthweight was identified (six studies, >1.9 million individuals: -1.7% [95% CI -5.1 to 1.6]; $p=0.31$).

INTERPRETATION: Smoke-free legislation is associated with substantial reductions in preterm births and hospital attendance for asthma. Together with the health benefits in adults, this study provides strong support for WHO recommendations to create smoke-free environments.

FUNDING: Thrasher Fund, Lung Foundation Netherlands, International Paediatric Research Foundation, Maastricht University, Commonwealth Fund.

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Comment in

Smoking bans are linked to reduction in preterm births and childhood asthma, says study. [BMJ. 2014]

Smoke-free policies: cleaning the air with money to spare. [Lancet. 2014]

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The Economic Impact of Clean Indoor Air Laws

Michael Eriksen and Frank Chaloupka

CA Cancer J Clin 2007;57:367-378

DOI: 10.3322/CA.57.6.367

This information is current as of December 20, 2007

The online version of this article, along with updated information and services, is located on the World Wide Web at:

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The Economic Impact of Clean Indoor Air Laws

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ABSTRACT Clean indoor air laws are easily implemented, are well accepted by the public, reduce nonsmoker exposure to secondhand smoke, and contribute to a reduction in overall cigarette consumption. There are currently thousands of clean indoor air laws throughout the United States, and the majority of Americans live in areas where smoking is completely prohibited in workplaces, restaurants, or bars. The vast majority of scientific evidence indicates that there is no negative economic impact of clean indoor air policies, with many studies finding that there may be some positive effects on local businesses. This is despite the fact that tobacco industry-sponsored research has attempted to create fears to the contrary. Further progress in the diffusion of clean indoor air laws will depend on the continued documentation of the economic impact of clean indoor air laws, particularly within the hospitality industry. This article reviews the spread of clean indoor air laws, the effect on public health, and the scientific evidence of the economic impact of implementation of clean indoor air laws. (*CA Cancer J Clin* 2007;57:367-378.) © American Cancer Society, Inc., 2007.

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This article is available online at <http://CAonline.AmCancerSoc.org>

DOI: 10.3322/CA.57.6.367

THE SPREAD OF CLEAN INDOOR AIR LAWS

States and localities have restricted smoking in a variety of places for many years. The earliest policies usually restricted smoking in a few venues (eg, theaters or food preparation areas) and were intended to prevent fires or food contamination rather than to protect the health of nonsmokers. As evidence emerged about the health consequences of smoking, including limited evidence on the consequences of exposure of nonsmokers to tobacco smoke, the public health community and advocates called for protection from exposure to secondhand smoke. In 1971, Surgeon General Jesse Steinfeld called for a complete ban on smoking in confined public places and went on to tell the Interagency Committee on Smoking and Health, "Nonsmokers have as much right to clean air and wholesome air as smokers have to their so-called right to smoke, which I would define as a 'right to pollute.' It is high time to ban smoking from all confined public places such as restaurants, theaters, airplanes, trains and buses."¹

The next year, Surgeon General Steinfeld released the 1972 Surgeon General's Report² and sparked national awareness of the possible adverse health effects due to "public exposure to air pollution from tobacco smoke."

Policy makers ultimately listened and adopted new policies limiting smoking, with the specific intent of protecting nonsmokers. The earliest of these state policies was the 1973 law in Arizona that limited smoking in a number of public places. This was soon followed by the 1974 Connecticut law restricting smoking in restaurants and the 1975 Minnesota law that was the first comprehensive clean indoor air law that included restrictions on smoking in private workplaces.³

Perhaps surprisingly given that California has been at the leading edge of state tobacco-control efforts, statewide clean indoor air referenda were defeated in California in 1978 and 1980. These defeats resulted in a shift from statewide to local efforts to restrict public smoking in the state. In the early 1980s, local clean indoor air ordinances were passed in San Francisco, Los Angeles, Sacramento, and San Diego. This focus on local municipalities started in California and spread throughout the nation.

Disclosures: The authors would like to acknowledge the support of the Georgia Cancer Coalition (M.P.E.) and the Robert Wood Johnson Foundation's Impact Teen project (F.J.C.) for conducting the research to prepare this manuscript.

As public advocacy and scientific discovery advanced, the tobacco industry took note. In 1978, the Tobacco Institute commissioned the Roper Organization to conduct a national public-opinion survey on smoking.⁴ The Roper Organization warned the Tobacco Institute that the tobacco industry should give serious consideration to public concerns about secondhand smoke, stating, "...what the smoker does to himself may be his business, but what the smoker does to the nonsmoker is quite a different matter." The Roper Report went on to conclude the following:

"Nearly six out of ten believe that smoking is hazardous to the nonsmoker's health, up sharply over the last four years. More than two-thirds of nonsmokers believe it and nearly one half of all smokers believe it. This we see as the most dangerous development to the viability of the tobacco industry that has yet occurred."⁴

Momentum for clean indoor air policies grew following the release of the 1986 Surgeon General's report, *The Health Consequences of Involuntary Smoking*, which concluded that exposure to tobacco smoke caused diseases, including lung cancer, and that children of smoking parents were at increased risk of respiratory diseases.³ Importantly, the report concluded that the simple separation of smokers and nonsmokers might reduce but did not eliminate the health risks from nonsmokers' exposure to tobacco smoke. In the years following the report, new federal regulations were adopted banning smoking on domestic flights of 2 hours or fewer and, eventually, virtually all domestic flights (in 1990) and all international flights departing from or arriving in the United States (in 2000). The report spurred more action at the state and local level as governments strengthened existing policies and adopted new policies, including complete bans on smoking in some venues (eg, health care facilities). At the same time, it led numerous private companies to adopt policies governing smoking in their workplaces. Much of the push for strong state and local policies was the result of effective grassroots advocacy efforts of groups like the Americans for Nonsmokers' Rights Foundation and the coalitions supported by the American Stop Smoking Intervention Study and SmokeLess States programs.³

As evidence grew about the health consequences of exposure to tobacco smoke, state and local policies became stronger and stronger. The 1997 release of the California Environmental Protection Agency's report on the health consequences of exposure⁵ was followed in 1998 by California's law banning smoking in bars without separately ventilated smoking areas. In 2002, New York City made history by banning smoking in bars, restaurants, and virtually all other workplaces beginning in July 2003, while Florida voters overwhelmingly supported a ballot initiative that with some exceptions (most notably bars) did the same. By 2003, every state and thousands of localities had adopted policies limiting or banning smoking in a variety of locales. The growth and strengthening of these state policies is illustrated in Figure 1.

Most recently, the 2006 Surgeon General's Report, *The Health Consequences of Involuntary Exposure to Tobacco Smoke*,³ stimulated further action, leading a growing number of states and communities to adopt comprehensive bans on cigarette smoking in virtually all public places and private worksites. In some places, these policies have included some outdoor spaces (eg, sports stadiums, beaches, and public parks). As of July 2007, 23 states, Puerto Rico, and Washington, DC, have laws in effect that require 100% smoke-free workplaces, restaurants, or bars (or some combination thereof), with another 6 states having enacted similar laws that are not yet in effect. There are also over 2,500 municipalities with clean indoor air laws.⁶ The growth in these comprehensive policies since 1985 is illustrated in Figure 2.

These comprehensive state policies (including those scheduled to take effect in the future), along with comparable local policies, currently apply to well over half of the US population.⁶ Further limits on smoking are being considered, including extending the policies to a greater variety of outdoor spaces and prohibiting smoking in private cars when children are present. In addition, as awareness of the health consequences of exposure to tobacco smoke grew and as public and private policies were implemented and strengthened, a growing number of households, including those of smokers, have adopted rules governing smoking in the home. By 2003, nearly

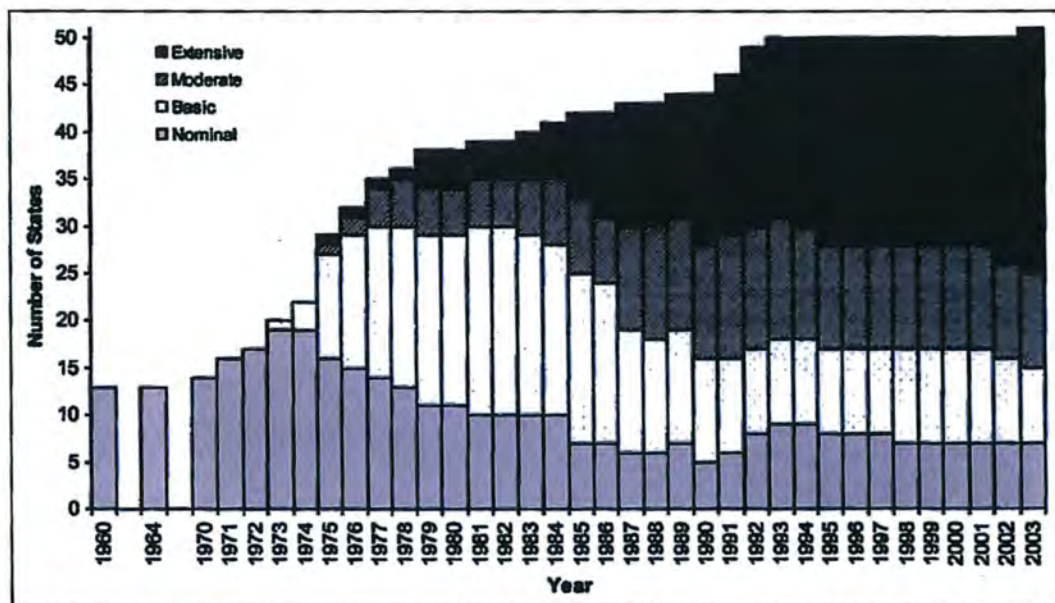


FIGURE 1 Restrictiveness of State Laws Regulating Smoking in Public Places, 1960 to 2003. Note: classification scheme from 1989 Surgeon General's Report (US Department of Health and Human Services, 1989) used to define restrictiveness as follows: nominal indicates 1 to 3 public places, not including restaurants or worksites; basic, 4 or more public places, not including restaurants or worksites; moderate, regulates smoking in restaurants, but not worksites; extensive, regulates smoking in private worksites. Figure courtesy of Roswell Park Cancer Institute and the ImpacTeen Project.

three fourths of US households had smoke-free home rules in place.⁷

GLOBAL CLEAN INDOOR AIR LAWS

In March 2004, Ireland became the first country to implement laws prohibiting smoking in enclosed workplaces, including bars and restaurants. Although some feared that the policy would be harmful to the economy and that people would not adhere to the law, the majority of the public supported the ban, and over 26,000 inspections reported a 94% compliance level.⁸ In addition, there was an 11% increase in the number of customers who visited Dublin pubs after the ban.⁹ Other studies have supported positive findings from Ireland's ban, including the following: (1) increase of public support of smoke-free laws from 67% to 89%, (2) increase of support from smokers from 40% to 70%, (3) high compliance to the smoke-free laws, (4) decreases of particulate concentrations and benzene levels in indoor air, and (5) improvements in nonsmokers' pulmonary functions.¹⁰ Since the enactment of Ireland's smoke-free laws, other countries have followed

suit or are planning to do so, such as New Zealand, Bermuda, Iran, Italy, South Africa, Finland, and others.¹¹

On May 21, 2003, the world's first international public health treaty, the Framework Convention on Tobacco Control (FCTC), was adopted unanimously by the World Health Assembly. Article 8 of the FCTC addresses secondhand-smoke exposure as a health risk and identifies interventions to reduce the exposure. The FCTC calls for ratifying parties to implement clean indoor air laws that will protect citizens from secondhand-smoke exposure in indoor workplaces and public places.¹² On August 14, 2007, Grenada became the 149th country to ratify the FCTC.¹³ Unfortunately, while the United States signed the treaty in May 2004, it has not yet been sent to the Senate for ratification. At the second meeting of the Conference of Parties in July 2007 in Bangkok, the countries that ratified the FCTC adopted standards for implementation of the smoke-free provisions as outlined in Article 8 of the FCTC. The standards acknowledge that only 100% smoke-free environments provide effective protection from secondhand

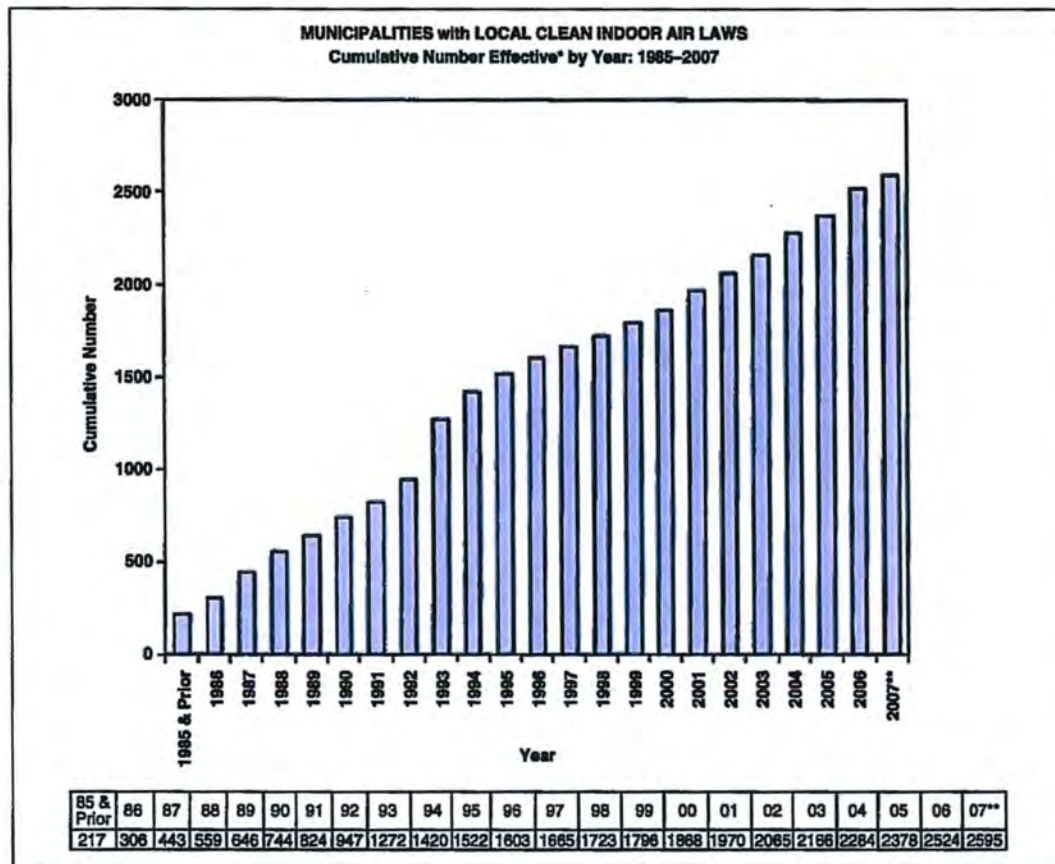


FIGURE 2 Municipalities with Local Clean Indoor Air Laws, Cumulative Number Effective* by Year: 1985-2007.
*Includes ordinances effective for any part of the year (ie, if an ordinance was effective for the first half of 2001, but then repealed halfway through the year, that ordinance still gets counted in 2001 since it was in effect for part of the year).⁶
**Year to date.

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smoke and that there is no safe level of exposure, which is consistent with the conclusions of the 2006 Surgeon General's Report.¹⁴

PROGRESS IN REDUCING EXPOSURE TO SECONDHAND SMOKE

Not only have clean indoor air laws become prevalent, their implementation has had a positive effect on public health. For example, Healthy People 2010 has established objectives to help achieve the goal of reducing illness, disability, and death related to tobacco use and exposure to secondhand smoke.¹⁵ There are 17 specific objectives, with 5 pertaining to reducing exposure to secondhand smoke in the United States. During the Healthy People 2010 Midcourse Review,¹⁶ progress toward all the tobacco objectives was

assessed, and the *only* objective that was actually met was reducing the proportion of nonsmokers exposed to secondhand smoke from 88% to 54% (Objective 27-10), exceeding its target by 36%.

The Centers for Disease Control and Prevention's *Third National Report on Human Exposure to Environmental Chemicals*¹⁷ shows that the presence of serum cotinine in nonsmokers has decreased dramatically over the past decade. Cotinine is a metabolite of nicotine and is primarily present in nonsmokers as a result of inhaling secondhand tobacco smoke. Compared with 1988 to 1991, the 1999 to 2002 data illustrate that cotinine levels in nonsmokers have decreased by approximately 70% (see Figure 3).¹⁸ These investigators reported that nearly all (88%) of nonsmokers had measurable levels of cotinine in their blood in 1988 to 1991, but

only 43% had measurable cotinine levels in 1999 to 2002.

To better understand the reason for this precipitous drop in serum cotinine levels since 1988, Pickett and her colleagues²⁰ analyzed the National Health and Nutrition Examination Survey data in the 57 locations in which the survey was conducted and compared serum cotinine levels in relation to the presence of clean indoor air laws. These investigators found a dose-response relationship between exposure to secondhand smoke (as measured by serum cotinine) and the extensiveness of the clean indoor air law in the subject's county of residence. In counties with extensive laws, 12.5% of the residents had serum cotinine levels consistent with secondhand smoke exposure compared with 35.1% in counties with limited coverage and 45.9% in counties with no clean indoor air law at all. Recent data from New York State indicate a reduction of nearly 50% in serum cotinine levels following the implementation of a comprehensive statewide smoking ban and an increase from under one third to over one half of the study population with undetectable levels of cotinine.²¹

In general, research suggests that these policies are self-enforcing and that compliance is high within a short time after their implementation.^{22,23} As a result, these policies are highly effective in reducing nonsmokers' exposure to tobacco smoke.^{3,24} Somewhat surprisingly perhaps, even many smokers residing in communities with comprehensive smoke-free policies indicate that they support such bans.²³ For example, in one recent survey, 83% of Irish smokers indicated that the comprehensive smoking ban implemented in Ireland in March 2004 was a good or very good policy.²⁵

In addition to protecting nonsmokers from exposure to tobacco smoke, these policies are effective in reducing cigarette smoking both by encouraging adult smokers to quit smoking and preventing youth from initiating smoking. These reductions result, in part, from the strengthening of social norms against smoking that follows the adoption of these policies, as well as from limiting opportunities for smoking and raising the "costs" of smoking (eg, the inconvenience or discomfort associated with smoking outdoors). Comprehensive reviews of the research evidence

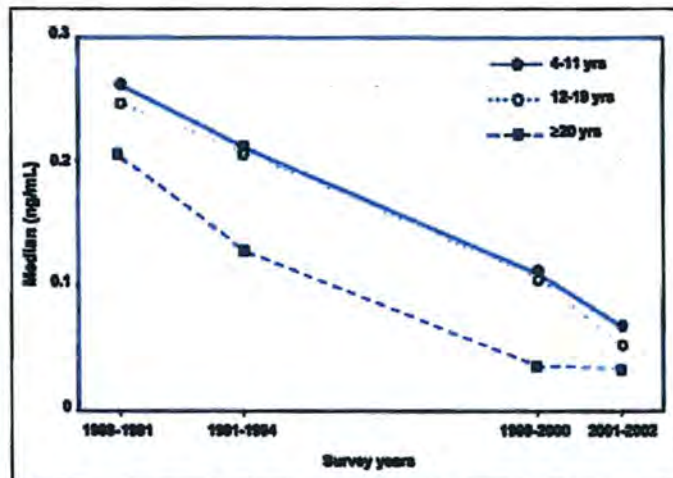


FIGURE 3 Median Serum Cotinine Levels in Nonsmokers, by Age Group—National Health and Nutrition Examination Survey (NHANES), United States, 1988–1991 through 2001–2002.¹⁸ Reprinted with permission from the Centers for Disease Control and Prevention, Department of Health and Human Services.¹⁹

on the impact of smoke-free workplace policies by the National Cancer Institute,²⁶ the Task Force on Community Preventive Services,^{24,27} and the Surgeon General³ find that these policies are effective in inducing some smokers to quit smoking and in reducing the number of cigarettes consumed by some smokers who continue to smoke.

Likewise, among youth and young adults, these policies are associated with stronger perceptions of the risks from smoking and lower perceived smoking prevalence among adults. These factors and the increased "costs" of smoking associated with the policies help explain the consistent findings from a growing number of studies showing that comprehensive smoke-free air policies are effective in reducing youth smoking prevalence, initiation, and uptake.³

The association between state smoke-free air policies and adult smoking prevalence is illustrated in Figure 4. While this simple graph does not control for the other factors that affect smoking prevalence or for the potential reverse causality between prevalence and state policies, it is consistent with the extensive and growing body of research that does take these into account. The figure uses an index developed by the ImpacTeen project that reflects both the number of places covered by state smoke-free air policies and the extent of the restrictions in each of these places (ranging from no restrictions to a complete ban).

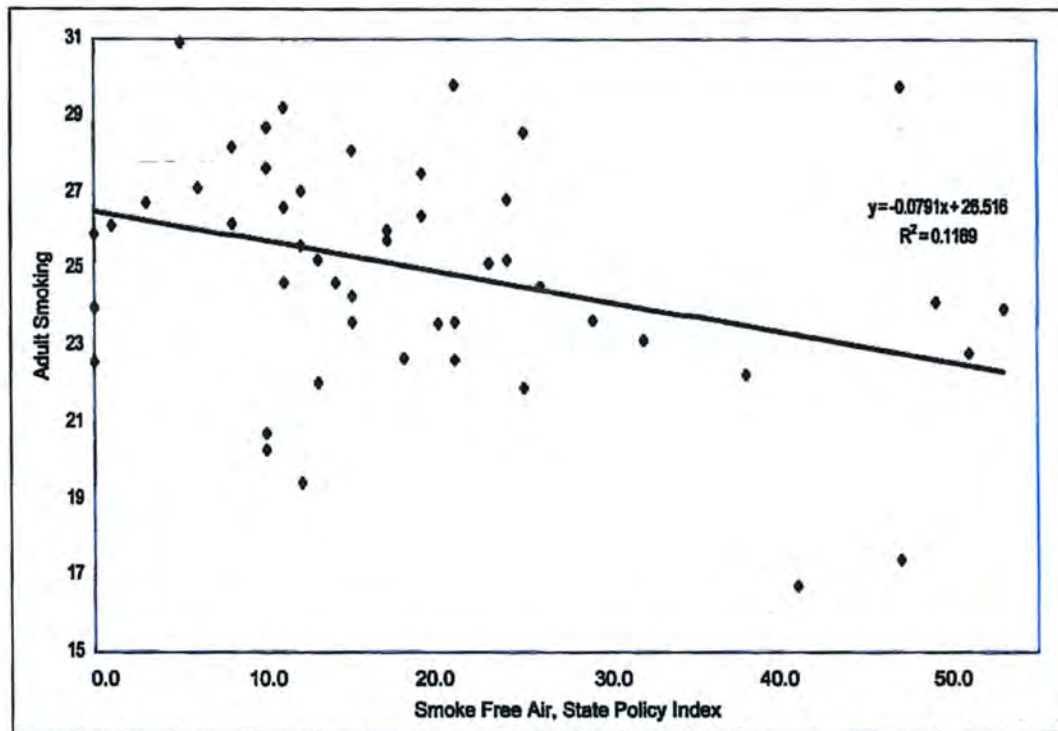


FIGURE 4 Strength of Smoke-free Air Policies and Adult Smoking Prevalence, 2003 to 2004. Figure courtesy of Substance Abuse and Mental Health Services Administration, Roswell Park Cancer Institute, and the ImpacTeen Project.

The actual experience in implementing clean indoor air laws has confirmed the anticipated public health benefit. Levy and colleagues²⁸ estimate that state clean indoor air laws adopted between 1993 and 2003 accounted for about 9% of the decline in adult smoking prevalence during this period. Levy²⁹ further predicts that prevalence would decline by an additional 4.2% by 2025 if all states that had not implemented comprehensive clean indoor air laws by the end of 2005 did so. While not the subject of this review, the 2006 Surgeon General's Report reviews the health benefits to nonsmokers as a result of reducing exposure to secondhand smoke and concludes "... that smoke-free workplace laws appear to yield health benefits soon after implementation."³ As with active smoking, the health benefits associated with clean indoor air laws can be simply attributed to reduced exposure to the toxins contained in tobacco smoke. For example, a recent study in the Pacific Northwest found significantly higher levels of a tobacco-specific lung carcinogen (NNAL) in nonsmoking bar and restaurant workers exposed

to secondhand smoke compared with workers employed in smoke-free establishments.³⁰

THE ECONOMIC COSTS OF EXPOSURE TO SECONDHAND SMOKE

In addition to the morbidity and mortality associated with chronic exposure to secondhand smoke, there are also real and substantial economic costs. In 2005, the Society of Actuaries³¹ analyzed the costs associated with involuntary exposure to secondhand smoke and concluded that such exposure imposes significant costs on nonsmokers and society as a whole. Total annual costs for conditions with well-documented increases in morbidity are estimated at nearly \$5 billion in direct medical costs and nearly \$5 billion in indirect costs (See Table 1).

ECONOMIC IMPACT OF SMOKE-FREE AIR LAWS

The spread of smoke-free air policies at the local, state, and national levels has been slowed by concerns about the economic impact of these

TABLE 1 Estimated Annual Direct Medical Cost and Economic Value of Lost Wages, Fringe Benefits, and Services for the Nonsmoking US Population Based on Present Value³¹

Major Disease Category	Specific Health Condition	Medical Cost (\$1,000,000)	Indirect Costs (\$1,000,000)	Total Annual US Combined Costs (\$1,000,000)
Cancer	Lung cancer	191	469	660
Cancer	Cervical cancer	14	110	124
Respiratory system	Asthma	773	161	934
Respiratory system	Otitis media	53	N/A	53
Respiratory system	Chronic obstructive pulmonary disease	1,215	886	2,101
Cardiovascular system	Coronary heart disease	2,452	2,752	5,204
Perinatal manifestations	Low birth weight	284	174	458
Postnatal manifestations	Sudden infant death syndrome	N/A	131	131
Total		4,982	4,683	9,665

N/A = not applicable.

policies, particularly on the hospitality industry. Some restaurant and bar owners, for example, thought that smoking restrictions or bans would result in lost revenues as their smoking patrons would cut short their stay or seek other venues (including those in other jurisdictions) where smoking was unrestricted. Others felt that the decision about smoking in their establishments was a business decision that was best left up to them, rather than one that required policy intervention. As the evidence on the health consequences of exposure to tobacco smoke amassed, arguments against smoke-free air policies became increasingly focused on their economic impact, rather than on the need to protect nonsmokers.

The tobacco industry has fueled this debate with its claims that smoke-free air policies will result in declining restaurant, bar, and other hospitality industry revenues; lost jobs in the hospitality sector; and business closings.^{32,33} This was not a new strategy—the industry has long made and continues to make the same arguments about the dire economic consequences of other tobacco-control policies, most notably increased tobacco taxes and comprehensive bans on advertising, despite the growing evidence to the contrary.^{34,35}

Studies Based on Objective Data

The spread of smoke-free air policies has provided numerous natural experiments that have allowed researchers to assess the economic impact of these policies on the hospitality industry, generally, and on restaurants, bars, casinos, and tourism, specifically. The best of these studies use objective

data on outcomes such as sales tax revenues, employment, and the number of licensed establishments from the periods before and after the implementation of the policy, along with comparable data from other jurisdictions where there was no policy change as a control group. Given the volatility of the hospitality industry, inclusion of appropriate controls is critical to separating any effects of these policies from the economic and other factors that impact on business activity.

The first such study, by Glantz and Smith,³⁶ focused on the effects of local smoke-free restaurant ordinances adopted between 1985 and 1992 in 15 California and Colorado communities. The authors used multiple regression methods to look at taxable restaurant sales revenues as a share of total revenues before and after the implementation of smoke-free policies in these communities and in 15 comparable communities that did not have a smoke-free restaurant policy. The authors found no evidence that the ordinances had a negative economic impact on the restaurant business in communities that had banned smoking in restaurants. In a follow-up study,³⁷ the authors updated their analysis and also examined the impact of local smoke-free bar ordinances in 7 California localities that had also banned smoking in drinking establishments, using a comparable measure of revenues from businesses licensed to serve alcohol. Again, the authors found no significant economic impact of the local ordinances on either restaurants or bars.

Other studies have used measures of employment to assess the economic impact of smoke-free

policies. Hyland and Cummings,³⁸ for example, looked at employment in New York City restaurants before and after the adoption of the city's smoke-free restaurant ordinance in April 1995, comparing trends in the city to those in neighboring counties and the rest of the state. They found that between April 1993 and April 1997, there was an 18% rise in restaurant employment in New York City compared with a 5% increase in the rest of the state, leading them to conclude that the policy did not result in the job losses opponents had argued would occur. In a follow-up analysis, Hyland and Tuk³⁹ presented similar evidence of employment growth following the adoption of smoke-free restaurant policies in nearby counties (Nassau, Westchester, and Rockland). Similarly, Connolly and his colleagues⁴⁰ found that the Massachusetts smoke-free workplace law that went into effect in July 2004 and included restaurants and bars had no statistically significant impact on employment in food and drinking establishments. Likewise, in the heart of tobacco country, Pyles and his colleagues⁴¹ found that employment in restaurants rose significantly while bar employment was unchanged following the implementation of Lexington-Fayette County Kentucky's comprehensive smoke-free policy in April 2004. In addition, they found no impact on employment in contiguous counties, contrary to opponents' arguments that the county ordinance would drive smokers to restaurants and bars in nearby jurisdictions where smoking was not restricted.

Still other studies have analyzed the impact of smoke-free policies on the number of licensed restaurants and/or bars. In their analysis of the New York City smoke-free restaurant policy, Hyland and Cummings,³⁸ for example, found that the rate of growth in restaurants in the city was equivalent to that in nearby counties and the rest of the state. Similarly, in their analysis of the Lexington-Fayette County ordinance, Pyles and his colleagues⁴¹ found no effects on the overall rate of business openings and closings in the affected sector, as well as for both establishments licensed to serve alcohol and those that do not serve alcohol.

In 2 recent innovative studies, researchers looked at the impact of local smoke-free air policies on the economic value of restaurants⁴² and bars⁴³ where economic value is determined by the sale price of these establishments. Alamar

and Glantz found a median increase of 16% in the sale prices of restaurants covered by a smoke-free air restaurant policy, while finding no significant differences in the sale prices of bars subject to a smoke-free bar policy. Given this, the authors conclude that these policies increase the profitability of restaurants, while not adversely affecting the profitability of bars.

The impact of smoke-free air policies on tourism has been the subject of several studies over the past decade. Glantz and Charlesworth,⁴⁴ for example, looked at hotel revenues as a share of total retail sales revenues in 3 states and 6 cities that had adopted smoke-free restaurant policies. They concluded that there was no adverse impact on the hotel business in any jurisdiction studied, while finding a statistically significant increase in revenues in several of them. In addition, they looked at the impact of policies in California, Utah, and New York City on the number of international tourists visiting each, again finding either no impact of the policies or, in some cases, increases following the implementation of a smoke-free restaurant policy. Similarly, Hyland and his colleagues⁴⁵ looked at hotel revenues and employment in their analysis of the impact of local smoke-free policies in several New York state jurisdictions. Their multivariate analyses showed that both hotel revenues and employment rose in the year following the implementation of the policies. In a relatively comprehensive analysis of Florida's voter-approved smoke-free air law that went into effect in July 2003, Dai and his colleagues⁴⁶ examined a number of outcomes, including revenues from recreational admissions and employment in the hospitality industry, concluding that there was no adverse economic impact of the law on tourism in the state.

Relatively few studies have looked at the impact of smoke-free policies on gaming establishments given that most policies provide exceptions for smoking in these venues; nevertheless, a few studies provide some mixed evidence. Glantz and Wilson-Loots,⁴⁷ for example, looked at the impact of local smoke-free policies in Massachusetts that limit smoking in bingo halls and gambling events sponsored by local charities. While profits from these activities fell during the period covered by the analysis (given increased availability of other gambling opportunities), the authors found no

relationship between the local smoke-free policies and profits from bingo and charitable games. Similarly, Connolly and his colleagues⁴⁰ found no impact on Keno sales following the implementation of the statewide smoke-free air law in July 2004. However, 2 recent studies reach opposing conclusions concerning the impact of Delaware's comprehensive smoke-free air law that went into effect in November 2002 and included the state's 3 racetracks that offered video lottery gambling. In their linear regression analysis, Mandel and colleagues⁴⁸ found no impact of the state law on either total revenues from the video lottery machines or the average revenues per machine. After correcting a data entry error, the authors reaffirmed this conclusion in a subsequent letter.⁴⁹ In contrast, Pakko's⁵⁰ reanalysis of the same data using somewhat different methods and a more complete approach to modeling seasonality in gambling concludes that the state law led to an almost 13% drop in gaming revenues in the year following implementation compared with the previous year. In a response, Alamar and Glantz⁵¹ note that the state attributed the observed decline in revenues to inclement weather, not the smoke-free air law, and that at least one of the racetracks was advertising its smoke-free environment, in contrast to what would be expected if the racetrack viewed this as harmful to its business.

To summarize, numerous studies using objective measures of economic activity have been done over the past 10+ years looking at the impact of local, state, or national smoke-free policies on restaurants, bars, and tourism. From small towns such as West Lake Hills, Texas,⁵² to large cities like New York,^{38,53,54} in states as diverse as Arkansas,⁵⁵ Oregon,⁵⁶ and Texas,⁵⁷ the vast majority of studies find that there is no negative economic impact of clean indoor air policies, with many finding that there may be some positive effects on local businesses (see Scollo and Lal⁵⁸ for a comprehensive review of studies published through mid-2005). While the early evidence is mixed on the impact on gaming establishments, the recent expansion of smoke-free policies to cover these venues will provide new natural experiments for researchers to examine.

Studies Based on Survey Data

In addition to the extensive studies based on objective data, a number of studies have used sur-

vey data to assess the economic impact of smoke-free air policies. These include surveys of restaurant and bar owners, as well as the patrons of these establishments. In general, these studies collect subjective data about owners' perceptions of the impact of smoke-free policies on their businesses, self-report measures of business revenues, individual dining and drinking-out patterns and/or expected changes in these behaviors in response to a smoke-free air policy, individual preferences for smoke-free dining/drinking, and related outcomes.

Studies based on subjective data from surveys of business owners and managers are more likely to produce mixed findings on the economic impact of smoke-free air policies than are studies based on objective measures of business activity. In their comprehensive review of studies published through August 2002, Scollo and her colleagues⁵⁹ estimated that the odds of finding a negative economic impact in studies based on this type of subjective data are 4 times greater than in studies based on objective measures. Glantz⁶⁰ provides some explanation for why this would be the case, arguing that there is a "negative placebo effect" created during the debate over smoke-free policies by the tobacco industry—often through restaurant, bar, and other hospitality industry associations stoking fears of economic losses among those in the hospitality industry. Similarly, it seems likely that owners of businesses that are faring poorly in a highly volatile market may be more likely to blame external forces (such as the adoption of a smoke-free policy) rather than their own business decisions for their problems.

Despite this, the findings from many of these studies are consistent with the conclusion that there is no negative economic impact of smoke-free air policies on the hospitality sector. Hyland and Cummings,⁵³ for example, surveyed 434 restaurant owners/managers in New York City in late 1996 as one component of their comprehensive assessment of the impact of the city's smoke-free restaurant policy adopted in 1995 and concluded from the survey that there was no evidence of a negative impact on New York City's restaurants.

Surveys that collect information on individual dining/drinking-out behavior and other entertainment activities are helpful in explaining the absence of any adverse economic impact (and, in many studies, a small positive impact) of smoke-free air

policies. The best of these surveys will use random samples of the general population rather than convenience samples of selected patrons from a nonrandom sample of establishments affected by the policies. In general, most respondents in population-based surveys indicate that their dining/drinking-out practices do not change following the adoption of a smoke-free policy. Among those who do indicate some change, the fraction who dine/drink out more frequently is well above that for those indicating that they go out less often. Cowling and Bond⁶¹ hypothesized that this would be the case given that smokers have relatively few opportunities to substitute alternative venues when smoke-free policies are adopted. As a result, few smokers would alter their behavior in response to these policies, while these same policies would be more likely to attract more nonsmokers to the now smoke-free venues. This was the pattern observed by Hyland and Cummings⁵⁴ in their survey of New York City residents following the implementation of the city's 1995 smoke-free restaurant policy. The same happened after the expansion of the city's Smoke-Free Air Act in 2003. Zagat's 2004 New York City restaurant survey found that almost a quarter of respondents were dining out more often compared with 4% who indicated they dined out less often following the implementation of the city's comprehensive smoke-free workplace policy that covered all restaurants and bars.

Tobacco Industry-sponsored Research

Despite the strong and growing evidence to the contrary, the fear of economic consequences continues to deter many state and local governments from adopting strong, comprehensive smoke-free policies. Much of the "evidence" used to oppose these policies comes from studies that have been supported by tobacco companies or by groups that are supported by the tobacco industry. In their thorough analysis of this literature, Scollo and her colleagues⁵⁹ report that all of the studies concluding that smoke-

free policies had a negative economic impact were supported by the tobacco industry and that the overwhelming majority (94%) of industry-sponsored studies reached this conclusion. They go on to note that in contrast with the research discussed above, these studies are much less likely to be published in the peer-reviewed literature, with the odds of a study not being peer-reviewed 20 times larger for studies that find a negative economic impact.

SUMMARY

Clean indoor air laws creating completely smoke-free environments are rapidly spreading throughout the world and are low-cost, safe, and effective, many of the characteristics associated with rapidly diffusing innovations. Experience to date demonstrates that clean indoor air laws protect nonsmokers from involuntary exposure to secondhand smoke, contribute to a reduction in overall cigarette consumption, protect hospitality workers from adverse respiratory conditions, and are well accepted by the general public. Contrary to the fears raised by the tobacco industry and others, comprehensive reviews of research on the economic impact of smoke-free air policies from the Surgeon General,³ the Task Force on Community Preventive Services,²⁴ and others^{58,59} consistently conclude that these policies do not have a negative economic impact. The 2006 Surgeon General's Report, for example, states that "evidence from peer-reviewed studies shows that smoke-free policies and regulations do not have an adverse economic impact on the hospitality industry."³

It is likely that clean indoor air laws will continue to spread throughout the United States and around the globe, where smoke-free environments will be the norm and smoking in indoor public areas will be the rare exception. Future progress can be expected in creating smoke-free environments in homes, multifamily dwellings, cars in which children are riding, and outdoor public venues.

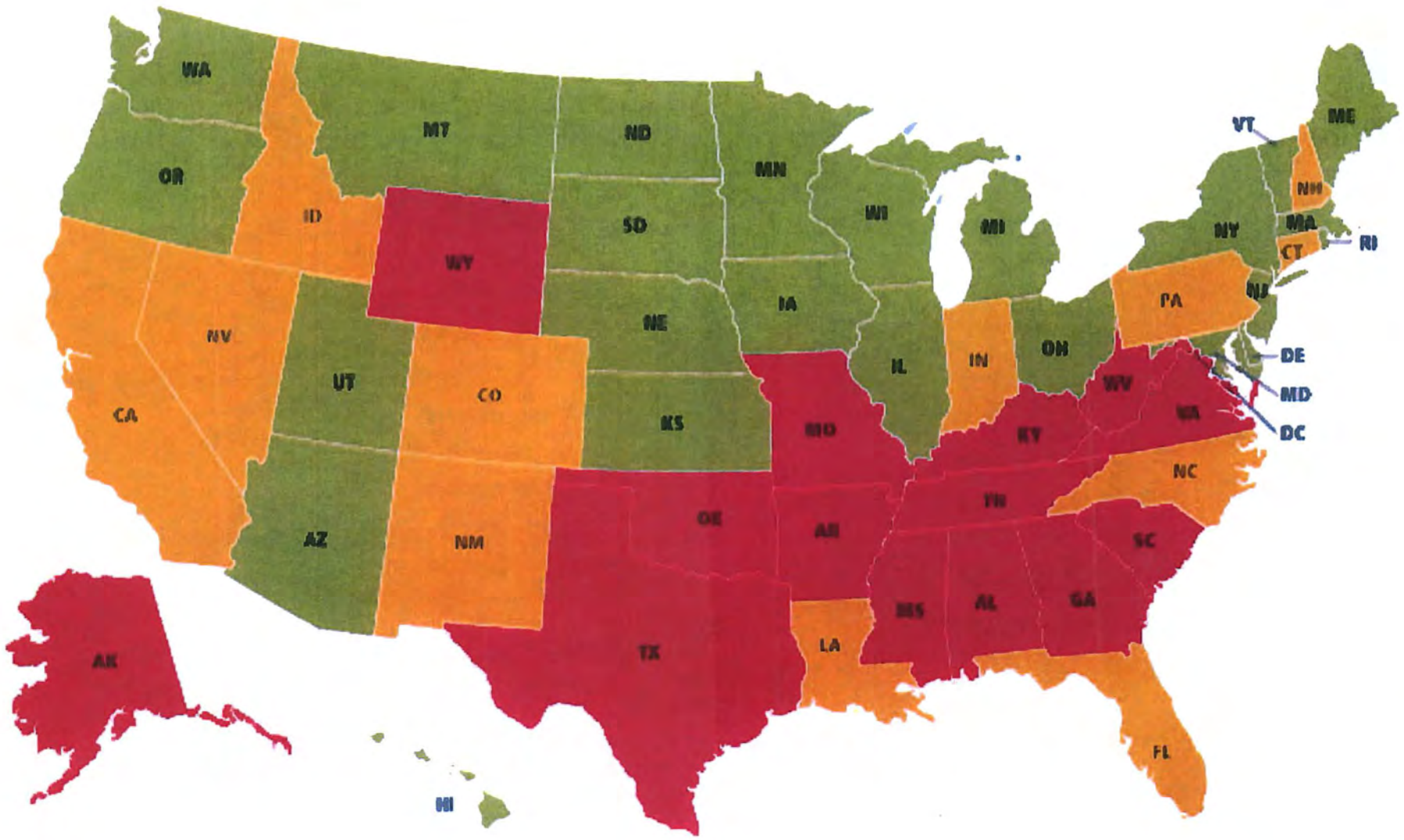
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100 percent smoke-free workplaces, restaurants and bars

100 percent smoke-free in one or two of the above

No 100 percent smoke-free law

Report: E-cigarettes appealing to kids

E-cigarette companies face no federal limits on how they can advertise, market their products

By Lisa Desjardins CNN Capitol Hill Reporter

POSTED: 11:00 AM AKDT Apr 14, 2014 UPDATED: 02:42 PM AKDT Apr 14, 2014



REUTERS/Mike Segar

WASHINGTON (CNN) -

Redeploying a major argument from the battle over traditional cigarettes, a dozen Democratic members of Congress released a report on Monday concluding that electronic cigarettes "aggressively (promote) their products" by using techniques and venues that appeal to youth" and should be strictly regulated like the non-electronic versions.

"E-cigarette manufactures don't have to play by the same rules (as traditional cigarette makers)," said Rep. Henry Waxman, D-Calif., one of the leaders behind the investigation.

"E-cigarette makers are free to sponsor youth-oriented events and produce flavors that appeal to kids. And that is exactly what's happening," Waxman told reporters on a conference call.

Currently, e-cigarette companies face no federal limits on how they can advertise or market their products. Twenty-eight states restrict the age of purchase for e-cigarettes and a few companies have self-imposed limits, but otherwise the marketplace is wide open.

With this report, the 12 Democrats involved are trying to build pressure on the Food & Drug Administration to "deem" that e-cigarettes be regulated like conventional smokes and therefore face the same strict limits on advertising and sales.

To make the case for tougher regulation, the Congressional report listed several e-cigarette marketing approaches:

Companies offer dozens of sweet flavored e-cigarettes, including tastes like "Iced Berry" and "Peachy Keen," which the lawmakers say appeal to children.

Celebrities who appeal to young people, including singer Chris Brown and actor Robert Pattison, have been paid to be seen with the devices.

E-cigarette makers have either sponsored or given away their product at hundreds of kid-friendly events, including baseball games and one day at a Six Flags amusement park. Though, scanning the list, the majority of events cited in the report seemed to be at bars, large concerts and music festivals, which may be geared toward adults.

The evidence was enough for the lawmakers.

"(This report) makes it clear the e-cigarette companies... have made a determined effort... to lure children into this nicotine addiction," said Sen. Dick Durbin, D-Illinois, the other leading sponsor of the report.

"It's time for the FDA to step up."

Durbin also cited statistics from the Centers for Disease Control showing a rise in e-cigarette use, from 4.7 percent of all high school students in 2012 to 10 percent in 2013.

In a sign of how the landscape has changed, the e-cigarette industry partially agrees.

"We agree with a number of the report's recommendations," said David Sylvia, speaking for Altria, which owns Philip Morris and sells the MarkTen e-cigarette, "including the FDA asserting regulatory authority over these products and all other tobacco products not yet regulated by the agency."

Sylvia, who is Altria's spokesman, stresses that the company wants an age limit on e-cigarette sales and does not advertise on TV now. Those are widely-held stances in the industry.

"Electronic cigarettes and vaporizing products are not for children," wrote Phil Daman, president of the Smoke Free Alternatives Trade Association. "They should be available to consumers of legal age."

As for the flavors that opponents say mimic candy, Daman insists they are targeted to adults.

"Flavors are very common, and increasingly popular, in many adult product categories, including coffee, liqueurs, and other forms of beverage alcohol," he said.

A spokesman for R.J. Reynold's Vapor Company told CNN their corporation similarly does not want to sell e-cigarettes to children and wants sales limited by age.

But while the industry is on board with age restrictions, e-cigarette makers strongly oppose a sweeping decision to group them with traditional cigarettes in general.

"It's important that they consider e-cigarettes as e-cigarettes, not just take the regulations for convention cigarettes and put them on top of it," Sylvia said.

Much is still unknown about the effects of e-cigarettes.

Research has been limited so far. There is an open debate over whether the products help smokers move away from traditional cigarettes, which contain different combinations of chemicals, or if the electronic devices encourage nicotine addiction and are a gateway to other cigarettes.

It is not clear when the FDA will announce a decision on e-cigarette regulation.

The 12 Democrats backing Monday's report were Durbin, Waxman, Sen. Richard Blumenthal of Connecticut, Sen. Barbara Boxer of California, Sen. Sherrod Brown of Ohio, Sen. Tom Harkin of Iowa, Sen. Heidi Heitkamp of North Dakota, Sen. Ed Markey of Massachusetts, Sen. Jeff Merkley of Oregon, Rep. Frank Pallone of New Jersey, Sen. Jack Reed of Rhode Island and Sen. John Rockefeller of West Virginia.

Electronic (e-) Cigarettes and Secondhand Aerosol

"If you are around somebody who is using e-cigarettes, you are breathing an aerosol of exhaled nicotine, ultra-fine particles, volatile organic compounds, and other toxins," Dr. Stanton Glantz, Director for the Center for Tobacco Control Research and Education at the University of California, San Francisco.

Current Legislative Landscape

- As of January 2, 2014, **108 municipalities and three states include e-cigarettes** as products that are prohibited from use in smokefree environments.

Constituents of Secondhand Aerosol

E-cigarettes do not just emit "harmless water vapor." **Secondhand e-cigarette aerosol (incorrectly called vapor by the industry) contains nicotine, ultrafine particles and low levels of toxins that are known to cause cancer.**

- E-cigarette aerosol is made up of a high concentration of ultrafine particles, and the particle concentration is higher than in conventional tobacco cigarette smoke.¹
- Exposure to fine and ultrafine particles may exacerbate respiratory ailments like asthma, and constrict arteries which could trigger a heart attack.²
- At least 10 chemicals identified in e-cigarette aerosol are on California's Proposition 65 list of carcinogens and reproductive toxins, also known as the Safe Drinking Water and Toxic Enforcement Act of 1986. The compounds that have already been identified in mainstream (MS) or secondhand (SS) e-cigarette aerosol include: **Acetaldehyde (MS), Benzene (SS), Cadmium (MS), Formaldehyde (MS,SS), Isoprene (SS), Lead (MS), Nickel (MS), Nicotine (MS, SS), N-Nitrosornicotine (MS, SS), Toluene (MS, SS).**^{3,4}
- **E-cigarettes contain and emit propylene glycol**, a chemical that is used as a base in e-cigarette solution and is one of the primary components in the aerosol emitted by e-cigarettes.
 - Short term exposure causes eye, throat, and airway irritation.⁵
 - Long term inhalation exposure can result in children developing asthma.⁶
- Even though propylene glycol is FDA approved for use in some products, the inhalation of vaporized nicotine in propylene glycol is not. Some studies show that heating propylene glycol changes its chemical composition, producing small amounts of propylene oxide, a known carcinogen.⁷
- There are **metals in e-cigarette aerosol, including chromium, nickel, and tin nanoparticles.**⁸
- FDA scientists found detectable levels of carcinogenic tobacco-specific nitrosamines in e-cigarette aerosol.⁹

- People exposed to e-cigarette aerosol absorb nicotine (measured as cotinine), with one study showing levels comparable to passive smokers.¹⁰
- **Diethylene Glycol**, a poisonous organic compound, was also detected in e-cigarette aerosol.¹¹
- **Exhaled e-cigarette aerosol contained propylene glycol, glycerol, flavorings, and nicotine, along with acetone, formaldehyde, acetaldehyde, propanal, diacetyl, and triacitine.**¹²
- Many of the elements identified in the aerosol are known to cause respiratory distress and disease. The aerosol contained particles >1 µm comprised of tin, silver, iron, nickel, aluminum, and silicate and nanoparticles (<100 nm) of tin, chromium and nickel. The concentrations of nine of eleven elements in e-cigarette aerosol were higher than or equal to the corresponding concentrations in conventional cigarette smoke.¹³
- E-cigarettes cause exposure to different chemicals than found in conventional cigarettes and there is a need for risk evaluation for both primary and passive exposure to the aerosol in smokers and nonsmokers.¹⁴
- Short term use of e-cigarettes has been shown to increase respiratory resistance and impair lung function, which may result in difficulty breathing.¹⁵
- Overall, e-cigarettes are a new source of **Volatile Organic Compounds (VOCs) and ultrafine/fine particles in the indoor environment**, thus resulting in "passive vaping."¹⁶

E-cigarette aerosol is a new source of pollution and toxins being emitted into the environment. We do not know the long-term health effects of e-cigarette use and although the industry marketing of the product implies that these products are harmless, the aerosol that e-cigarettes emit is not purely water vapor.

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E-Cigarettes & Smoke-free Laws

ACS CAN's Current Views

E-cigarette use should be prohibited in all workplaces, restaurants, and bars.

ACS CAN advocates for comprehensive smoke-free laws in all workplaces to protect workers and the public from the harmful effects of secondhand exposure and to create communities that support tobacco-free living. Electronic cigarettes, or e-cigarettes, including supposed non-nicotine e-cigarettes, should also be prohibited in all workplaces, restaurants, and bars to protect against secondhand exposure to nicotine and other potentially harmful chemicals, to ensure the enforcement of existing smoke-free laws are not compromised, and that the public health benefits of a smoke-free laws are not undermined.

E-cigarette aerosol can contain nicotine and other potentially harmful chemicals.

E-cigarettes are typically battery-operated products designed to deliver a heated solution, or aerosol of nicotine and other chemicals, to the user. E-cigarettes can be disposable or consist of a rechargeable, battery-operated heating element; a replaceable or refillable cartridge that may contain nicotine, flavoring agents, and other chemicals (sometimes called "e-juices"); and an atomizer that uses heat to convert the contents of the cartridge into an aerosol that is inhaled by the user.¹

A growing number of studies have examined the contents of e-cigarette aerosol. Unlike a vapor, an aerosol contains fine particles of liquid, solid, or both. Propylene glycol, nicotine, and flavorings were most commonly found in e-cigarette aerosol. Other studies have found the aerosol to contain heavy metals, volatile organic compounds and tobacco-specific nitrosamines, among other potentially harmful chemicals.^{2,3} A 2009 study done by the FDA found cancer-causing substances in several of the e-cigarette samples tested.⁴ Additionally, Food and Drug Administration (FDA) tests found nicotine in some e-cigarettes that claimed to contain no nicotine.

Firsthand exposure to the aerosol comes from personal use of an e-cigarette. Secondhand exposure occurs when the user exhales the aerosol, at which time, a nonuser can be exposed. The level of secondhand exposure to a nonuser will depend on a number of factors including the type of e-cigarette used, particle sizes in the aerosol, how the e-cigarette is used, and other environmental factors such as air flow and room size.

While the health effects of e-cigarettes are currently under study, there are still serious questions about the safety of inhaling the substances in e-cigarette aerosol. Studies have shown that the use of e-cigarettes can cause short-term lung changes and irritations, while the long-term health effects are unknown.⁵ Both exposure to and health effects of secondhand aerosol from e-cigarettes require further research, but preliminary studies indicate nonusers can be exposed to the same potentially harmful chemicals as users, including nicotine, ultrafine particles and volatile organic compounds.^{6,7} This exposure could be especially problematic for vulnerable populations such as children, pregnant women, and people with heart disease depending on the level of exposure.

Finally, it is important to establish the potential exposure and associated risks of e-cigarette aerosol to users and nonusers, in addition to comparing those risks to exposure to cigarette smoke, as several studies have done.

Chemicals identified in some e-cigarette aerosol include:

- Propylene glycol
- Nicotine
- Tobacco-specific nitrosamines
- Metals
- Volatile organic compounds
- Polycyclic aromatic hydrocarbons
- Flavorings

E-cigarette use in workplaces, restaurants, and bars can undermine the public health benefits of smoke-free laws and compromise enforcement.

Tobacco users are not the only ones who breathe its deadly smoke—all the people around them are forced to inhale it too. Recognizing that there is no safe level of secondhand smoke exposure, 24 states and more than 673 localities have comprehensive smoke-free laws.⁸ These laws not only protect nonusers from exposure to secondhand smoke, they also reduce the acceptability of smoking which reduces the number of people, especially youth, who start smoking and increases quit attempts by smokers. The increased protection and reduced acceptability have led to lower smoking rates and improved health status, including fewer heart attacks and cancers.⁹

The use of e-cigarettes in workplaces, restaurants, and bars can undermine the public health benefits that have been and continue to be achieved by smoke-free laws. E-cigarette users who continue to use cigarettes will not experience the health benefits of quitting, and nonusers can be exposed to their secondhand aerosol. Because some e-cigarettes are designed to look like cigarettes and cigars, the unacceptability of smoking in these places could be compromised which could lead to new users or a reduction in current users who quit. Additionally, from a practical standpoint, business owners can face difficulty when enforcing smoke-free laws if e-cigarette use is permitted because of their designs. These risks do not prevent some e-cigarette manufacturers from specifically marketing their products for use in places where smoking is prohibited.

E-cigarette use is on the rise and requires federal, state, and local action.

Since the introduction of e-cigarettes to the U.S. market approximately 7 years ago, the marketing and use of these products have increased.

- **Youth:** A study from the Centers for Disease Control and Prevention (CDC) found that e-cigarette use increased from 3.3 to 6.8 percent among middle and high school students between 2011 and 2012, resulting in an estimated 1.78 million youth who have tried e-cigarettes.¹⁰
- **Adults:** A study looking at data from 2010-2013 found an increase in the number of adults who have ever used e-cigarettes, from 3.3 to 8.5 percent. In 2013, 36.5 percent of current smokers had ever tried e-cigarettes, as compared to 79.8 percent of former smokers and 1.2 percent of never smokers.¹¹

While e-cigarette manufacturers may claim the ingredients are just “water vapor” or “safe,” without federal regulation there is no sure way for e-cigarette users to know what they are consuming. Nor is there any way of knowing what nonusers are exposed to and the extent of the risk to their health. Additionally, there are hundreds of types of e-cigarettes on the market today and the products vary considerably by ingredients, and quality control and assurance. Prohibiting the use of e-cigarettes in workplaces, restaurants, and bars can protect the public health by preventing nonusers from being exposed nicotine and other potentially harmful chemicals in these products.

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Commonly Asked Questions about Electronic Cigarettes

What are electronic cigarettes or e-cigarettes?

Electronic cigarettes, also known as e-cigarettes, are typically battery-operated products designed to deliver a heated solution, or vapor, of nicotine and other chemicals to the user. E-cigarettes can be disposable or consist of a rechargeable battery-operated heating element; a replaceable or refillable cartridge that may contain nicotine, flavoring agents, and other chemicals (sometimes called "e-juices"); and an atomizer that uses heat to convert the contents of the cartridge into a vapor that is inhaled by the user.¹ Some e-cigarettes are designed to look like cigarettes, cigars, pipes, or hookahs.

This factsheet will review:

- What is an e-cigarette
- Are they safe
- Is nicotine safe
- Use (initiation & quitting)
- Marketing
- Regulation
- Where ACS CAN stands

Are e-cigarettes safe, as manufacturers claim?

There are more than 250 types of e-cigarettes on the market today and the products vary considerably by ingredients, quality control and assurance, and ability to reliably deliver nicotine to users. E-cigarette manufacturers claim the ingredients are "safe," but without federal regulation, there is no sure way for e-cigarette users to know what they are consuming and the extent of potential risk.

Currently, only a limited number of studies have examined the contents of e-cigarette vapor. Some of the studies have found the vapor to contain only propylene glycol, nicotine, and flavorings, and other studies found them to contain heavy metals, volatile organic compounds and tobacco-specific nitrosamines, among other ingredients. A 2009 study done by the FDA found cancer-causing substances in several of the e-cigarette samples tested.¹¹ Additionally, Food and Drug Administration (FDA) tests found nicotine in some e-cigarettes that claimed to contain no nicotine. Propylene glycol is used for food preservation among other uses, and while generally recognized as safe by the FDA for those uses, there is no evidence to date on the safety of inhaling propylene glycol in e-cigarettes, especially in a heated solution and over a long period of time.

The health effects of e-cigarettes are scientifically uncertain, especially their long-term effects. There is general agreement among scientists in the field that, in the short run, at least, e-cigarettes are almost certainly less harmful than combusted cigarettes. But there are still serious questions about the safety of inhaling the substances in some e-cigarette vapor. E-cigarettes have not been subject to thorough, independent testing, so users cannot be sure of what they are actually inhaling. Some studies have shown that some e-cigarettes can cause short-term lung changes and irritations and the long-term health effects, as noted above, are unknown.

Additionally, the effects of secondhand vapor from e-cigarettes require further study, especially to determine differences among the many brands and types of e-cigarettes. Finally, the health impact on individuals using e-cigarettes while also using other tobacco products, such as cigarettes, is not documented in the scientific literature. This is a particularly important area of study because initial reports

of e-cigarette use indicate that e-cigarettes are used by some cigarette smokers in addition to smoking cigarettes, rather than as a replacement for cigarettes. More research is needed to determine if continuing to smoke cigarettes, even fewer, along with e-cigarette use poses a risk for premature death and disease.

Is the nicotine used in e-cigarettes safe?

Nicotine is a drug found naturally in tobacco. Its dependence-producing properties are similar to those of heroin or cocaine.ⁱⁱⁱ The risk for addiction depends on the dose of nicotine delivered, the way it is delivered, and the length of time over which it is used. Nicotine addiction can cause withdrawal symptoms when an individual tries to quit. Several nicotine replacement therapies – such as gum, patches, sprays, inhalers, or lozenges – have been approved by the FDA as safe and effective for use to help relieve withdrawal symptoms, without providing the cancer-causing chemicals found in tobacco products. However, exposure to nicotine can still have harmful consequences for some users. Scientific evidence has shown that nicotine affects maternal and fetal health during pregnancy, potentially leading to preterm delivery or stillbirth and adverse consequences to brain development of the fetus.^{iv} Additionally, scientific evidence suggests that nicotine can have long-term adverse effects on brain development among adolescents. Therefore, pregnant women and adolescents are cautioned from using any nicotine containing products, including e-cigarettes.

Who is using e-cigarettes, and how are they used?

There is very little surveillance of e-cigarette use in the United States to date. A study from the Centers for Disease Control and Prevention (CDC) found that e-cigarette experimentation increased among middle and high school students between 2011 and 2012 (from 3.3 percent to 6.8 percent), resulting in an estimated 1.78 million youth who have tried e-cigarettes.^v Current e-cigarette use increased for this population of youth from 1.1 percent to 2.1 percent. These increases were greater among high school students.

A study of 2010-11 data found the number of adults who have ever used e-cigarettes increased from 3.3 percent to 6.2 percent.^{vi} In 2011, 21.2 percent of current smokers had ever tried e-cigarettes, as compared to 7.4 percent of former smokers and 1.3 percent of never smokers, suggesting that, at the present, e-cigarette use among adults is largely confined to current and former cigarette smokers. Another study found that the majority of e-cigarette users across four countries reported using e-cigarettes to help them quit cigarettes and because they thought they were less harmful than cigarettes.^{vii}

Will e-cigarettes help people stop using tobacco products entirely?

There have been only a few randomized controlled trials of e-cigarettes as a smoking cessation aid.^{viii} Only one of these compared the effectiveness of e-cigarettes as a quitting aid to an already- tested, approved quitting medication. The study compared the use of nicotine-replacement therapy patches and e-cigarettes with the outcome of abstinence from cigarettes at 6 months. It concluded that e-cigarettes may be at least as effective as nicotine patches aiding in quitting cigarettes (7.3 percent and 5.8 percent 6 months abstinence, respectively). Other studies that have attempted to look at the potential of e-cigarettes as a cessation aid have found that, while e-cigarettes may aid in reducing the number of

cigarettes smoked, there was not a significant difference between smokers who used e-cigarettes and smokers who did not use e-cigarettes in terms of quitting cigarette use entirely.^{ix}

Therefore the question still remains whether, and to what degree, e-cigarettes are an effective smoking cessation aid, and whether reducing the number of cigarettes smoked by using both e-cigarettes and cigarettes at the same time reduces an individual's risk for premature death and disease. The answers to these questions and others must come from a wide-ranging, independent research agenda.

In the absence of FDA guidance and sufficient research evidence establishing e-cigarettes as an effective method to help smokers quit, **ACS CAN does not at this time recommend e-cigarettes for smoking cessation.** Instead, for those smokers for whom it is appropriate to use a cessation medication, ACS CAN recommends use of one FDA-approved and thoroughly tested smoking cessation medications (i.e. nicotine replacements – gum, patch, lozenge, inhaler, nasal spray - or bupropion or varenicline).

Will youth use e-cigarettes as an introduction to regular cigarettes?

The rapid increase in youth trying e-cigarettes in recent years raises questions as to whether these youth will be drawn into long-term nicotine addiction and whether they will supplement or replace e-cigarette use with cigarettes or other tobacco products. The lack of surveillance of e-cigarette use makes this question hard to answer at this time, but there are several key factors, based on past experience with tobacco industry products and marketing, that raises the concern of some in the public health and health community.

First, more than 80 percent of adult smokers report starting before the age of 18 and adolescents who use smokeless tobacco are more likely to become adult smokers than adolescents who do not use smokeless tobacco.^x This suggests that nicotine experimentation in youth can lead some youth to a lifetime of nicotine addiction and use of tobacco products. Second, the widespread, unregulated use of e-cigarettes has the potential to result in smoking once again as a socially acceptable behavior which has potentially significant implications for youth initiation and adult continuation of cigarette smoking. Third, e-cigarettes are accessible to youth since they are not covered under all state and local youth access laws and are available for purchase through the internet. Finally, many of the makers of e-cigarettes are utilizing tobacco company product and marketing tactics that have been proven effective at targeting youth, including the use of candy flavoring and celebrity endorsements. The increase in youth trying e-cigarettes is not surprising given the increased access to, promotion of, and exposure to e-cigarettes; and raises serious questions on the potential for long-term nicotine addiction and use of cigarettes and other tobacco products.

How are e-cigarettes being marketed?

E-cigarettes are widely available to nearly anyone who wishes to purchase them, since they are often not subject to the same legal restrictions as cigarettes and other tobacco products. E-cigarettes are advertised on television, radio, online, in print magazines, including those with high youth readership, and at sports and music events. Some e-cigarette manufacturers are using the same marketing practices effectively used by the tobacco companies to target youth and mislead consumers about the potential safety and health impact of their products. Such practices include celebrity endorsements, sports and musical

sponsorships, and images of e-cigarettes as rebellious, sexy and cool, as well as the use of flavorings in their products.^{xi} Some e-cigarette manufacturers claim e-cigarettes are a safe, less harmful alternative to cigarettes despite the lack of regulation to ensure their safety or health impact. Additionally, e-cigarettes are advertised as a way to “legally smoke” or “take back your freedom” where smoke-free laws exist in states and localities. As part of its request for FDA to regulate e-cigarettes, several leading members of Congress have developed a side-by-side presentation of e-cigarette and cigarette marketing practices (democrats.energycommerce.house.gov).

Why the controversy?

The potential benefits of e-cigarettes are the ability to deliver nicotine to the user without many of the other harmful chemicals in cigarettes, the absence of secondhand cigarette smoke, and the potential to aid smokers in quitting cigarettes.

There are concerns, however, that because these products are unregulated and current research provides mixed views of whether the potential benefits will be borne out in the long run, the safety claims made by manufacturers are unsubstantiated by objective scientific evidence and may be misleading the public. FDA regulation of e-cigarettes and sufficient science-based, independent research is essential in order for the public health and health community, cigarette smokers, and the public at-large to be accurately informed about e-cigarettes, including the ingredients and the potential benefits or harms of use. Research is also needed to assess whether youth can be drawn into long-term nicotine use through e-cigarettes, whether wide use of e-cigarettes can re-normalize cigarette use, and whether e-cigarette use will be a net harm or benefit for population-based public health. There is a growing scientific literature surrounding e-cigarettes and considerable research is underway. The controversy surrounding e-cigarettes and harm reduction more broadly will not go away, but as these results become available and FDA asserts its authority to regulate these products, more accurate, science-based policies and public education can be developed.

Are e-cigarettes regulated?

When e-cigarettes were first introduced on the market, the FDA tried to regulate e-cigarettes as a drug-delivery device, like other tobacco cessation aids such as nicotine gum or patches. NJOY, one e-cigarette maker, presented a legal challenge and a federal court ruled e-cigarettes can only be regulated as a drug-delivery device when a therapeutic claim is made (ex. aids in cessation); without such claim, the only way the FDA can assert its regulatory authority over e-cigarettes is to regulate them as tobacco products. Currently, however, e-cigarettes remain unregulated. FDA has stated its intent to assert the authority of the Center for Tobacco Products to regulate all tobacco products, but a rule has yet to be issued. FDA assertion would allow the agency to require e-cigarette manufacturers to register their products with the FDA, provide FDA with their ingredients, establish good manufacturing practices, address impure/untested product additions and misbranding issues, and restrict marketing and sales only to those 18 years and older, among other potential regulations.

What are ACS CAN's views on e-cigarettes?

In the absence of FDA guidance and sufficient research evidence establishing e-cigarettes as an effective method to help smokers quit, ACS CAN does not at this time recommend e-cigarettes for smoking

cessation. Instead, for those smokers for whom it is appropriate to use a cessation medication, ACS CAN recommends use of one or more of the seven FDA-approved and thoroughly tested smoking cessation medications (i.e. nicotine replacements – gum, patch, lozenge, inhaler, nasal spray - or bupropion or varenicline).

ACS CAN agrees there is a need for a wide-ranging, independent research agenda on e-cigarettes, but we recognize that even without sufficient scientific evidence of the safety or health impact of e-cigarettes, inaction on e-cigarettes is not in the best interest of protection of the public's health. Therefore, ACS CAN supports the FDA asserting its authority to regulate e-cigarettes and other tobacco products and the inclusion of e-cigarettes in state and local evidence-based tobacco prevention and control measures, including prohibiting the use of e-cigarettes wherever smoking is prohibited.

¹ U.S. Food and Drug Administration. E-Cigarettes: Questions and Answers. September 17, 2010. Available online at <http://www.fda.gov/ForConsumers/ConsumerUpdates/ucm225210.htm>.

² U.S. Food and Drug Administration. Summary of Results: Laboratory Analysis of Electronic Cigarettes Conducted by FDA. July 22, 2009. Available online at <http://www.fda.gov/NewsEvents/PublicHealthFocus/ucm173146.htm>.

³ U.S. Department of Health and Human Services. *The Health Consequences of Smoking: Nicotine Addiction. A Report of the Surgeon General*. Atlanta (GA): U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 1988. DHHS Publication No. (CDC) 88-8406.

⁴ U.S. Department of Health and Human Services. *The Health Consequences of Smoking: 50 Years of Progress. A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2014.

⁵ Centers for Disease Control and Prevention. Electronic Cigarette Use Among Middle and High School Students – United States – United States, 2011-2012. *MMWR* 2013; 62(35): 729-730.

⁶ King, BA et al. Awareness and Ever Use of Electronic Cigarettes Among U.S. Adults, 2010-2011. *Nicotine & Tobacco Research* 2013; 15(9): 1623-1627.

⁷ Adkison S, et al. Electronic nicotine delivery systems: international tobacco control four-country survey. *American Journal of Preventive Medicine*. 2013 March; 44(3): 207-215.

⁸ Bullen C., et al. Electronic cigarettes for smoking cessation: a randomised controlled trial. *The Lancet*, Early Online Publication, 9 September 2013.

⁹ Adkison S, et al. Electronic nicotine delivery systems: international tobacco control four-country survey. *American Journal of Preventive Medicine*. 2013 March; 44(3): 207-215.

¹⁰ U.S. Department of Health and Human Services. *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2012.

¹¹ U.S. Surgeon General. *Preventing Tobacco Use Among Youth and Young Adults*. Atlanta, GA: Department of Health and Human Services, Centers for Disease Control and Prevention; 2012



Electronic Cigarettes: Research and Policy Are Needed Now

Electronic cigarettes, or e-cigarettes, are typically battery-operated products designed to deliver a heated solution, or vapor, of nicotine and other chemicals to the user. E-cigarettes can be disposable or consist of a rechargeable, battery-operated heating element; a replaceable or refillable cartridge that may contain nicotine, flavoring agents, and other chemicals (sometimes called “e-juices”); and an atomizer that uses heat to convert the contents of the cartridge into a vapor that is inhaled by the user.ⁱ Some e-cigarettes are designed to look like cigarettes, cigars, pipes, or hookahs.

This factsheet will review:

- What is an e-cigarette
- Safety
- Use and marketing
- Research & policy needs
- Where ACS CAN stands

Currently, no U.S. federal agency regulates e-cigarettes. In 2010, a federal court ruled that e-cigarettes cannot be regulated as drugs or devices unless marketed for therapeutic purposes (ex. cessation); in the absence of a therapeutic claim, e-cigarettes can be regulated as tobacco products.ⁱⁱ The Food and Drug Administration (FDA) has stated its intent to assert the authority of the Center for Tobacco Products to regulate all tobacco products, but a rule has yet to be issued.

Safety

There are more than 250 types of e-cigarettes on the market today and products vary considerably by ingredients, quality control and assurance, and ability to reliably deliver nicotine to users. E-cigarette manufacturers claim the ingredients are “safe,” but e-cigarettes have not been subject to thorough, independent testing so users cannot be sure of what they are actually inhaling.

Currently, only a limited number of studies have examined the contents of e-cigarette vapor. Some studies have found the vapor to contain only propylene glycol, nicotine, and flavorings, and other studies found the vapor contained heavy metals, volatile organic compounds and tobacco-specific nitrosamines, among other harmful ingredients.

The health effects of e-cigarettes – especially the longer-term effects – are scientifically uncertain. There is general agreement among scientists in the field that, in the short run, most e-cigarettes are almost certainly less harmful than combusted cigarettes. But there are still serious questions about the safety of inhaling the substances in e-cigarette vapor. Without federal regulation, there is no sure way for e-cigarette users to know what they are consuming and the extent of potential risk.

Questions also exist about whether e-cigarettes are an effective cessation aid for cigarettes, or whether reducing the number of cigarettes smoked – by using a combination of both e-cigarettes and cigarettes – reduces an individual’s risk for premature death and disease. Some smokers report they have used e-cigarettes as a way to reduce the harm from or quit cigarettes, but there is a lack of evidence to date demonstrating that e-cigarettes are either a wholly safe product or an effective cessation aid.ⁱⁱⁱ There have been several randomized controlled trials of e-cigarettes as a smoking cessation aid, the most extensive of which reported that e-cigarettes were at least as effective as the nicotine patch.^{iv} Other studies that have looked at the potential of e-cigarettes as a cessation aid have found that, while e-cigarettes may aid in

reducing the number of cigarettes smoked, there was no significant difference between smokers who used e-cigarettes and smokers who did not use e-cigarettes in terms of quitting cigarettes entirely.^v

Additional research is needed on the short and long term health effects of e-cigarette use among cigarettes smokers and nonsmokers, comparison of e-cigarettes to the well-known and documented health dangers of combusted cigarette use, and e-cigarettes' effectiveness as quitting aids. This is particularly necessary in light of increased e-cigarette use among youth.

Increased Use and Marketing of E-Cigarettes

Since the introduction of e-cigarettes to the U.S. market approximately 7 years ago, the marketing and use of these products have increased. A study from the Centers for Disease Control and Prevention (CDC) found that e-cigarette use increased from 3.3 to 6.8 percent among middle and high school students between 2011 and 2012, resulting in an estimated 1.78 million youth who have tried e-cigarettes.^{vi} A study looking at data from the previous year (2010-2011) found an increase in the number of adults who have ever used e-cigarettes, from 3.3 to 6.2 percent.^{vii} In 2011, 21.2 percent of current smokers had ever tried e-cigarettes, as compared to 7.4 percent of former smokers and 1.3 percent of never smokers.

E-cigarettes are widely available and often are not subject to the legal restrictions to which cigarettes and other tobacco products are required to adhere. E-cigarettes are advertised on television, radio, online, in print magazines, including those with high youth readership, and at sports and music events. Particularly troublesome is that some e-cigarette manufacturers are using the same marketing practices effectively used by the tobacco companies to target youth and mislead consumers about the potential health impact of their products. These practices include celebrity endorsements, sports and musical sponsorships, use of images of e-cigarettes as rebellious, sexy and cool and the use of flavorings in their products.^{viii} Additionally, e-cigarettes are advertised as a way to "legally smoke" or "take back your freedom" where smoke-free laws exist in states and localities. Some e-cigarette manufacturers claim e-cigarettes are a safe, less harmful alternative to cigarettes despite the lack of regulation to ensure their safety or health impact.

Research and Public Health Policy are Needed Now

There is broad agreement in the public health and health community on the need for a wide-ranging, independent research agenda on e-cigarettes and other novel products. FDA's assertion of authority over all tobacco products, including e-cigarettes, is fundamental to the development and implementation of that agenda, but others in the scientific community must also address important research questions. Studies should assess product safety, use, marketing strategies, health impact, and reduced risk of death and disease and should ensure all potentially affected populations are adequately involved. A comprehensive research agenda should also include effectiveness of interventions to influence individuals' use of e-cigarettes, once safety and risk are determined, and surveillance measures to monitor use.

Where ACS CAN Stands

ACS CAN recognizes that even without sufficient scientific evidence of the safety or health impact of e-cigarettes, inaction is not in the best interest of protecting the public health. The lack of regulation of e-cigarettes, the increase in use by adults and youth, the aggressive claims and marketing tactics of the e-cigarette manufacturers, and the public perception of unsubstantiated claims of e-cigarettes require the public health community to proceed with actions to reduce any potential harm from e-cigarettes, unless and until the product's safety and public health benefit is supported by sound scientific evidence.

ACS CAN supports:

- **Strong Federal Regulation:** *The FDA should assert its authority over all tobacco products, including e-cigarettes, as granted by the Family Smoking Prevention and Tobacco Control Act.* FDA has stated its intent to expand the authority of its Center for Tobacco Products to regulate a broader range of tobacco products, including e-cigarettes, but a regulation has yet to be issued. FDA assertion would allow for important consumer protections including, but not limited to, requiring e-cigarette manufacturers to register their products with the FDA, provide FDA with their ingredients, establish good manufacturing practices, address impure/untested product additions and misbranding issues, and restrict marketing and sales to those 18 years and older.
- **Strengthening State and Local Tobacco Control Measures:** *Many states and localities are moving forward and enacting regulations on the sale and use of e-cigarettes. E-cigarettes should be included in evidence-based state and local tobacco control laws.*
 - E-cigarettes should be defined as tobacco products and included in definitions of smoking in order to:
 - Prohibit e-cigarette use where smoking and/or tobacco use is prohibited.
 - Prohibit the sale of e-cigarettes to minors.
 - Prohibit the sale of flavored e-cigarettes and e-juices.
 - Include e-cigarettes in tobacco sales or marketing restrictions.
 - State tobacco control programs should include e-cigarettes in their surveillance and evaluation tools, as appropriate.

Finally, in the absence of FDA guidance and sufficient research evidence establishing e-cigarettes as an effective method to help smokers quit, ACS CAN does not at this time recommend e-cigarettes for smoking cessation. Instead, for those smokers for whom it is appropriate to use a cessation medication, ACS CAN recommends use of FDA-approved and thoroughly tested smoking cessation medications (i.e. nicotine replacements – gum, patch, lozenge, inhaler, nasal spray - or bupropion or varenicline).

¹ U.S. Food and Drug Administration. E-Cigarettes: Questions and Answers. September 17, 2010. Available online at <http://www.fda.gov/ForConsumers/ConsumerUpdates/ucm225210.htm>.

² *Sottera, Inc. v. Food and Drug Administration*, 627 F.3d 891 (D.C. Cir. 2010).

³ Adkison S, et al. Electronic nicotine delivery systems: international tobacco control four-country survey. *American Journal of Preventive Medicine*. 2013 March; 44(3): 207-215.

^{iv} Bullen C., et al. Electronic cigarettes for smoking cessation: a randomized controlled trial. *The Lancet*, Early Online Publication, 9 September 2013.

^v Adkison S, et al. Electronic nicotine delivery systems: International tobacco control four-country survey. *American Journal of Preventive Medicine*. 2013 March; 44(3): 207-215.

^{vi} Centers for Disease Control and Prevention. Electronic Cigarette Use Among Middle and High School Students – United States – United States, 2011-2012. *MMWR* 2013; 62(35): 729-730.

^{vii} King, BA et al. Awareness and Ever Use of Electronic Cigarettes Among U.S. Adults, 2010-2011. *Nicotine & Tobacco Research* 2013; 15(9): 1623-1627.

^{viii} U.S. Surgeon General. *Preventing Tobacco Use Among Youth and Young Adults*. Atlanta, GA: Department of Health and Human Services, Centers for Disease Control and Prevention; 2012

Legislators to Consider State-Wide Public Smoking Ban, Includes E-Cig

Shannon Riddle, Weekend Digital Producer

POSTED: 12:13 PM AKDT Apr 13, 2014



Joseph Morris/Creative Commons

ANCHORAGE -

A state senator from Soldotna is one step closer to achieving a state-wide smoking ban in public places. While many large communities in Alaska have their own statutes banning smoking inside public buildings and near children's play areas, Sen. Peter Micciche (R-Soldotna) says Senate Bill 209 will provide a far-reaching measure to include all communities in the state not currently protected from second-hand smoke, including Fairbanks.

"Senate Bill 209 will protect Alaskans from the well-known health harms of secondhand smoke by amending existing state law to provide comprehensive protection for Alaskan workers and [the] public in all indoor workplaces, businesses and public places," Sen. Micciche stated in his sponsor statement.

Only 23 states and Puerto Rico have laws that banning second-hand smoke while eating at restaurants, visiting bars, or just working at their place of business. Many other states have similar statutes to Alaska's that prohibit smoking in certain areas only within the boundaries of specified cities and counties, and there is no existing federal law mandating such practices.

Owners of businesses that exist outside areas with the ban around the country may choose to allow customers to smoke inside, and private residences are also exempt unless otherwise specified by landlord/tenant agreements.

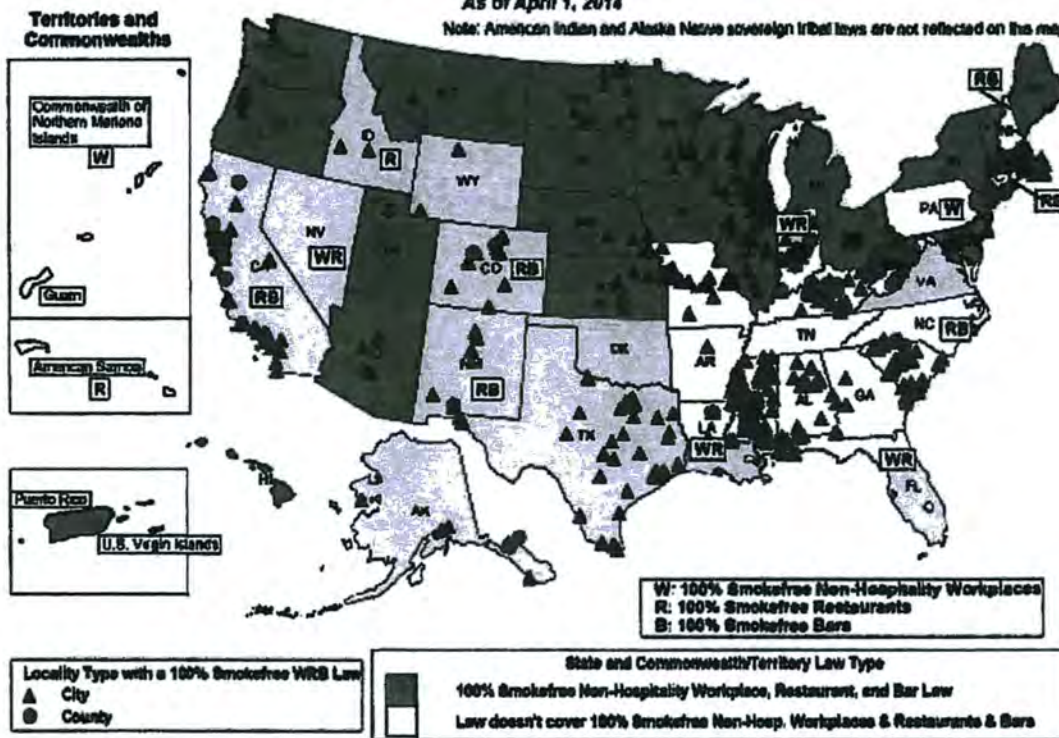
Supporters of the bill say this is a step in the right direction for Alaska's health and protecting their families from the ill-effects of second-hand smoke.

"If I eat poorly or drink a beer in a public setting, I do not endanger the health of those who are around me. That is the difference between smoking and other behaviors," said Hall Smalley, a supporter of the bill who says he lost his parents to cancer stemming from second-hand smoke inhalation. "And currently, in about 1/2 the state, if I am an employee my choice has been made for me. Clean air in Alaska has a nice ring to it."

U.S. 100% Smokefree Laws in Non-Hospitality Workplaces AND Restaurants AND Bars
American Nonsmokers' Rights Foundation

As of April 1, 2014

Note: American Indian and Alaska Native sovereign tribal laws are not reflected on this map.



Opponents of the measure believe this will actually weaken local sales of tobacco products, discourage smokers from many public entertainment venues, and even deter some smokers from quitting. The bill includes the newly popular e-cigarette, which is defined as any "electronic device that...simulates smoking."

Fatboy Vapors Alaska owner Matt Waggoner cites recent research studies in a letter opposing the new measure, pointing out what he calls "overwhelming differences" between traditional smoking and "vaping".

"As the former American Lung Association president Charles Dean Connor has recently stated, electronic cigarettes are one of the most promising tools to arrive in some time to combat smoking," Waggoner stated. "They are proving to be effective tools in the battle as they replicate the patterns and feel of smoking, without the tremendously harmful byproducts of combustion."

Dr. Joel Nitzkin is inclined to agree. As the past co-chair for the Tobacco Control Task Force, Dr. Nitzkin brought his own findings before the California Assembly Governmental Organization Committee in August 2013 in opposition to SB 648, a similar bill that has yet to be passed in that state.

"The e-cigarette is one of a number of smoke-free tobacco/nicotine alternatives to the cigarette that can reduce the risk of tobacco-attributable illness and death by 98% or better, while satisfying the user's urge for nicotine," Dr. Nitzkin told the committee. "Misrepresenting e-cigarettes has the practical effect of reinforcing real tobacco cigarettes as the dominant product for nicotine consumption."

Dr. Nitzkin went on to note the absence of pharmaceutical nicotine inhalers from the ban, questioning the true intentions of the committee in their stated claims to improve public health. He stated the exclusion of the inhalers readily dissolves the feared hazard of e-cigarette vapors. The current version of SB209 excludes similar devices from Alaska's proposed state-wide ban.

Among the supporting documents for the bill are numerous letters representing healthcare providers and committees, including the Alaska Tobacco Control Alliance, represented in print by co-chairs Betty MacTavish and Jenny Olendorff.

"We are relieved that e-cigarettes are included in this discussion, as research shows that e-cigarettes do not just emit 'harmless water vapor'," the ATCA representatives stated in a formal letter of support for the bill. "National health advocates, including the Centers for Disease Control and Prevention, consider it a best practice to include e-cigarettes in all comprehensive smoke-free workplace policies."

As opinions clash over the inclusion of e-cigarettes in the bill, Sen. Micciche has stated the intended goal of the measure is to find equal ground for all involved.

"This bill does not remove the right of the smoker to choose to smoke. They remain free to choose their individual path as my father chose," Sen. Micciche said. "What the bill accomplishes is a limit to the smokers' ability to adversely affect the health of Alaska's non-smoking employees."

The bill was discussed and approved to move forward by the finance committee early Sunday, and will be scheduled for debate and voting as early as Monday.

KTUU's Lacie Grosvold and Matt Smith contributed to this story.

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February 27, 2014

The studies below and more studies are cited to at http://njgasp.org/E-Cigs_White_Paper.pdf. Please note that international jurisdictions that ban electronic smoking device (use, sale and/or importation) are listed in IV.

I. Key studies concluding health concerns with use of and exposure of third parties to electronic smoking devices:

1. University of California, San Francisco, (a WHO Collaborating Center on Tobacco Control World Health Organization) prepared a *Background Paper on E-cigarettes, dated December 2013, for the World Health Organization's Tobacco Free Initiative.* Executive summary states:

- **People passively exposed to e-cigarettes aerosol absorb nicotine (measured as cotinine), with one study showing levels comparable to passive smokers.**
- **"In 2010, the WHO organized a global panel of experts to review the evidence and there is no evidence to show that it can help you quit smoking,"**
http://www.njgasp.org/Philippines_WHO_ecigs_warning_7-4-13.pdf

2. Roswell Park Cancer Institute study published this month! (Roswell Park is one of the most prestigious and respected Cancer institutes in the world; study in the journal *Nicotine and Tobacco Research*). Found **"significant amounts of nicotine"** emitted in 2ndhand e-cigarette vapor smoke. **Raises concerns about 2ndhand e-cig vapor smoke exposure, especially to vulnerable populations including children, pregnant women and people with cardiovascular conditions.** Researchers concludes that **their study can "guide policymakers as decisions are made about the regulation of nicotine delivery devices.**

3. Roswell Park Cancer Institute study published in March 2013. Found that e-cigarettes delivers 14 times as much formaldehyde, 7 times as much acetaldehyde, 6 times as much o-methylbenzene, 3 times as much cadmium and twice as much lead as an FDA-approved nicotine inhaler, as well as acrolein, toluene, p,m-xylene, NNN and NNK, which were not detected in the inhaler.

4. German Cancer Research Center (DKFZ) study (published in April 2013) evaluated the current state of e-cigarettes. Concluded that e-cigarettes emit fine and ultrafine inhalable liquid particles, nicotine and cancer-causing substances into the air that can have an adverse health effect on 3rd parties exposed to the vapor, and that nonsmoker protection legislation should apply to e-cigarettes. The e-cigarette liquids contain ingredients that on short-term use irritate airways and may lead to allergic reactions which may be harmful to health when inhaled repeatedly over a prolonged period of time.

5. The Fraunhofer Wilhelm-Klauditz-Institut of Germany, a preeminent research facility (published their July 2012 study in the journal *Indoor Air*) found in their study that e-cigarettes are putting

detectable levels of significant carcinogens and toxins into the air: acetic acid, acetone, isoprene, formaldehyde and acetaldehyde. They concluded that e- cigarettes marks a new source for chemical and aerosol exposure in the indoor environment.

6. Dutch Health Ministry's National Institute for Public Health issued an "E-Cigarette Factsheet" on December 3, 2103. **Key finding: e-cigarette ingredients may irritate the respiratory system, and some ingredients contain carcinogenic substances like formaldehyde and tobacco- specific nitrosamines.**

7. The National Center for Biotechnology Information study (published December 2011) examined the acute pulmonary effects of using an e-cigarette. The study found that there are **immediate adverse physiologic effects after short-term use of electronic cigarettes that are similar to some of the effects seen with tobacco smoking.**

II. E-cigarettes are NOT less harmful than regular cigarettes:

- o University of California (Riverside) study (published in March 2013) tested e-cigarette vapor for 22 elements in periodic table. Found that **nickel was about 2-100 times higher in concentration in e-cigarette aerosol than in Marlboro brand cigarettes (Table 1).**

III. Serious health concerns with nicotine's harmful effects on the body:

Electronic smoking devices emit "significant amounts of nicotine" into the air (as per the December 2013 Roswell Park study), resulting in exposing innocent third parties to nicotine, in public places and workplaces. Some of nicotine's harmful effects on the body:

- o Nicotine causes headaches in persons exposed to secondhand smoke. Nicotine, one of the components of tobacco, triggers blood vessels to constrict, reducing blood flow to the brain and the covering of the brain (the meninges). Decreased blood flow leads to depressed brain activity, which is a major component of migraines. Usually, by removing the stimulus (nicotine), headaches will be relieved.
http://my.clevelandclinic.org/healthy_living/smoking/hic_smoking_and_headache.aspx
- o Nicotine releases epinephrine (adrenaline), which raises blood pressure, heart rate and respiration and glucose levels.
- o Nicotine is a vasoconstrictor – harder for the heart to pump through constricted arteries.
- o Nicotine promotes blood vessel damage by promoting cellular damage in vascular smooth muscle cells, promoting plaque formation, and causing blood vessel damage.
- o Nicotine is known to affect oxidative stress and to have adverse effects on brain and lung development in children.
- o Women who use nicotine gum and patches during the early stages of pregnancy face an increased risk of having babies with birth defects, says a study that looked at about 77,000 pregnant women in Denmark. Roswell Park Cancer Institute's study raises concerns about 2ndhand vapor smoke exposure to pregnant women.
- o Nicotine and the increased cholinergic activity it causes have been shown to impede apoptosis, which is one of the methods by which the body destroys unwanted cells (programmed cell death).

IV. International jurisdictions that ban the sale, importation, and/or use of all ESD:

- Argentina - bans import, distribution, commercialization, advertising
- Singapore - bans sales, import, distribution
- Brazil - bans sale, import, advertising
- Israel - bans sale, import
- Panama -bans sale, import, distribution

- Jordan - bans importation
- Victoria, Australia - bans sale, use and advertising
- Turkey - bans sale and use
- Hong Kong bans use and sale, unless a pharmaceutical product
- Canada - bans sale, import, advertising if ecigs contain nicotine

11/27/13 – Holland's Ministry of Health calls for studies on health concerns with e-cigarettes.

11/28/13 - European Commission proposes to overturn a vote that rejected outlawing electronic smoking devices in their present form, due to the devices normalizing the action of smoking.

<http://www.telegraph.co.uk/news/worldnews/europe/eu/10481328/EU-seeks-ban-on-all-currently-available-e-cigarettes.html>

2/26/14- The European Parliament approved rules that will regulate Europe's rapidly growing electronic cigarette market. Starting in mid-2016, advertising for e-cigarettes is to be banned in all EU nations in the same manner as ads for ordinary tobacco products are banned. They also approved health warnings, childproof packaging, and the amount of nicotine will be limited to 20 milligrams per milliliter.

http://www.nytimes.com/2014/02/27/business/european-union-approves-tough-rules-on-electronic-cigarettes.html?hpw&ref=business&_r=0

DISCLAIMER: This information is created by the Tobacco Control Policy and Legal Resource Center of New Jersey GASP, which provides educational information, educational guidance and educational technical assistance on tobacco control topics. The information presented is not intended as, nor to be construed, or used as legal advice, and should not be used to replace the advice of your legal Counsel.

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Morbidity and Mortality Weekly Report (MMWR)

Notes from the Field: Electronic Cigarette Use Among Middle and High School Students — United States, 2011–2012

Weekly

September 6, 2013 / 62(35);729-730

Electronic cigarettes, or e-cigarettes, are battery-powered devices that provide doses of nicotine and other additives to the user in an aerosol. Depending on the brand, e-cigarette cartridges typically contain nicotine, a component to produce the aerosol (e.g., propylene glycol or glycerol), and flavorings (e.g., fruit, mint, or chocolate) (1). Potentially harmful constituents also have been documented in some e-cigarette cartridges, including irritants, genotoxins, and animal carcinogens (1). E-cigarettes that are not marketed for therapeutic purposes are currently unregulated by the Food and Drug Administration, and in most states there are no restrictions on the sale of e-cigarettes to minors. Use of e-cigarettes has increased among U.S. adult current and former smokers in recent years (2); however, the extent of use among youths is uncertain.

Data from the 2011 and 2012 National Youth Tobacco Survey (NYTS), a school-based, pencil-and-paper questionnaire given to U.S. middle school (grades 6–8) and high school (grades 9–12) students, were used to estimate the prevalence of ever and current (≥ 1 day in the past 30 days) use of e-cigarettes, ever and current (≥ 1 day in the past 30 days) use of conventional cigarettes, and use of both. NYTS consists of a cross-sectional, nationally representative sample of students in grades 6–12 from all 50 states and the District of Columbia (3).

During 2011–2012, among all students in grades 6–12, ever e-cigarette use increased from 3.3% to 6.8% ($p < 0.05$) (Figure); current e-cigarette use increased from 1.1% to 2.1% ($p < 0.05$), and current use of both e-cigarettes and conventional cigarettes increased from 0.8% to 1.6% ($p < 0.05$). In 2012, among ever e-cigarette users, 9.3% reported never smoking conventional cigarettes; among current e-cigarette users, 76.3% reported current conventional cigarette smoking.

Among middle school students, ever e-cigarette use increased from 1.4% to 2.7% during 2011–2012 ($p < 0.05$) (Figure); current e-cigarette use increased from 0.6% to 1.1% ($p < 0.05$), and current use of both e-cigarettes and conventional cigarettes increased from 0.3% to 0.7% ($p < 0.05$). In 2012, among middle school ever e-cigarette users, 20.3% reported never smoking conventional cigarettes; among middle school current e-cigarette users, 61.1% reported current conventional cigarette smoking.

Among high school students, ever e-cigarette use increased from 4.7% to 10.0% during 2011–2012 ($p < 0.05$) (Figure); current e-cigarette use increased from 1.5% to 2.8% ($p < 0.05$), and current use of both e-cigarettes and conventional cigarettes increased from 1.2% to 2.2% ($p < 0.05$). In 2012, among high school ever e-cigarette users, 7.2% reported never smoking

conventional cigarettes; among high school current e-cigarette users, 80.5% reported current conventional cigarette smoking.

E-cigarette experimentation and recent use doubled among U.S. middle and high school students during 2011–2012, resulting in an estimated 1.78 million students having ever used e-cigarettes as of 2012. Moreover, in 2012, an estimated 160,000 students who reported ever using e-cigarettes had never used conventional cigarettes. This is a serious concern because the overall impact of e-cigarette use on public health remains uncertain. In youths, concerns include the potential negative impact of nicotine on adolescent brain development (4), as well as the risk for nicotine addiction and initiation of the use of conventional cigarettes or other tobacco products.

CDC and the Food and Drug Administration will continue to explore ways to increase surveillance and research on e-cigarettes. Given the rapid increase in use and youths' susceptibility to social and environmental influences to use tobacco, developing strategies to prevent marketing, sales, and use of e-cigarettes among youths is critical.

Reported by

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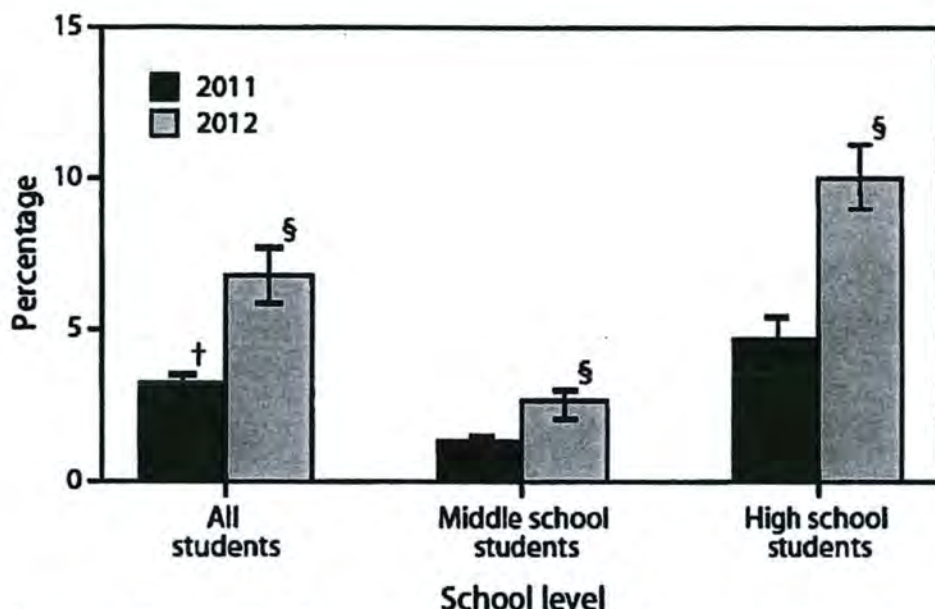
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* Ever electronic cigarette use defined as having ever used electronic cigarettes, even just one time.

† 95% confidence interval.

‡ Statistically significant difference between 2011 and 2012 (chi-square, $p < 0.05$).

FIGURE. Ever electronic cigarette use* among middle and high school students, by year — National Youth Tobacco Survey, United States, 2011–2012



Alternate Text: The figure above shows ever electronic cigarette (e-cigarette) use among middle and high school students, by year, in the United States during 2011-2012. During 2011-2012, among all students in grades 6-12, ever e-cigarette use increased from 3.3% to 6.8% ($p < 0.05$); current e-cigarette use increased from 1.1% to 2.1% ($p < 0.05$), and current use of both e-cigarettes and conventional cigarettes increased from 0.8% to 1.6% ($p < 0.05$).

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Page last reviewed: September 06, 2013
 Page last updated: September 06, 2013
 Content source: [Centers for Disease Control and Prevention](#)

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U.S. State and Local Laws Regulating Use of Electronic Cigarettes

As of January 1, 2015

The following list includes states and municipalities with laws currently in effect that regulate where use of electronic cigarettes (e-cigarettes) is prohibited. E-cigarettes are battery-powered devices that are designed to mimic cigarettes by vaporizing a nicotine-laced liquid that is inhaled by the user. The use of e-cigarettes in workplaces and public places is a significant public health concern, not only because of their unregulated constituents and the potential health impact of the vapor on users and bystanders, but also because e-cigarette use causes public confusion as to where smoking is allowed, resulting in compliance problems with smokefree laws.

Most local and state smokefree laws were enacted before e-cigarettes were on the market, so while such laws do not explicitly mention e-cigarettes, it should not be assumed that their use is permitted. Existing smokefree laws are often interpreted to prohibit e-cigarette use in their smokefree provisions.

NOTE: In the 100% Smokefree Venues column, the following abbreviations are used: W=non-hospitality workplaces; R=restaurants; B=bars; G=gambling facilities.

For more information, please visit [ANR's e-cigarettes page](#).

State Laws Regulating Use of E-cigarettes

State Laws Restricting E-cigarette Use in 100% Smokefree Venues

Other state laws that do not explicitly address e-cigarettes might be interpreted as prohibiting the use of e-cigarettes in existing smokefree provisions.

State	100% Smokefree Venues In Which Use of E-cigarettes Prohibited	Use of E-cigarettes Specifically Permitted	Permitted In:
1. North Dakota	WRBG	No	
2. New Jersey	WRB	No	
3. Utah	WRB	Yes	Retailers that sell e-cigarettes, until 7/1/17.

State Laws Regulating E-cigarette Use in Other Venues

State	Prohibited In:	Use of E-cigarettes Specifically Permitted	If Partial, Permitted In:
1. Arkansas	Use of e-cigarettes prohibited on school district property.	No	

State	Prohibited In:	Use of E-cigarettes Specifically Permitted	If Partial, Permitted In:
2. Colorado	Definition of tobacco product for purposes of prohibition of use on school property amended to include e-cigarettes, unless approved by FDA as cessation devices.	No	
3. Delaware	Tobacco use, including use of e-cigarettes and hookahs, prohibited in all State workplaces, including all buildings, facilities, indoor and outdoor spaces and surrounding grounds, as well as parking lots and state vehicles operated on State workplace property.	No	
4. Georgia	Tobacco use, including use of e-cigarettes and hookahs, prohibited everywhere on campuses of University System of Georgia, with limited exceptions for educational purposes and research.	No	
5. Hawaii	Use of e-cigarettes prohibited on all Dept. of Health property where smoking is prohibited.	No	
6. Kansas	Tobacco use, including use of e-cigarettes, prohibited on all Dept. of Corrections property and grounds, by both employees and inmates. Per opinion of Attorney General, Indoor Clean Air Act of 2010 does not apply to e-cigarettes.	Partial	All places where smoking is prohibited per 3/12/10 law, including workplaces, restaurants, bars, gambling facilities, and public places generally.
7. Kentucky	Tobacco use, including use of e-cigarettes, prohibited on all properties of State Executive Branch, including buildings, vehicles, and land, but excluding specific outdoor areas such as parks, Kentucky Horse Park, and Kentucky State Fairgrounds. Per Governor's Office, does not apply to State colleges and universities.	No	
8. Maryland	Smoking, including use of e-cigarettes prohibited on MARC commuter rail system trains.	No	
9. New Hampshire	Use of e-cigarettes prohibited in public educational facilities and on grounds thereof.	No	

State	Prohibited In:	Use of E-cigarettes Specifically Permitted	If Partial, Permitted In:
10. Oklahoma	Tobacco use, including use of e-cigarettes, prohibited in all Dept. of Corrections facilities, including vehicles and grounds.	No	
11. Oregon	State agency employees prohibited from using tobacco products, including e-cigarettes, in State agency buildings and on State agency grounds adjacent to buildings.	No	
12. South Dakota	Tobacco use, including use of e-cigarettes, prohibited in Dept. of Corrections facilities and on grounds thereof, by both employees and inmates.	No	
13. Virginia	Smoking, including use of e-cigarettes, prohibited on Virginia Railway Express trains and limited to 100 feet on north end of station platforms.	No	
14. Vermont	Smoking, including use of e-cigarettes, prohibited on school grounds and at child care facilities, both indoors and outdoors.	No	
15. Wisconsin	Smoking, including use of e-cigarettes, prohibited at indoor facilities of State Fair and at main stage area.	No	

Local Laws Regulating Use of E-cigarettes

Laws Restricting E-cigarette Use in 100% Smokefree Venues

Note: The jurisdiction(s) affected by county-level laws vary widely. Look for a plus symbol (+) next to each county with a law that includes both incorporated and unincorporated areas. A county without a symbol means that the county law covers unincorporated areas only.

State	City/County	100% Smokefree Venues in Which Use of E-cigarettes Prohibited	Use of E-cigarettes Specifically Permitted	If Partial, Permitted In:
1. AK	Juneau	RBG	No	
2. AK	Palmer	WRB	No	
3. AL	Anniston	WRBG	No	
4. AL	Bessemer	WRG	No	

State	City/County	100% Smokefree Venues in Which Use of E-cigarettes Prohibited	Use of E-cigarettes Specifically Permitted	If Partial, Permitted In:
5. AL	Clay	WRBG	No	
6. AL	Creola	WRBG	No	
7. AL	Foley	WRG	No	
8. AL	Fultondale	WRBG	No	
9. AL	Gadsden	WRBG	No	
10. AL	Midfield	WRBG	No	
11. AL	Monroeville	WRBG	No	
12. AL	Opelika	WR	No	
13. AL	Troy	WRBG	No	
14. AL	Vestavia Hills	WRBG	No	
15. AZ	Coconino County	WR	No	
16. AZ	Tempe	WRB	No	
17. CA	Arcata	WRB	No	
18. CA	Berkeley	WRBG	No	
19. CA	Beverly Hills	RBG	No	
20. CA	Campbell	RBG	No	
21. CA	Carlsbad	RBG	No	
22. CA	Contra Costa County	WRBG	No	
23. CA	Corte Madera	WRB	No	
24. CA	Davis	WRBG	No	
25. CA	Del Mar	WRB	No	
26. CA	Dublin	RBG	No	
27. CA	El Cajon	RBG	No	
28. CA	El Cerrito	WRBG	No	
29. CA	Eureka	WRBG	No	
30. CA	Fairfax	WRBG	No	
31. CA	Folsom	RBG	No	
32. CA	Foster City	RB	No	
33. CA	Fremont	WRB	No	
34. CA	Goleta	RB	No	
35. CA	Laguna Hills	WRBG	No	
36. CA	Long Beach	WRBG	No	
37. CA	Los Angeles	RBG	Partial	Retail e-cigarette stores and theatrical production sites.
38. CA	Manhattan Beach	WRBG	No	

State	City/County	100% Smokefree Venues In Which Use of E-cigarettes Prohibited	Use of E-cigarettes Specifically Permitted	If Partial, Permitted In:
39. CA	Marin County	WRB	Partial	Individual apartment units in multi-unit residences.
40. CA	Mill Valley	WRB	No	
41. CA	Morgan Hill	WRB	No	
42. CA	Mountain View	WRB	No	
43. CA	Oroville	W	No	
44. CA	Petaluma	W	No	
45. CA	Richmond	WRBG	No	
46. CA	San Bernardino	W	No	
47. CA	San Diego	WRBG	Partial	E-cigarette lounges and shops.
48. CA	San Francisco	WRB	No	
49. CA	San Mateo County	W	No	
50. CA	Santa Clara County	WRB	No	
51. CA	Santa Maria	RB	No	
52. CA	Santa Monica	WRB	Partial	Two existing e-cigarette lounges/businesses.
53. CA	Seal Beach	RBG	No	
54. CA	Sebastopol	WRBG	No	
55. CA	Solana Beach	RB	No	
56. CA	Temecula	WRBG	No	
57. CA	Tiburon	WRB	No	
58. CA	Union City	WRB	No	
59. CA	Walnut Creek	RBG	No	
60. CO	Edgewater	WRBG	No	
61. CO	Lakewood	RBG	No	
62. FL	Alachua County	WRG	No	
63. FL	Belleview	WRG	No	
64. FL	Clay County	WR	No	
65. FL	Hawthorne	WRG	No	
66. FL	High Springs	WRG	No	
67. FL	Lighthouse Point	WRG	No	
68. FL	Marion County	WRG	No	
69. FL	Newberry	WRG	No	
70. FL	Orange Park	WRG	No	
71. FL	Waldo	WRG	No	
72. GA	Chatham County	WRBG	No	

State	City/County	100% Smokefree Venues in Which Use of E-cigarettes Prohibited	Use of E-cigarettes Specifically Permitted	If Partial, Permitted In:
73. GA	DeKalb County	W	No	
74. GA	Pooler	WRBG	No	
75. GA	Savannah	WRBG	No	
76. ID	Ketchum	WRBG	No	
77. IL	Arlington Heights	WR	No	
78. IL	Chicago	WRBG	Partial	Theater performances; retail tobacco stores.
79. IL	Elk Grove Village	WRB	No	
80. IL	Evanston	WRB	No	
81. IL	Schaumburg	WRBG	No	
82. IN	Indianapolis/Marion	WRB	No	
83. KS	Overland Park	WRBG	No	
84. KY	Bardstown	WRBG	No	
85. KY	Berea	WRBG	No	
86. KY	Glasgow	RBG	No	
87. KY	Kenton County ⁺	W	No	
88. KY	Lexington/Fayette	WRBG	No	
89. KY	Madison County ⁺	WRBG	No	
90. KY	Manchester	WRBG	No	
91. KY	Richmond	WRBG	No	
92. KY	Versailles	WRB	No	
93. LA	Abbeville	WRBG	No	
94. LA	Cheneyville	WRBG	No	
95. LA	Monroe	WRBG	No	
96. LA	Ouachita Parish	WRBG	No	
97. LA	West Monroe	WRBG	No	
98. MA	Acton	WRBG	No	
99. MA	Adams	WRBG	No	
100. MA	Amherst	WRBG	No	
101. MA	Arlington	WRBG	No	
102. MA	Athol	WRBG	No	
103. MA	Auburn	WRBG	No	
104. MA	Barre	WRBG	No	
105. MA	Billerica	WRBG	No	
106. MA	Bolton	WRBG	No	
107. MA	Boston	WRB	No	

State	City/County	100% Smokefree Venues in Which Use of E-cigarettes Prohibited	Use of E-cigarettes Specifically Permitted	If Partial, Permitted In:
108. MA	Bourne	WRB	No	
109. MA	Bridgewater	WRBG	No	
110. MA	Buckland	WRBG	No	
111. MA	Burlington	WRBG	No	
112. MA	Cohasset	WRBG	No	
113. MA	Concord	WRBG	No	
114. MA	Dartmouth	WRBG	No	
115. MA	Dedham	WRB	No	
116. MA	Deerfield	WRBG	No	
117. MA	Dighton	WRBG	No	
118. MA	Dover	RB	No	
119. MA	Dracut	WRBG	No	
120. MA	Easthampton	WRBG	No	
121. MA	Fitchburg	WRBG	No	
122. MA	Foxborough	WRBG	No	
123. MA	Franklin	WRBG	No	
124. MA	Gardner	WRBG	No	
125. MA	Gill	WRBG	No	
126. MA	Grafton	WRBG	No	
127. MA	Great Barrington	WRBG	No	
128. MA	Greenfield	WRBG	No	
129. MA	Hatfield	WRBG	Partial	Smoking bars and hotels/motels.
130. MA	Haverhill	WRBG	No	
131. MA	Hubbardston	WRBG	No	
132. MA	Hudson	WRBG	No	
133. MA	Lee	WRBG	No	
134. MA	Leicester	WRBG	No	
135. MA	Lenox	WRBG	No	
136. MA	Lynn	WRBG	No	
137. MA	Marblehead	WRBG	No	
138. MA	Mashpee	WRBG	No	
139. MA	Medway	WRBG	No	
140. MA	Montague	WRBG	No	
141. MA	Needham	WRB	No	
142. MA	New Bedford	WRBG	No	
143. MA	Newton	WRBG	No	

State	City/County	100% Smokefree Venues in Which Use of E-cigarettes Prohibited	Use of E-cigarettes Specifically Permitted	If Partial, Permitted In:
144. MA	North Attleborough	WRBG	No	
145. MA	Northampton	WRBG	No	
146. MA	Orleans	WRBG	No	
147. MA	Oxford	WRBG	No	
148. MA	Pittsfield	WRBG	No	
149. MA	Provincetown	WRBG	No	
150. MA	Salem	WRBG	No	
151. MA	Saugus	WRBG	No	
152. MA	Sharon	WRBG	No	
153. MA	Shelburne	WRB	No	
154. MA	Sherborn	WRBG	No	
155. MA	Somerset	WRBG	No	
156. MA	South Hadley	WRBG	No	
157. MA	Stockbridge	WRBG	No	
158. MA	Sunderland	WRBG	No	
159. MA	Sutton	WRBG	No	
160. MA	Swampscott	WRBG	No	
161. MA	Taunton	WRBG	No	
162. MA	Tewksbury	WRBG	No	
163. MA	Townsend	WRBG	No	
164. MA	Wendell	WRBG	No	
165. MA	Westminster	WRBG	No	
166. MA	Westport	WRBG	No	
167. MA	Westwood	WRBG	No	
168. MA	Weymouth	WRBG	No	
169. MA	Whately	WRBG	No	
170. MA	Winchendon	WRBG	No	
171. MA	Winchester	WRBG	No	
172. MD	Baltimore	W	Partial	Restaurants, bars, video lottery facilities, retail e-cigarette stores.
173. MN	Duluth	WRBG	No	
174. MN	Eden Prairie	WRBG	No	
175. MN	Edina	RBG	No	
176. MN	Ely	WRBG	No	
177. MN	Hermantown	WRB	No	
178. MN	Houston County	WRBG	No	

State	City/County	100% Smokefree Venues in Which Use of E-cigarettes Prohibited	Use of E-cigarettes Specifically Permitted	If Partial, Permitted In:
179. MN	Mankato	WRB	No	
180. MN	Sleepy Eye	WRBG	No	
181. MN	St. Anthony	WRB	No	
182. MN	Waseca	WRBG	No	
183. MO	Creve Coeur	WRB	No	
184. MO	Gainesville	RB	No	
185. MO	Jefferson City	WRBG	No	
186. MO	St. Joseph	WRBG	No	
187. MO	Washington	WRBG	No	
188. MS	Anguilla	WRBG	No	
189. MS	Arcola	WRBG	No	
190. MS	Baldwyn	WRBG	No	
191. MS	Bassfield	WRBG	No	
192. MS	Bruce	WRBG	No	
193. MS	Byram	WRBG	No	
194. MS	Calhoun City	WRBG	No	
195. MS	Centreville	WRBG	No	
196. MS	Coahoma County	WRB	No	
197. MS	Crawford	WRBG	No	
198. MS	Duncan	WRBG	No	
199. MS	Durant	WRBG	No	
200. MS	Ethel	WRBG	No	
201. MS	Farmington	WRBG	No	
202. MS	Flowood	WRG	No	
203. MS	Forest	WRBG	No	
204. MS	Friars Point	WRBG	No	
205. MS	Georgetown	WRBG	No	
206. MS	Indianola	WRBG	No	
207. MS	Itta Bena	WRBG	No	
208. MS	Louisville	WRBG	No	
209. MS	Magee	WRBG	No	
210. MS	Mendenhall	WRBG	No	
211. MS	Monticello	RBG	No	
212. MS	Moorhead	WRBG	No	
213. MS	New Augusta	WRBG	No	
214. MS	Plantersville	WRBG	No	

State	City/County	100% Smokefree Venues in Which Use of E-cigarettes Prohibited	Use of E-cigarettes Specifically Permitted	If Partial, Permitted In:
215. MS	Prentiss	WRBG	No	
216. MS	Rolling Fork	WRBG	No	
217. MS	Sledge	WRBG	No	
218. MS	Southaven	WRB	No	
219. MS	Sumner	WRBG	No	
220. MS	Tupelo	WRB	Yes	Retail e-cigarette stores.
221. MS	Walnut	WRBG	No	
222. MS	Wesson	WRBG	No	
223. MS	Woodville	WRBG	No	
224. ND	Bismarck	WRBG	No	
225. ND	Dickinson	WRBG	No	
226. ND	Walhalla	WRBG	No	
227. ND	Williston	WRBG	No	
228. NJ	Newark	WRBG	No	
229. NM	Carlsbad	W	No	
230. NM	Santa Fe	WRB	No	
231. NY	Cattaraugus County	RBG	No	
232. NY	New York City	WRB	Partial	Retail e-cigarette stores.
233. NY	Suffolk County*	WRB	No	
234. NY	Tompkins County*	WRB	No	
235. OH	Oberlin	WRB	No	
236. OR	Benton County	WRB	No	
237. OR	Corvallis	WRB	No	
238. PA	Philadelphia	R	Partial	Specialty e-cigarette establishments; tobacco products distribution businesses.
239. SC	Denmark	WRB	No	
240. SC	Estill	WRBG	No	
241. SC	West Pelzer	WRB	No	
242. SC	Yemassee	WRB	No	
243. TX	Frisco	WRB	No	
244. TX	Harlingen	WRBG	No	
245. TX	Joshua	WR	No	
246. TX	Lufkin	WRBG	No	
247. TX	San Angelo	WRB	No	
248. TX	San Marcos	WRB	No	
249. TX	Socorro	WRB	No	

State	City/County	100% Smokefree Venues in Which Use of E-cigarettes Prohibited	Use of E-cigarettes Specifically Permitted	If Partial, Permitted In:
250. TX	Waxahachie	WRBG	No	
251. TX	Weatherford	R	No	
252. TX	Wichita Falls	WRB	No	
253. WA	King County*	WRBG	No	
254. WA	Pasco	WRBG	No	
255. WI	Ashwaubenon	WRBG	No	
256. WI	Greenfield	WRBG	No	
257. WI	Onalaska	WRBG	No	
258. WV	Barbour County*	WRBG	No	
259. WV	Berkeley County*	WRBG	No	
260. WV	Calhoun County*	WRBG	No	
261. WV	Greenbrier County*	WRBG	No	
262. WV	Lewis County*	WRBG	No	
263. WV	Marshall County*	W	No	
264. WV	Mineral County*	WRBG	No	
265. WV	Nicholas County*	WRBG	No	
266. WV	Pleasants County*	WRBG	No	
267. WV	Randolph County*	WRBG	No	
268. WV	Ritchie County*	WRBG	No	
269. WV	Roane County*	WRBG	No	
270. WV	Taylor County	WRBG	No	
271. WV	Upshur County*	WRB	No	
272. WV	Webster County*	WR	No	
273. WV	Wirt County*	WRBG	No	
274. WV	Wood County*	WRBG	No	

*Law pertains to both incorporated and unincorporated areas of county.

Laws Currently in Effect

State Laws Restricting E-cigarette Use in 100% Smokefree Venues: 3

State Laws Restricting E-cigarette Use in Other Venues: 15

Local Laws Restricting E-cigarette Use in 100% Smokefree Venues: 274

In addition, 162 local laws restrict E-cigarette Use in Other Venues (not listed above)

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[LS-44]

Alaska Stat. § 44.29.020

Current through the 2014 Second Regular Session of the Twenty-Eighth State Legislature

Alaska Statutes > TITLE 44. STATE GOVERNMENT > CHAPTER 29. DEPARTMENT OF HEALTH AND SOCIAL SERVICES > ARTICLE 1. ORGANIZATION

Sec. 44.29.020. Duties of department

- (a) The Department of Health and Social Services shall administer the state programs of public health and social services, including
- (1) maternal and child health services;
 - (2) preventive medical services;
 - (3) public health nursing services;
 - (4) nutrition services;
 - (5) health education;
 - (6) laboratories;
 - (7) mental health treatment and diagnosis;
 - (8) management of state institutions, except for adult penal institutions;
 - (9) medical facilities;
 - (10) adult public assistance;
 - (11) Alaska temporary assistance program;
 - (12) child welfare services;
 - (13) general relief;
 - (14) a comprehensive smoking education, tobacco use prevention, and tobacco control program; to the maximum extent possible, the department shall administer the program required under this paragraph by grant or contract with one or more organizations in the state; the department's program must include
 - (A) a community-based tobacco use prevention and cessation component addressing the needs of youth and adults that includes use of cessation aids such as a nicotine patch or a nicotine gum tobacco substitute;
 - (B) youth-based efforts that involve youth in the design and implementation of tobacco control efforts;
 - (C) anti-tobacco counter-marketing targeting both youth and adult populations designed to communicate messages to help prevent youth initiation of tobacco use, promote cessation among tobacco users, and educate the public about the lethal effects of exposure to secondhand smoke;
 - (D) tobacco use surveys of youth and adult populations concerning knowledge, awareness, attitude, and use of tobacco products; and
 - (E) an enforcement component;
 - (15) the Alaska Pioneers' Home and the Alaska Veterans' Home;
 - (16) licensure and regulation of child care facilities.
- (b) The Department of Health and Social Services shall comply with AS 15.07.055 to serve as a voter registration agency to the extent required by state and federal law, including 42 U.S.C. 1973gg (National Voter Registration Act of 1993).
- (c) The Department of Health and Social Services shall cooperate with the Department of Public Safety in

Alaska Stat. § 44.29.020

enforcement of the prohibition on the possession, offer, display, marketing, advertising, or sale of illicit synthetic drugs under AS 17.21.

History

(§ 12 ch 64 SLA 1959; am § 3 ch 104 SLA 1971; am § 47 ch 71 SLA 1972; am E.O. No. 51, § 41 (1981); am § 98 ch 59 SLA 1982; am § 7 ch 138 SLA 1982; am E.O. No. 55, §§ 39, 40 (1984); am § 16 ch 111 SLA 1994; am § 27 ch 107 SLA 1996; am § 85 ch 58 SLA 1999; am § 3 ch 87 SLA 2000; am E.O. No. 108, § 4 (2003); am §§ 11, 25 ch 59 SLA 2004; am § 2 ch 86 SLA 2014)

Annotations

Notes

REVISOR'S NOTES. --

In 2004, the paragraphs in (a) of this section were renumbered to reflect the repeal of former paragraph (a)(14).
In 2014, the paragraphs in this section were renumbered to reflect the repeal of former paragraph (a)(16).

EFFECT OF AMENDMENTS. --

The 2014 amendment, effective October 14, 2014, added (c).

Research References & Practice Aids

CROSS REFERENCES. --

For legislative findings and purpose in connection with the enactment of former AS 44.21.035, on which this section is based, see § 1, ch. 98, SLA 1992 in the Temporary and Special Acts.

ADMINISTRATIVE CODE. --

For purpose, applicability, and administrative provisions, see 7 AAC 10, art. 1.

For environmental health and safety, see 7 AAC 10, art. 4.

For inspections and investigations, see 7 AAC 10, art. 6.

For physical examination of school children, see 7 AAC 27, art. 5.

For licensing process, see 7 AAC 50, art. 1.

For administration, see 7 AAC 50, art. 2.

For personnel, see 7 AAC 50, art. 3.

For admission and discharge, see 7 AAC 50, art. 4.

For care and services, see 7 AAC 50, art. 5.

For environment, see 7 AAC 50, art. 6.

For specializations, see 7 AAC 50, art. 7.

The AlaskaPoll



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Information for Solutions

- ❖ Market Research
- ❖ Public Opinion Analysis
- ❖ Political and Government Research
- ❖ Focus Groups

Opinions and Attitudes Regarding a Statewide Smoke-Free Workplace Law in Alaska

June 2012

Prepared for:

American Cancer Society
Cancer Action Network, Inc.





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Methodology



**Overview**

During the period June 13-17, 2012, one thousand three hundred forty-five (n=1,345) Alaskan registered voters were personally contacted via telephone concerning their awareness, attitudes and opinions of smoking and smoke-free workplace laws in Alaska. Dittman Research and Communications (DRC) worked with the American Cancer Society Cancer Action Network (ACS CAN) to develop a survey instrument that addresses these topics. All views and data were obtained on a strictly confidential basis.

Sample Design

To meet the needs of ACS CAN, a sample design was featured which allows for valid and independent research and analysis of both statewide and regional opinions. An oversample of respondents was conducted in certain areas to achieve this.

Overall results were weighted to bring the sample into correct geographic distribution. Further weighting ensures an accurate representation of Alaskan registered voters in terms of age and political registration.

Respondents were contacted over both landline phones and cell phones – phone numbers were generated randomly, ensuring representation of both listed and unlisted numbers. Approximately 20% of the respondents in each region were contacted via cell phone, with the remaining 80% contacted via household landlines.

<u>Region</u>	<u>Margin of error</u>
Anchorage	±6.9%
Fairbanks	±5.7%
Mat-Su	±5.7%
Kenai Peninsula	±5.8%
Southeast Alaska	±8.5%
<u>Rural Alaska</u>	<u>±9.4%</u>
Statewide	±2.7%

Processing the Data

DRC employees completed coding, editing, data entry and verification, while data processing was completed through the Statistical Package for the Social Sciences (SPSS) program. The SPSS program is one of the most sophisticated research-oriented data processing and analytical systems available, and is designed specifically for the processing and analysis of survey research data.



Summary





Key Findings

- There is little disagreement among Alaskans that cigarettes are hazardous...
 - 91% Believe smoking is a "serious" or "moderate health hazard"
 - 83% Believe secondhand smoke is a "serious" or "moderate health hazard"
 - 91% "Strongly" or "somewhat agree" that *"Restaurants and bars would be healthier for customers and employees if they were smoke-free"*
 - 93% "Strongly" or "somewhat agree" that *"All Alaskans have the right to breathe clean air"*
 - 82% "Strongly" or "somewhat agree" that *"All Alaskan workers should be protected from secondhand smoke in the workplace"*

- Overall, a considerable percentage of Alaskans (54%) already think a statewide smoke-free law exists. This is not too surprising considering the majority of residents live in areas with strong smoke-free ordinances. However this holds true, to a large extent, even in areas without smoke-free ordinances: Mat-Su (51%), Kenai Peninsula (45%) and Fairbanks (43%).

- In total, two-out-of-three Alaskan voters (66%) favor a statewide smoke-free workplace law – 55% "strongly favor". A majority of residents in all regions of the state favor the law.

- Approximately two-out-of-five Alaskan voters (38%) indicate they would be more likely to vote for a candidate who supports a smoke-free workplace law. A similarly high percentage (43%) say that a candidate's position on this issue would not affect their vote either way. Only 14% would be less likely to vote for a candidate who supports the law.

- Nearly three-out-of-four Alaskans (73%) think a statewide smoke-free law would have a positive or neutral effect on Alaska's bar and restaurant industry.
 - Only 7% of Alaskans say they would go out less often because of the law – the remaining 92% would go out more often or about the same as they do now.
 - Over two-out-of-three Alaskans (68%) indicate they *"would avoid a restaurant or bar that allows smoking indoors"*.



Findings

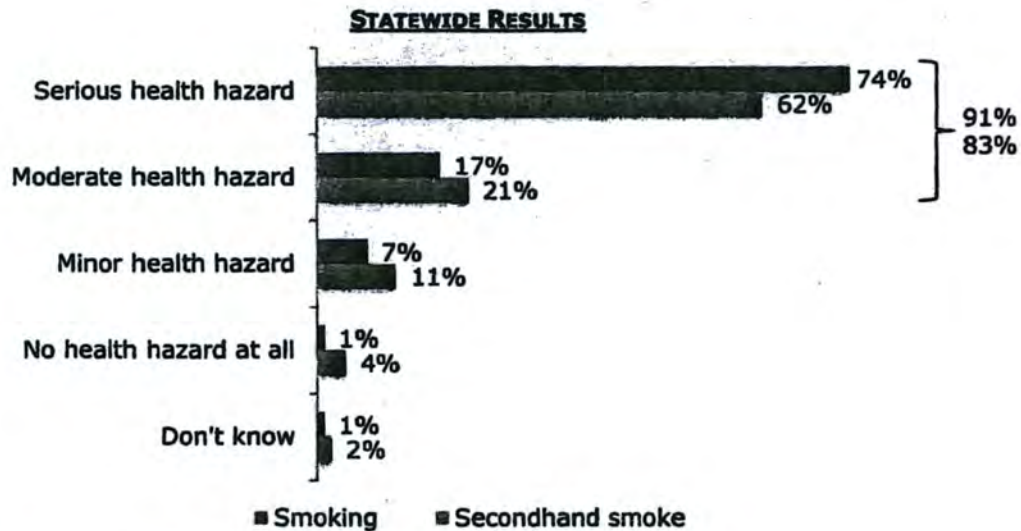




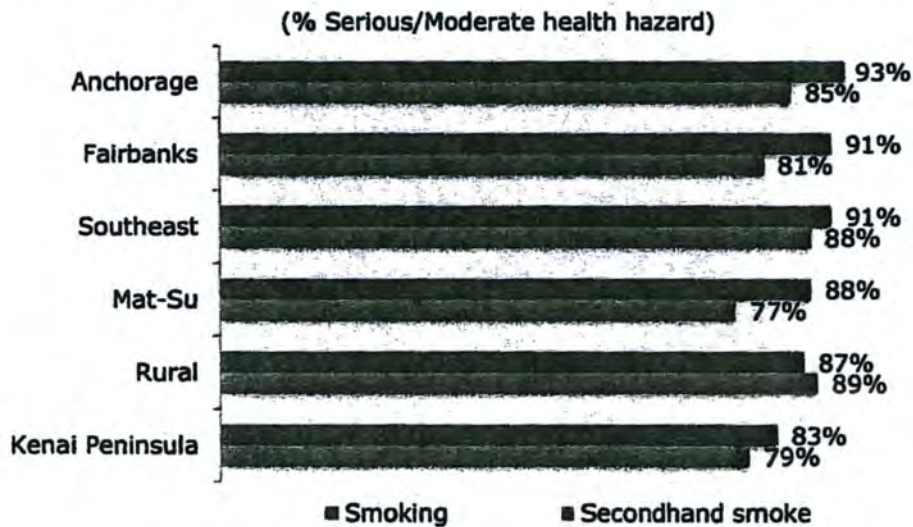
Approximately three-out-of-four Alaskans (74%) believe smoking is a serious health hazard, and nine-out-of-ten (91%) report it is at least a moderate health hazard. Similar percentages report exposure to secondhand smoke as hazardous. Interestingly, the belief that smoking is a "serious health hazard" increases with age, education level and household income.

Question: *In general, do you feel that smoking is a serious, moderate, or minor health hazard, or no health hazard at all?*

And do you feel that exposure to secondhand smoke is a serious, moderate, or minor health hazard, or no health hazard at all?

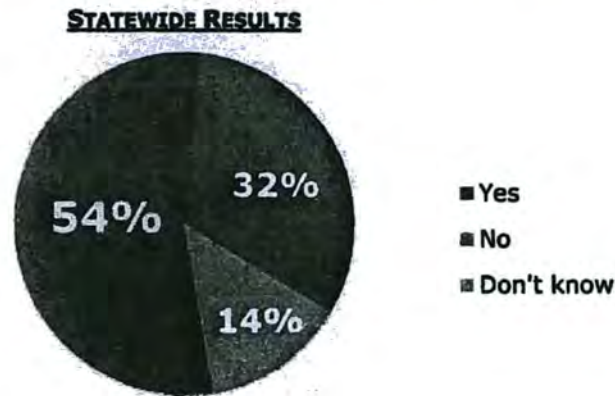


Opinions on the effects of smoking and secondhand smoke are fairly consistent across the state...

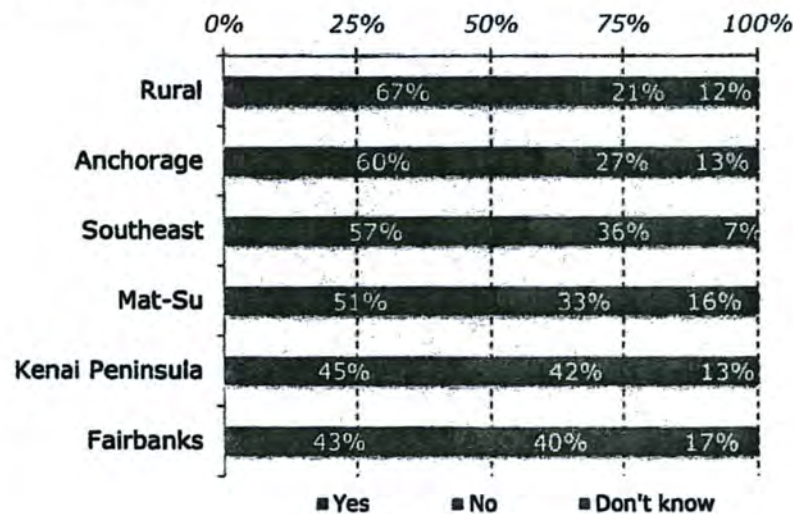


Overall, the majority of Alaskans (54%) already think a statewide smoke-free law exists. This is consistent across all demographic subgroups.

Question: *As far as you know, is there a statewide law in Alaska that prohibits smoking indoors in public places?*



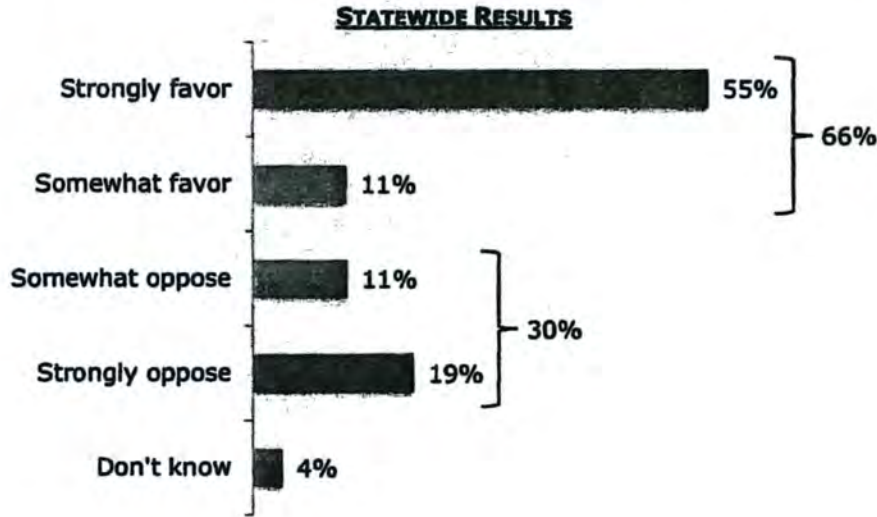
A significant number of Alaskans in all regions report they believe a statewide smoke-free law is already in effect.



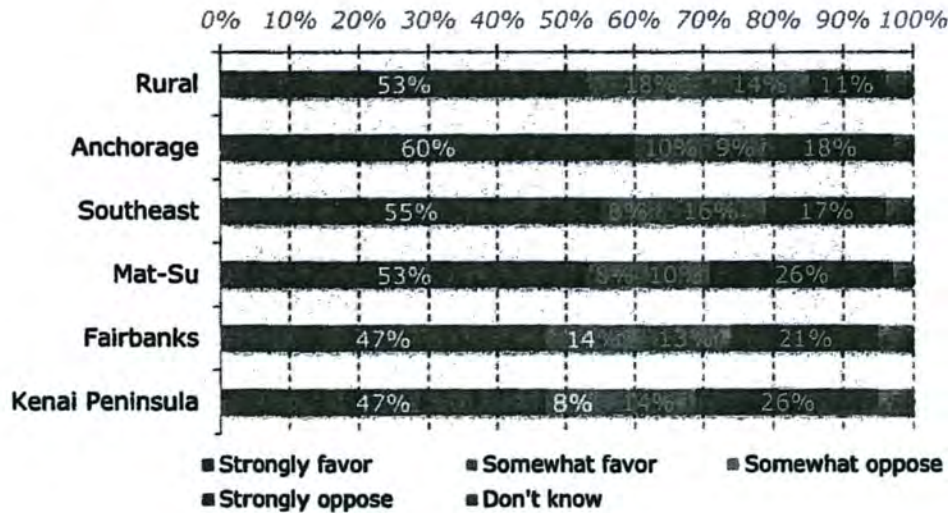


By a margin of over 2-to-1, Alaskan voters report they would favor a statewide smoke-free workplace law – the majority indicating they “strongly favor” (55%).

Question: *Would you favor or oppose a statewide law in Alaska that would prohibit smoking indoors in public places, including workplaces, public buildings, offices, restaurants and bars?*



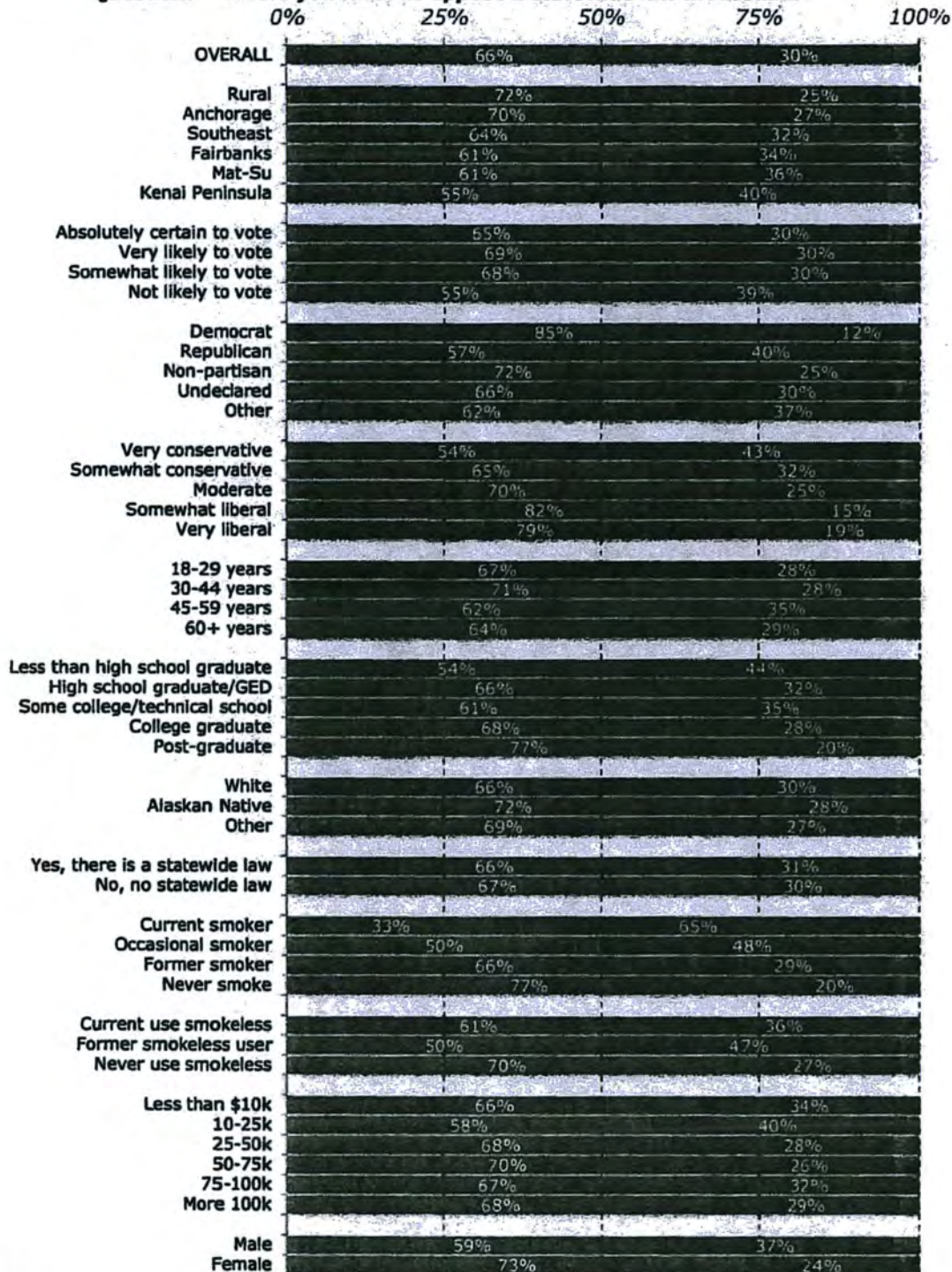
A sizable majority in all regions report they would favor a statewide smoke-free law. In fact, aside from Fairbanks and the Kenai Peninsula, the majority of residents in all regions “strongly favor” the law.





Taking a closer look at support and opposition for a statewide smoke-free law, we see strong support across nearly all subgroups. The only instance of less than majority support is among current smokers.

Question: Would you favor or oppose a statewide law in Alaska...



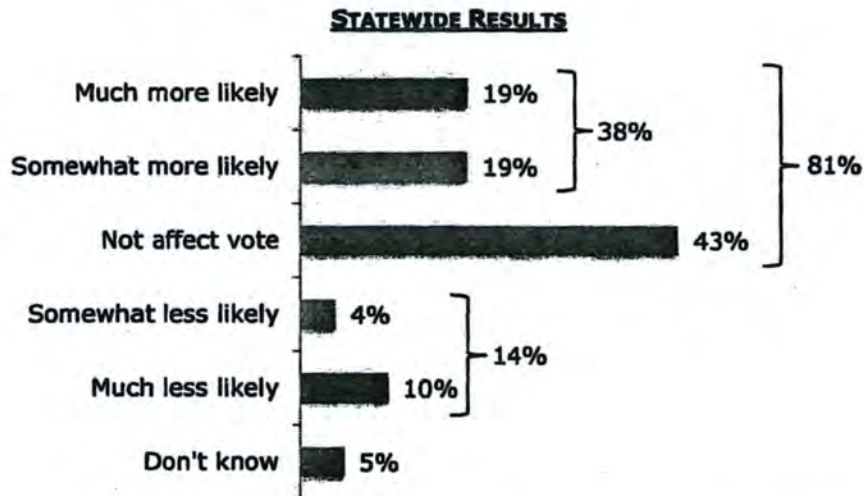
■ Favor ■ Oppose ■ Don't know



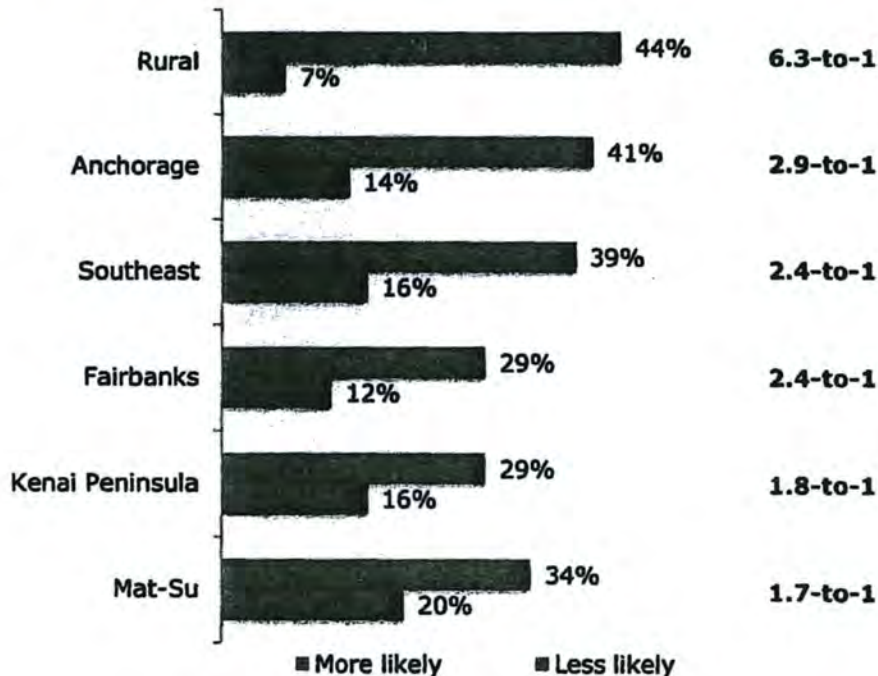


In total, a considerable percentage (38%) report that a candidate's support for a smoke-free workplace law would make them more likely to vote for that candidate. An additional 43% indicate that a candidate's position on a smoke-free workplace law would not affect their vote.

Question: *Would you be more likely or less likely to vote for a candidate who supports a law that would prohibit smoking indoors in public places and workplaces in Alaska, or would their opinion on this issue not affect your vote?*



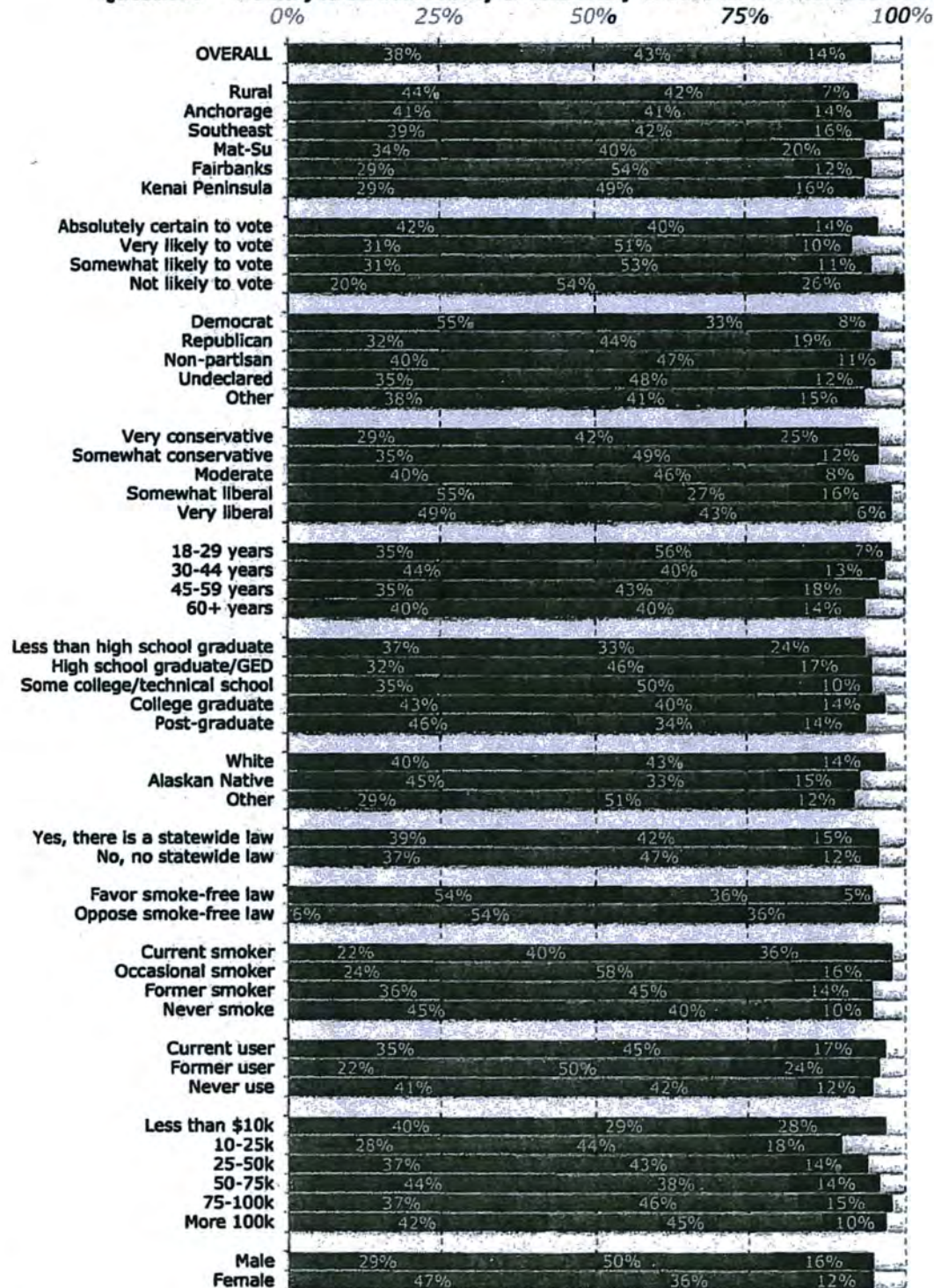
The net effect of a candidate supporting a smoke-free law would be very positive across the state.





A candidate's support for a statewide smoke-free law would have an overwhelmingly positive/neutral effect across all demographic subgroups.

Question: Would you be more likely or less likely to vote for a candidate who supports...



More likely Not affect vote Less likely Don't know

Dittman Research & Communications



**THE IMPACT OF ANCHORAGE'S 2000 AND 2007
SMOKE-FREE POLICIES
ON SELECT RESTAURANTS AND BARS**

Prepared by:
Mouhcine Guettabi
Rosylind Frazier
Katie Cueva
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Prepared for:
The American Lung Association in Alaska

January 2014



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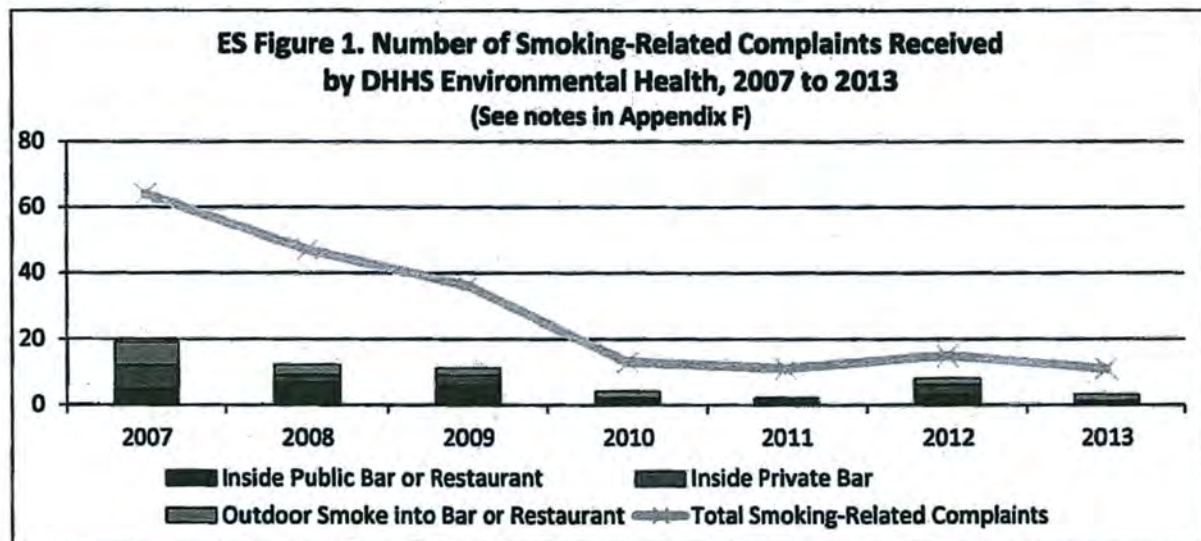
Table 7. Number of Smoking-Related Complaints Received by DHHS Environmental Health program, 2007 to 2013..... 35

Executive Summary

The American Lung Association in Alaska (ALAA) asked the Institute of Social and Economic Research (ISER) to investigate the impact of the Anchorage 2000 and 2007 Clean Indoor Air (CIA) municipal ordinances on selected restaurants and bars. As previous U.S. studies have been conducted that speak to the economic and health impacts of CIA laws, ALAA also requested that ISER synthesize results of these existing studies and conduct a survey on restaurant and bar representatives' perceptions of the impact of the ordinances.

Policy Enforcement

The Municipality of Anchorage (MOA), Department of Health and Human Services (DHHS), Division of Environmental Health, Food Safety and Sanitation Program is responsible for enforcing the smoke-free ordinances. Key informants shared that less than 5% of annual complaints received are for smoking related issues, and less than 5% of the investigations conducted are for smoking related issues. The number of organizations investigated for violations varied from three to six per year, and the number of complaints reported is summarized below:



Literature Review

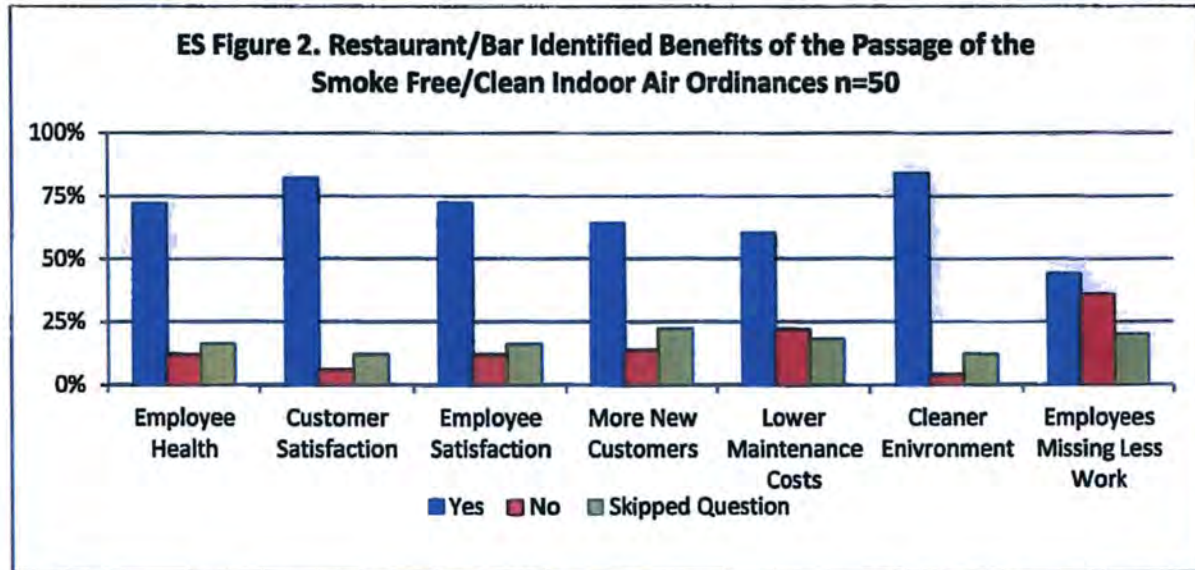
In a preliminary estimate of the economic impact of the 2000 CIA ordinance in Anchorage, Larson (2001) found that there was no detectable negative effect on employment in the hospitality industry by August of 2001. Between 2000 and 2001, employment increased by 10% in restaurants that went from restricted smoking before the ordinance to non-smoking after the ordinance, while employment increased by only 6% in restaurants that continued to allow restricted smoking after the ordinance.

Using employment data on Anchorage bars from 2001 to 2010, a report commissioned by the Alaska Department of Health and Social Services Tobacco Prevention and Control Program (2011) found that bar employment within the Municipality was 10% higher than it would have been if the 2007 Clean Indoor Air law would not have been implemented. Travers & Dobson (2008) compared the air quality in 13 smoke-free Anchorage bars after the passage of the 2007 CIA to seven Juneau bars where smoking was permitted. Similar to the results of previous studies, they found that the levels of respirable suspended particles (RSP) were 33 times higher in the Juneau bars when compared to those in

Anchorage. These particles are emitted from tobacco smoke and are particularly harmful because of their small size, making them easily inhalable into the lungs.

Survey of Selected Restaurants and Bars

ISER interviewed representatives of 50 full-service restaurants and bars in the Anchorage municipality on their perceptions of the smoke free indoor ordinances. A total of 96% (48/50) identified at least one benefit from the passage of the ordinances, with responses summarized below:



The majority of survey respondents (78%) indicated that customer feedback about the clean indoor air ordinances (CIA) was either very positive or somewhat positive, while 2% reported that customer feedback was very negative. The majority of respondents (76%) indicated that employee feedback on the CIA was either very positive or somewhat positive, while 6% reported that employee feedback was either somewhat negative or very negative.

The majority of survey respondents (92%) reported that customer compliance with the CIA was either excellent or good, while 2% reported customer compliance as fair. Similarly, 86% of respondents indicated employee compliance with the CIA was either excellent or good while 8% reported that employee compliance was fair.

Restaurant and bar representatives reported that they required smokers to stay an average of 30.5 feet away from the entrances to their establishments. At 58%, a little more than half of respondents (29/50) reported that the mandated minimum distance for their establishment was appropriate (5 ft. for bars or restaurants that serve alcohol, 20 feet for restaurants that do not serve alcohol); 38% (19/50) reported that the mandated distance for their establishment was inappropriate. A majority of respondents, 62% (31/50), felt that a different mandated distance would be more appropriate, suggesting an average of 30 ft.

Limitations

The survey results are not necessarily representative of Anchorage full service restaurants and bars. However, the consistency of the findings suggests agreement on the effects of the ordinance and the lack of any systemic issues arising from implementing smoke-free workplace policies.

Introduction

The American Lung Association in Alaska (ALAA) has asked the Institute of Social and Economic Research (ISER) to investigate the impact of the Anchorage 2000 and 2007 Clean Indoor Air municipal ordinances on selected restaurants and bars. As previous U.S. studies speak to the economic and health impacts of Smoke Free and Clean Indoor Air Laws., ALAA also requested that that ISER synthesize results of these existing studies, and conduct a survey on restaurant and bar representatives' perceptions of the impact of the ordinances. ALAA outlined three areas of focus for this project, including:

- Previous work and findings related to the impact of smoke free ordinances on businesses, including potential changes in employment
- Enforcement of the smoke free ordinances in Anchorage
- Restaurant and bar representatives' perspectives on the impact of the smoke free ordinances

To inform these areas of interest, ISER conducted a literature review of previous work related to smoke free policies, a survey of restaurant and bar representatives in Anchorage, and key informant interviews with individuals responsible for enforcement of the smoke free policies.

This report begins with an introduction, followed by the results of a review of the previously published literature related to smoke free policies in Alaska. The methodology for both the key informant interviews and the survey of restaurants and bars are described in the next section. The methodology includes information on the selection of respondents and details of how the data was collected and analyzed. Finally, we describe findings from the key informant interviews and survey. Appendices contain the questions posed to key informants, the survey used with restaurant and bar representatives, and verbatim comments on the impact of the Anchorage smoke free ordinances.

Anchorage Municipal Ordinances

Anchorage Municipal Ordinance 2000-91(S), Effective December 31, 2000

In 2000, the Anchorage Assembly amended title 16 of the municipal code, adding chapter 16.65 about smoking in work and enclosed public spaces. The law took effect December 31, 2000. The code prohibited smoking in the Anchorage municipality in:

- Enclosed public spaces
- Places of employment

Exempted from this regulation were:

- Private residences
- Places of employment with four or less employees
- 25% of hotel and motel rooms rented to guests
- Retail tobacco stores
- Private functions in restaurants, hotel and motel conference or meeting rooms and public or private assembly rooms
- Bars -defined as a "...premise licensed under AS 04.11.090 [beverage dispensary license that authorizes selling or serving of alcohol] which does not employ any person under the age of 21 and which does not serve any person under the age of 21 unless accompanied by a parent or legal guardian and where tobacco smoke cannot filter into any other area where smoking is prohibited through a passageway, ventilation system, or other means."

Alaska Dispatch News

Published on *Alaska Dispatch* (<http://www.adn.com>)

[Home](#) > Alaska is dying for a statewide smoke-free workplace policy

Michelle Sparck

April 4, 2014

We take our smoke-free air for granted, until it is in our face, or more disturbingly, in our children's faces. We all have a right to the expectation of smoke-free air.

My father, Harold Murray Sparck, was a natural resources consultant. From 1969 on, he worked tirelessly to build up the first grassroots environmental movement to represent Native interests as stakeholders in resource exploration and exploitation, namely for the Yup'ik / Cup'ik of the Yukon Kuskokwim Delta, but also for other demographics of the coastal and interior areas of the state. With Nunam Kitlutsisti (Stewards of the Land), the Association of Village Council Presidents, the Bering Sea Fishermen's Association, the United Nations Convention on the Law of the Sea, the State of Alaska and the Alaska Board of Fisheries, Alaska Board of Game, the Mink Festival, the Community Development Quotas, and the Migratory Bird Treaty Act, my father and many of his contemporaries subjected themselves to thousands of hours in meetings as engaged citizens and advocates. In those days, my father had to endure rooms full of secondhand smoke for as much as 10 hours a day in marathon meetings. He'd come home from a trip, and his luggage and clothing would reek of smoke.

Unable to shake a cough, my father got an X-ray, revealing both lungs riddled with tumors. This was only a few weeks after his 51st birthday. The doctors gave him two weeks to live. He rallied enough to settle his affairs, but he died 10 weeks after diagnosis. My father was not a smoker.

The state of Alaska currently does not have a strong smoke-free law. However, many communities have passed strong local laws. The City of Bethel was one of the first communities to opt for a smoke-free law, three years after his death, in 1998. Anchorage, Klawock and Haines Borough have passed 100 percent smoke-free laws that cover all workplaces, including all restaurants and bars. It is still too much that only half of Alaska's population is covered by a current smoke-free workplace law. No one should have to choose between their health and a good working environment.

We need legislation to combat this workplace threat. Secondhand smoke is a major cause of needless, preventable suffering and death. And it isn't only cancer we need to worry about; non-smokers exposed to secondhand smoke increase their risk of heart disease and lung cancer by up to 30 percent. Ventilation and other "air-cleaning" methods cannot scrub the damage that secondhand smoke causes. Comprehensive smoke-free workplace policies are the only effective way to eliminate secondhand

smoke exposure in the workplace. We know enough now about the dangers of smoking, and secondhand smoke, to do something about our workplace health.

Michelle Sparck lives in Bethel, Alaska, where she and her sisters manage ArXotica, an Arctic natural cosmetics company.

The views expressed here are the writer's own and are not necessarily endorsed by Alaska Dispatch, which welcomes a broad range of viewpoints. To submit a piece for consideration, e-mail [commentary\(at\)alaskadispatch.com](mailto:commentary(at)alaskadispatch.com) [1].

Source URL: <http://www.adn.com/article/20140404/alaska-dying-statewide-smoke-free-workplace-policy>

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[Home](#) > [Statewide workplace smoking ban looks to drum up support in Alaska](#)

[Suzanna Caldwell](#) ^[1]

February 3, 2014

Main Image:

[Cigarette butts](#) ^[2]

Main Image Caption:

About half of Alaska residents are protected by workplace smoking bans, but a new movement hopes to get that up to 100 percent by increasing education efforts.

About half of Alaska's population lives in a community with a workplace smoking ban, but the other half doesn't. While that's a good sign for supporters of smoke-free workplaces in Alaska, there's been a push in recent years to make things even better for them.

That's why organizations like the American Lung Association and American Cancer Society are pushing for a statewide smoke-free workplace law in the 49th state.

Nationally, 30 states and the District of Columbia have statewide workplace smoking bans. In Alaska, roughly a dozen communities have bans of their own. The Municipality of Anchorage, home to about 300,000 people -- a little less than half of the state's population -- has a smoking ban. There's also one covering the 30,000 people who live in Juneau, the state capital. Even smaller communities like Bethel, Valdez, Unalakleet, Dillingham, Haines and [Palmer have instituted bans](#) ^[3] in recent years.

Those have been good first steps, but Emily Nenon, Alaska government relations director with the American Cancer Society's Cancer Action Network, said that's about all most Alaska communities can do when it comes to smoking bans. While some smaller cities could institute bans under their city's charters, some of the state's most populated boroughs -- including the Fairbanks North Star, Matanuska-Susitna and Kenai Peninsula -- do not have the power to manage public health. Without health powers, a borough cannot implement a ban.

"We've gotten about as far as we can get with the powers that they have," Nenon said.

That's creating a disparity. In the Mat-Su, for example, the city of Palmer has a ban, but the city only encompasses five square miles of the borough's 25,000 square miles. Businesses outside the city are welcome to allow smoking under the current law, meaning customers don't have to travel far if they want to smoke.

But instituting health powers are a bit of a Catch-22 for borough assemblies. While they could decide to have health powers -- usually through voter referendum -- those can come with more responsibilities than simply a smoking ban, Nenon said.

"(Boroughs) are more interested in the state creating that level playing field," she said.

Plus, there's the entire unorganized borough, which consists of about 70,000 of the state's residents. While many communities in that borough have signed on as having smoke-free workplaces, most of the smaller ones have not.

So in an effort to get the law moving, the smoke-free Alaska campaign is looking to increase public awareness and drum up support.

At an Anchorage Chamber of Commerce Make It Monday luncheon in an effort to court support from Anchorage businesses, Nenon pointed out that American Cancer Society study found that Alaska would save \$5.04 million in treatment for lung cancer and heart illnesses due to smoking in the first five years of a statewide ban. Of that, half a million would be Medicaid savings.

Marge Stoneking, Alaska director of the American Lung Association in Anchorage, said studies show that when smoking bans are put in place, business either remains flat or increases. An Alaska Department of Health and Social Services [study in 2012](#) [4] found that one in five bar patrons in Anchorage and Juneau found themselves visiting bars more often once smoking bans were in place.

"It shows that businesses can be smoke-free without hurting the bottom line," she said.

So far, 350 businesses and community groups in Alaska have come out in support of the smoking ban.

While buzz is still building for the statewide effort – and has been building for years – no legislation has been introduced yet that would create a state ban.

Nenon thinks the reason may be that so many people live in communities with smoking bans is that they forget other places lack them. She encouraged people to contact their legislators or to sign a resolution of support for a smoke-free Alaska.

With all the studies noting the benefits of smoke-free workplaces, Nenon said the biggest issue moving forward will be making sure people understand the benefits of the law. Since Anchorage passed its smoking ban in 2007, she said, no tickets have been issued to violators. Incidents have been handled with simple phone calls or letters reminding people about how the law works.

"If the laws are well understood, enforcement is easy," she said.

Source URL: <https://www.alaskadispatch.com/article/20140203/statewide-workplace-smoking-ban-looks-drum-support-alaska>

Links:

[1] <https://www.alaskadispatch.com/authors/678505>

[2] <https://www.alaskadispatch.com/image/cigarette-butts>

[3] <http://www.alaskadispatch.com/article/palmer-goes-smoke-free-615-percent-voting-ban>

[4] http://dhss.alaska.gov/dph/Chronic/Documents/Tobacco/PDF/2012_alaska_tobacco_facts.pdf

Alaska Dispatch

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[Home](#) > 10 years in the making, smoke-free workplace bill reaches Alaska Legislature

Suzanna Caldwell ⁽¹⁾

March 25, 2014

Main Image:

No-smoking sign in bar ⁽²⁾

Main Image Caption:

Workplace smoking bans are in effect in Alaska communities that comprise about half the state's population. Proponents of a statewide ban have a bill in the Legislature, but opponents have been vocal in their testimony against the proposed law.

For more than a decade, anti-smoking advocates have fought to make workplaces smoke-free. They started small, working at the local level, steadfastly bringing indoor smoking bans first to Bethel in 1998, and then slowly but surely to other communities in Alaska. In all those years, they've managed to cover about half of the state's population.

But advocates say they've done about all they can when it comes to regulating smoking at the local level, and now it's time to think bigger – statewide big.

Tuesday the Alaska House Health and Social Services committee heard House Bill 360 – sponsored by Anchorage Rep. Lindsey Holmes – which would prohibit smoking in indoor workplaces. It's the furthest a statewide workplace smoking ban has made its way through the Legislature, something that in some ways has been intentional, according to Mike Gutierrez, Alaska grassroots relationship manager for the Alaska American Cancer Society Cancer Action Network.

"This is the first time we've felt like we had the ability to have a bill introduced, much less get one passed," he said.

It's been a slow build, focusing on education and getting smoking laws passed in individual Alaska communities. Since the first ban in Bethel, smaller communities like Valdez, Unalakleet, Dillingham, Haines and Palmer have passed them, as have larger ones – including bans covering the 30,000 residents of the state's capital in Juneau, along with Anchorage, Alaska's largest city and home to about a third of the state's population.

But even with those bans, plenty of other Alaskans are not covered. Second-class boroughs, like the Matanuska-Susitna, Kenai Peninsula and Fairbanks North Star borough do not have health powers and cannot implement smoking bans borough-wide. The unorganized borough, which includes 70,000 Alaskans and communities like Dillingham, Unalaska and Cordova, also cannot enact a smoking ban. The Legislature is supposed to serve as the governing body for the borough, though such a meeting has never been held in more than 50 years of statehood. A statewide ban would cover those communities and "level the playing field," Gutierrez said.

Marge Stoneking, Alaska director of the American Lung Association, has been with the organization for the last 10 years and watched that slow and steady change towards greater acceptance of smoking bans.

She noted that the Anchorage ban, first passed in 2001 and again with a second, more comprehensive version in 2006, has really helped change attitudes in Alaska. That wasn't immediately clear, she said, until Anchorage residents turned down a voter initiative that would amend some of the more comprehensive elements of the law by an overwhelming majority (76 percent came out against the initiative). Stoneking said that turnout showed a marked change.

"That was huge in terms that people get it and (smoke-free workplaces) are important to them," she said.

She also noted that a University of Alaska Anchorage Institute of Social and Economic Research report found overwhelming support from local businesses in Anchorage that have gone smoke-free. It also noted that in the years since the ban, no citations have actually been written against the law. So far, more than 400 businesses across the state have signed pledges in support of smoke-free workplaces, from large corporations like Doyon Ltd. to smaller "mom and pop" stores.

"That's a good indication that this just is accepted," Stoneking said.

That's something that Holmes, the bill's sponsor, acknowledged. She called the bill the "take it outside" bill, and noted it only applies to workplaces and that as far as she can find, the law is mostly "self-policing."

"Which is the best kind, as far as I'm concerned," she said.

Opposition testimony strong

In the hearing, however, many citizens came out in opposition of the bill. Many were against the the inclusion of e-cigarettes in the bill, saying science has not shown whether the vapor devices are dangerous. Even before, owners of a smoke shop in Soldotna created a [YouTube video opposing](#) the Senate version of the bill.

Angela Carroll, owner of Glacier Vapors, an e-cigarette store in Palmer, said a big part of her business comes down to "try before you buy." If the law passes, it will undoubtedly affect her business.

"It will kill the shops," she testified. "Why not give vaping a chance?"

Dale Fox, the president and CEO of Alaska CHARR, the cabaret, hotel, restaurant and retail association, testified against the bill. He said a ban on smoking is essentially a ban on bars. People choose to go into bars, he said, and bars should be able to make the choice to have or not have smoking. He said while anti-smoking proponents have invested in ad campaigns saying non-smoking policies are good for business, he's heard that some establishments have lost up to 30 percent of their businesses when smoking bans are enacted.

"If legislators think less government is better, they will not vote for this bill," he said.

Citing the lateness in the day, the committee kept testimony open on the bill but cut it off after only a few Alaskans spoke, to continue on a later date.

Source URL: <https://www.alaskadispatch.com/article/20140325/10-years-making-smoke-free-workplace-bill-reaches-alaska-legislature>

Links:

[1] <https://www.alaskadispatch.com/authors/678505>

[2] <https://www.alaskadispatch.com/image/no-smoking-sign-bar>

[3] https://www.youtube.com/watch?feature=player_embedded&v=NE7o7zJUb3U

Alaskan 'Ghostwalker' speaks against smoking

Patterson hopes to speak in Juneau schools

Posted: November 18, 2014 - 12:04am

By STEPHANIE SHOR

JUNEAU EMPIRE

Michael Patterson, the self-proclaimed "Ghostwalker" of Juneau, continues to wage a battle against tobacco in his home state. He was diagnosed with Chronic Obstructive Pulmonary Disorder, a form of emphysema, when he was only 44 years old.

Patterson works with the Alaska Native community as a relatable spokesperson for the Center for Disease Control's anti-smoking campaign. According to the American Lung Association, Alaska Native and American Indian youths have a 23 percent smoking rate, the highest in the country.

"When I made that commercial in New York, they said, 'You are going to save millions of lives,'" Patterson said. His 2012 commercial for the CDC's anti-smoking campaign gained national attention.

At the time of his diagnosis, doctors gave him five more years to live, he said. Patterson has survived two years past that mark. He calls himself a ghostwalker because he now lives on borrowed time.

Within the next year, he says he will need either a lung transplant, from which he might not recover, or a permanent oxygen tank.

In the last year, Patterson has lost 9 percent of his lung volume, and he says the downtown smoking situation is the culprit. He sees second-hand smoking as an unavoidable danger.

"I want to see smoking removed from the streets of Juneau," Patterson said.

He had planned to propose a ban on smoking in all public locations, both indoors and outdoors, at the next convention of the Alaska Tobacco Control Alliance, but they denied his request, in favor of a focus on smoke-free workplaces, he said. He still plans to breach the topic when he speaks at the summit.

Patterson said he worries for children picking cigarette butts off the street in a city which he calls a "smoke gauntlet." In response to the City and Borough of Juneau's proposed \$2 increase in tobacco sales tax, he said "kids are resourceful," and if smoking is allowed in public locations, they will find a way, despite the cost.

Since his election as the official spokesperson for the CDC, Patterson has dedicated the time he has left to visiting schools and communities across Alaska to fight what he calls "the code of silence."

Many youth growing up on the streets of Juneau are victims of abuse and never tell anyone, Patterson said. They live in silence, and cope in damaging ways, he said.

Patterson said using "shock treatment" on these kids through graphic images and shocking statistics, like he had in grade school, has minimal effects. Patterson began smoking when he was only nine years old.

"I would shut them out. Say it's none of their business and I am not hurting anyone but myself," he said.

After a recent speech at an elementary school, parents contacted Patterson about their children pointing to their hearts when they got home from school and telling the parents that when Patterson spoke, "they could feel it here."

One mother said her 9-year-old son told her, "Please stop smoking and I love you."

The motivational speaker, who often delivers speeches with tears running down his cheeks, said speaking from the heart is what really sways young people.

"If you shock me, I'll get over it. If you touch my heart, it will really have an affect on me long-term," he said.

His campaign has already led him to speak at schools in Kodiak, Sitka, Angoon, Hoonah and Pelican. He plans to speak at Yaakoosgé Daakahdi Alternative High School on Nov. 21 and hopes to be invited to other schools in the district.

"I know there are budget crunches," he said. He would be willing to waive the typical speaker fee and visit the schools for free. "I just need to be out there, sharing my story."

Patterson was asked recently to speak via webcast to a group of graduating students at the University of Washington School of Medicine by the Director of the CDC's office on smoking and health, Timothy McAfee.

Patterson was surprised to see over 100 students listening to his talk that day.

"When I asked if there were any questions (after the speech) there was dead silence for like two minutes," Patterson said.

Feeling embarrassed, he quickly closed his speech. McAfee thought this to be strange and later asked the facilitator what the medical students' reactions had been. The response came back that they were left speechless, a rare event.

This hit close to home for Patterson who was told by his first doctor upon diagnosis that he "only had emphysema, not cancer." Patterson continued to smoke after his diagnosis because he did not understand the significance of COPD, and didn't quit until he suffered his first attack and was placed on a breathing machine.

Patterson's own daughter recently lost her mother to lung cancer, and a non-smoking colleague from the CDC, Nathan Moose, died from the effects of second-hand smoke.

Patterson described a recent vision, in which a black mountain was crested with a large white mansion. The mansion represented the wealth and power of the tobacco companies, supported by dozens of coffins.

"My coffin has \$300,000 (spent on tobacco)," he said. "How much will yours have?"

The American Cancer Society will hold the 39th Annual Great American Smokeout on Thursday, in which smokers are encouraged to quit for one day.

Reporter Stephanie Shor can be contacted at stephanie.shor@juneauempire.com or at (907) 523-2279.



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E-cig users face new but familiar rule

Electronic cigarette use is now regulated

Posted: July 7, 2014 - 11:04pm

By KATIE MORITZ

JUNEAU EMPIRE

Juneau resident Todd Mace picked up electronic cigarette use about a year ago as a healthier option while he tried to kick a decade-long cigarette habit. Being able to take a couple puffs of his e-cigarette inside the bars kept him out of the lineup of smokers outside downtown bars — and away from temptation, he said.

But now Mace, along with Juneau's other e-cigarette smokers, must follow the same rules imposed on tobacco smokers — no smoking in bars, restaurants, bus stop shelters, city buildings and other public places.

The ordinance amending the city's pre-existing secondhand smoke control code to include e-cigarettes was adopted at a June 30 Assembly meeting. It puts into writing what some city institutions — including the Juneau School District and the Zach Gordon Youth Center — had already decided to do: put restrictions on a relatively new product that hasn't been addressed through legislation.

Robert Barr, director of the downtown library, was integral in getting something on e-cigarettes in the Juneau books. He said that since e-cigarettes became popular, he has had about six instances in which library patrons either asked if they could use an e-cigarette inside or just took one out and started puffing.

With e-cigarettes left out of the city's second-hand smoke control code, library staff couldn't legally say no, Barr said, and they couldn't do anything when other patrons complained about the vapor.

"We couldn't really address those complaints people were having," he said. "I asked the city attorney if that was something that fell under the city secondhand smoking code. It didn't seem appropriate to be using e-cigarettes in the libraries considering that the health effects seemed to be pretty real. We went forward from there."

He worked with city attorney Amy Mead for about two months until the ordinance was adopted, he said.

There are many opinions on the health effects of e-cigarettes, which are filled with a liquid combination of propylene glycol, water, flavoring, nicotine, and other chemicals that is then heated, vaporized and inhaled.

The U.S. Food and Drug Administration is not yet regulating the contents of e-cigarettes. The administration is currently taking public comment on the issue, however.

Barr pointed out that in October of last year, 41 of 50 states' attorneys general — including Alaska's — signed a letter to the FDA entreatng it to begin regulating e-cigarettes.

"They're marketed as being safe products that can be used in public unlike tobacco," he said. "That's unfortunately not true."

Bob Urata, a physician with Valley Medical Care, spoke in favor of the ordinance during the public comment period at the June 30 Assembly meeting, according to meeting minutes. He called e-cigarettes "the new battle" now that lung cancer prevalence in Alaska is dropping. Urata said that although the FDA is still researching it, the aerosol inhaled and exhaled from e-cigarettes is "not benign" even if it isn't smoke, and contains toxins and carcinogens. If a product includes nicotine and is exhaled, it doesn't belong in a public building, he said.

Mace said he knows that e-cigarettes aren't healthy, but he feels so much better than he did when he was smoking a pack a day. He started using an e-cigarette about a year ago, and, a few months ago, stopped smoking cigarettes entirely.

"The last four months I stopped buying them, I stopped bumming them from friends," he said. "An alternative to help me quit smoking is why I bought (an e-cigarette)."

He said he's read article after article about the effects of e-cigarette use. It's hard to say what's fact and what isn't, but, regardless, he doesn't plan to be a lifetime user.

"Ultimately, I do want to quite smoking electronic cigarettes as well," he said.

Mace said he's disappointed he'll no longer be able to smoke inside at bars. That's the only public, indoor place he'd ever used it because "there's a certain etiquette" to e-cigarette use, he said.

"I don't walk around at Fred Meyer using it," he said. "I saw a guy in Wells Fargo setting up a new account, ... puffing away. Don't be disrespectful — don't be in the movie theater, don't be in the store."

Mace's smoking habit started years ago while drinking with friends at bars, and the temptation is still very real, he said. Keeping his distance from other smokers has helped him stay cigarette-free.

The appeal of the e-cigarette is "I don't have to be outside, I don't have to be around it, the temptation's not there," he said. "But what I'm going to do is just go outside and have my electronic cigarette."

Barr said he's pleased the ordinance passed, and library patrons will be, too. There isn't enough e-cigarette use in the library to merit putting up signs, he said, but anyone who breaks the new rules will be notified.

The ordinance was adopted without much discussion by the Assembly, which voted unanimously in favor.

"This was a pretty easy one," Barr said. "The assembly was interested in adding this in, and did so."

• Contact reporter Katie Moritz at 523-2294 or at katherine.moritz@juneauempire.com. Follow her on Twitter @katecmoritz.

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E-cigarette sellers take a page from Big Tobacco: Our view

The Editorial Board. 9:02 p.m. EDT April 17, 2014



(Photo: Resound Marketing via AP)

Just when smoking has finally lost its glamour, along come electronic cigarettes and an avalanche of sexy new ads that promote "vaping."

In one, actor Stephen Dorff (<http://www.ispot.tv/ad/76A2/blu-cigs-freedom-featuring-stephen-dorff>), shirtless, talks about taking "back your freedom" while inhaling vapor on Lorillard's blu eCig. (Can anyone say Marlboro Man?) In another ad for blu, former Playboy centerfold Jenny McCarthy leans forward seductively (<http://www.youtube.com/watch?v=mUJ5W2pz1XI>) into the camera before saying: "I feel free to have one almost anywhere."

OPPOSING VIEW: E-cigarettes can help end smoking (</story/opinion/2014/04/17/e-cigarette-njoy-smoking-editorials-debates/7847587/>)

For a product whose main appeal is supposed to be that it's *not* a traditional cigarette, e-cigarette makers have sure taken a lot of pages from Big Tobacco's playbook. Which is not surprising. Many of the sellers are the same companies that made billions of dollars addicting people to a product that kills 480,000 a year (<https://www.tobaccofreekids.org/research/factsheets/pdf/0072.pdf>).

The marketing push is enough to trouble anyone who believed that, after a half-century battle, the nation finally had smoking on the run and that fewer teenagers would get hooked and die prematurely.

E-cigarettes — battery-operated nicotine inhalers that contain no tobacco — have the potential to help some smokers quit. But the jury is still out on whether and how well they may work. In the meantime, the potential for nicotine addiction is high, and there's no good reason to use e-cigarettes other than trying to quit smoking.

Federal law prohibits cigarette makers from sponsoring sports and entertainment events, handing out free samples and selling certain flavored cigarettes. TV ads were banned in 1970.

But for e-cigarettes, it's open season. Makers have sponsored music festivals, fashion shows and IndyCar racing. You can buy e-cigarettes or liquid refills in everything from Cherry Blast to Gummy Bear. Is the public really supposed to believe that e-cigarettes are not being marketed to minors?

The dangers of e-cigarettes may not be as obvious as those of traditional smokes, but new problems are emerging.

For example, the nicotine-laced liquid the devices use, which comes in small vials and large containers, can be toxic if touched or consumed. Calls to poison control centers (</story/news/nation/2014/03/25/e-cigarette-warning-from-poison-centers/6873759/>) about misuse, mostly by children, have risen to 217 a month this year, almost 10 times the number in 2011.

Also troubling is that more teenagers are experimenting with e-cigarettes (</story/opinion/2013/09/22/e-cigarettes-smoking-addiction-editorials-debate/2850921/>). In 2012, 1.8 million middle-school and high-school students tried them, double the number the year before. One in five of the middle-schoolers who experimented said they'd never smoked before. It doesn't help that about 20 states allow sales of e-cigarettes to minors.

So what's the right response? At least until more studies are done, all states should treat the new devices as they treat cigarettes, with bans on youth sales and indoor use. And the Food and Drug Administration, which has been slow to assert its authority to regulate e-cigarettes, ought to get on with it.

Independent research would determine if e-cigarettes really can help smokers quit. Or if they carry other health risks. For now, the nation ought to ensure that a new generation doesn't get hooked on a different and potentially dangerous product.

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Hospital CEO supports 'take it outside' legislation

Posted: March 6, 2014 - 9:40am

By Rick Davis

CEO, Central Peninsula Hospital

I have watched the smoke-free campaign make significant ground over the last several years. As a healthcare professional, I would be remiss if I didn't support a proposed law that would prohibit smoking in all indoor workplaces, businesses and public places. Of course the reason this legislation is being proposed is to prevent non-smokers from being exposed to second hand smoke. We now have plenty of science to support the fact that second hand smoke is dangerous. Just look up The Health Consequences of Smoking report. It's all there; I don't need to recite facts and figures as we all now know that smoking is a major threat to our public health.

I know we do things differently up here in Alaska and don't want or need anyone telling us what to do. Asking people to "take it outside" is a reasonable compromise to protect other people's health from the effects of second hand smoke. Much of Alaska has already adopted similar smoke-free laws but many areas remain in Alaska where they do not have health powers to enact such a law. The legislation introduced doesn't prohibit smokers from being hired or anything like that. They will just have to "take it outside" and away from an entrance or air intake.

We have enacted a smoke-free campus policy at our hospital and it was received well upon implementation. I suspect businesses that will be required to go smoke-free under the proposed legislation will enjoy the same results. People will thank you, just as they did at our hospital. This is not a Republican or Democrat issue, it's a health issue. Please support House Bill 360 and Senate Bill 209.

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We have the best fresh air in the nation

Posted: Sunday, March 23, 2014 12:00 am

To the editor:

I can't express enough how nice it is to be able to breathe clean, smoke-free air in my town, thanks to our local smoke-free ordinance.

For the first time in 40 years we are now dining out in a couple of the local bars that have good food and clean air. I know they appreciate the extra business and I am spreading the word to my friends and customers about their new opportunities here in their own town. If you don't have to drive to the next town or all the way to the city for dinner, you just cut your carbon emissions — good for your health and the planet — and you just beefed up your local economy and saved time. Smoke-free is exponentially good for a healthy body and a healthy economy!

But what about e-cigarettes? They might seem innocuous as they are odorless and don't fill up ashtrays, but they do pollute the air for nonsmokers. If you sprayed fragrance-free hair spray in a public space you would be polluting the air around you with a barrage of chemicals that could cause an allergic reaction in some folks. E-cigarettes are much the same with the exception that studies have shown some to contain carcinogens and nicotine in their emissions. Without some form of regulation we have no way of knowing if the brand used by a patron is polluting our breathing space with these emissions. That kind of regulation is a federal issue.

We can help prevent this problem by establishing smoke-free regulations at the state level and set a standard for local legislation to follow.

No one wants to breathe in carcinogens. Nicotine? It's an addictive substance that people have a choice to burden themselves with. But the public air space belongs to people who have a choice not to breathe their pollution. Please consider regulations to treat e-cigarettes as we do tobacco-based cigarettes. If the state buildings are smoke-free, why shouldn't the state provide comprehensive regulations for a smoke-free Alaska? We have the best fresh air in the nation.

Brooke G. Heppinstall

Palmer

Lung health groups hoping to breathe fresh air into Alaska

By Weston Morrow wmorrow@newsminer.com | Posted: Monday, March 24, 2014 12:00 am

An earlier version of this article stated the American Nonsmokers' Rights Foundation was lobbying for the legislation when it is actually the organization's lobbying arm, Americans for Nonsmoker's Rights.

FAIRBANKS — The American Lung Association and Americans for Nonsmokers' Rights are teaming up in an effort to bring an end to second-hand smoke deaths.

The two organizations are cooperating to help push legislation through the state legislature that would ban smoking in commercial establishments throughout the state. Such prohibitions exist in certain municipalities already, such as Anchorage, but for the vast majority of the state, including Fairbanks, there is no sweeping ban.

Smoking is prohibited statewide in certain areas already, such as school grounds and in many workplaces, but not in restaurants and bars. The Lung Association and American's for Nonsmoker's Rights feel restaurants and bars should not be treated as exceptions to the workplace bans.

"We want to protect the health of everyone and think that everyone has the right to breathe smoke-free air, especially if you're working indoors," said Octavia Harris, health education manager for the Lung Association's Fairbanks office.

The state legislation, HB 360 and SB 209, were both filed in their respective houses Feb. 26. The bills have support from both sides of the aisle, with cosponsors from each party, a positive sign for the legislation's supporters.

The bill's supporters claim to have the backing of more than 400 Alaska businesses and more than 75 Alaska Native groups.

Time is running short for the bill, however. The 28th legislature ends midway through April, and any bills not passed by then will have to be reintroduced and run through the legislative process in the 29th legislature. In the Senate, the bill sits in the state affairs committee awaiting a hearing. In the House, it was referred to the health and social services committee, where it is scheduled for a hearing at 3 p.m. Tuesday.

The Lung Association just recently opened a branch in Fairbanks in the fall. The organization has had a presence in Alaska for several years but previously only had its office in Anchorage.

Harris said that, for an area like Fairbanks North Star Borough, which doesn't have the authority to enact health requirements such as a smoking ban, the statewide law is especially important.

"A lot of people thought that we were already smoke-free in a lot of places and were surprised to find that there were a number of places that were not," Harris said.

Char Day, program manager for the American Nonsmokers' Rights Foundation, said that she has to limit the places she can go in places like Fairbanks so as not to trigger her asthma.

"Normally, I don't have to worry about where I go, but here I have to be aware so much of where I go," Day said, "and it would just be wonderful to be able to go anywhere indoors in the state of Alaska and not worry about having an asthma attack."

Harris and Day said they don't believe the ban would be an intrusion on people's rights. They don't want to force anyone to stop smoking, they said, but to do so outside if they must smoke.

"It's about making a choice that is going to be best for everyone, not just one or two individuals," Harris said when asked if they felt it was reasonable to expect smokers to go outside in places like the Interior during winter.

"It's not about the smoker. It's about the smoke, and it's about simply asking them to take it outside."

Contact staff writer Weston Morrow at 459-7520. Follow him on Twitter:

@FDNMschools.

Supports statewide smoke-free workplace

Posted: Monday, March 24, 2014 11:59 pm

To the editor:

As a health practitioner in the Valley, I am in support of passage of a statewide smoke-free workplace law to protect all Alaskans from the dangers of secondhand smoke. This proposed bill is part of the current legislative session. According to the 2014 Surgeon General's report "The Health Consequences of Smoking," the science is clear. There is no safe level of exposure to secondhand smoke.

Those who choose to smoke do so freely and willingly. Most smokers understand the risks associated with that choice. But those who are exposed to secondhand smoke in the workplace, many of whom have limited employment options, can suffer from the same consequences as the smoker.

The inclusion of e-cigarettes in this law is an important element. There is no scientific evidence showing that they are safe or that they can help smokers quit. A 2009 study done by the FDA found cancer-causing substances in several of the e-cigarette samples tested. Additionally, Food and Drug Administration tests found nicotine in some e-cigarettes that claimed to contain no nicotine. Extensive study is needed on these relatively new products before they should be considered safe. At this point, much of the research suggests that they are not safe at all.

Unfortunately, I see the long-term effects of smoking and secondhand smoke in people of all ages. These are preventable conditions that increase health care costs to non-smokers and smokers. In fact, many of the chronic diseases in my practice that I see today are the result of lifestyle choices we make each and every day. The elimination of smoke in our workplaces and public spaces is one way we can make a very large positive impact on health and healthcare for our future.

Please join me in urging our Valley legislative delegation to pass a statewide smoke-free workplace law this year.

Jill K. Valerius, MD

Palmer

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Advocacy groups voice support for Alaska Smoke-Free Indoor Workplaces bill

ANCHORAGE, Alaska— Local advocacy groups — AARP, American Cancer Society Cancer Action Network, American Heart Association, American Lung Association, and the Alaska Native Health Board — are backing a bill that would make all indoor workplaces in Alaska smoke-free, saying it would protect the health and safety of all workers and business patrons.

"Only half of residents already live in communities with smoke-free workplace laws. A smoke-free Alaska would create healthier environments and benefit business employees and customers. Everyone has the right to breathe smoke-free air," said Marge Stoneking, Alaska Director, American Lung Association.

The Alaska Smoke-Free Indoor Workplaces bill was introduced Wednesday by Representative Lindsey Holmes (HB 380) and Senator Peter Micciche (SB 209), and would prohibit smoking in all indoor workplaces, businesses and public spaces. Individuals who choose to smoke will have to "take it outside" in order to protect others from the effects of secondhand smoke.

"The U.S. Surgeon General has concluded that there is no risk-free exposure to secondhand smoke. Scientific studies have proven that smoke-free laws save lives — the incidence of heart attacks decrease after they are implemented," said Dr. Bob Urata, a physician and volunteer for the American Heart Association. A 2008 report by the Surgeon General, *"The Health Consequences of Smoking,"* reports that non-smokers exposed to secondhand smoke increased their risk of heart disease and lung cancer, and called it a major cause of preventable deaths.

"Four out of 5 adults in Alaska support smoke-free workplaces, and businesses throughout the state have pledged their support for a statewide law," said Emily Nenon, Alaska State Director, American Cancer Society Cancer Action Network. The coalition reports that more than 400 businesses and community organizations have expressed their support, which are listed on the website, www.SmokeFreeAlaska.com.

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Posted: March 8, 2014

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Supporters call for Alaska lawmakers to expand smoke-free workplace laws

April 07, 2014
Monday PM

(SitNews) Anchorage, Alaska - Supporters of the Alaska Smoke-Free Indoor Workplace bill (SB209) sent the message to lawmakers last Thursday that it's time for Alaska to have statewide smoke-free laws. The proposed law got a hearing yesterday with the Senate State Affairs Committee at the Capitol in Juneau.

If enacted SB209 will prohibit smoking in all indoor workplaces, businesses and public spaces. Individuals who choose to smoke will have to "take it outside" in order to protect others from the effects of secondhand smoke. The bill was introduced by Senator Peter Micciche in the Senate and Representative Lindsey Holmes in the House (HB360).

A coalition of Alaskan advocacy groups - American Cancer Society Cancer Action Network, American Heart Association, American Lung Association, the Alaska Native Health Board, and AARP - are urging lawmakers to vote yes for the bill, to protect the health and safety of all workers and business patrons from secondhand smoke.

Though a self-described "man of small government," Sen. Micciche testified that, "... like vehicle safety and car seats, [secondhand smoke prevention] is a public health and safety issue that government has a role in."

"More than 400 businesses and organizations have stated their support of this bill, signing resolutions that they do want smoke-free workplaces as the statewide standard," stated Sen. Micciche in his testimony.

Dr. Bob Urata, a Juneau physician and American Heart Association volunteer, testified during the hearing that the dangers of secondhand smoke are well established. "Secondhand smoke kills nearly 50,000 people in the United States every year. The 2006 U.S. Surgeon General's report found that brief secondhand smoke exposure can have an immediate adverse effect on the cardiovascular system."

Breathing secondhand smoke interferes with the normal functioning of the heart, blood, and vascular systems in ways that increase the risk of having a heart attack. According to the Centers for Disease Control and Prevention, even brief exposure to secondhand smoke can damage the lining of blood vessels and cause your blood

platelets to become stickier. These changes can cause a deadly heart attack or stroke.

SB209 would also restrict the use of controversial electronic cigarettes in indoor spaces, asking users to take it outside for the health of others. Opponents of the bill, notably the Tobacco Industry, argue that e-cigarettes do not produce smoke like traditional cigarettes and emit "harmless water vapors" instead. However, Marge Stoneking, Alaska Director of the American Lung Association, testified that, "E-cigarette secondhand aerosol has been found to contain ultrafine particulates, heavy metals, and volatile organic compounds, which are risks for lung cancer, in addition to nicotine."

Currently only half of Alaska's population is covered by a local smoke-free workplace law. The bill passed out of committee and will be heard again on Monday in the Senate Health and Social Services Committee.

On the Web:

Learn more about the Alaska Smoke-Free Indoor Workplaces effort
www.SmokeFreeAlaska.com

Source of News:

American Lung Association

Cancer Action Network

American Heart Association

AARP

American Stroke Association

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Statewide Smoking Ban Gains Traction In Senate

By [Aaron Selbig, KBBI - Homer](#) | April 9, 2014 - 5:28 pm

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A proposal that would ban smoking in most public places in Alaska is making headway in the state Senate. Senate Bill 209 passed out of the Senate State Affairs Committee last week.

Vmp

The bill would ban smoking in office buildings, sports arenas, taxicabs, bars and restaurants, among other public places.

Many places in Alaska, including Anchorage, Juneau and Bethel, already have similar bans. As a result of those bans, nearly half of Alaska's population is already affected by a workplace smoking ban.

Soldotna Senator Peter Micciche is the bill's sponsor. He told the Senate State Affairs Committee Thursday that normally, he a "small government kind of guy." In this case, however, he feels it's appropriate for the government to get involved to protect the health of workers.

"Just as it's appropriate for government to set safety standards in automobiles, electrical codes for wiring (and) requirements for infant and child carrier seats," he said.

Micciche says the state takes on much of the economic costs associated with second-hand smoke, which he said kills more Alaskans each year than automobile accidents. He also made the point that second-class cities and unorganized boroughs in Alaska do not have the legal authority to enact their own smoking bans.

But most importantly, Micciche said the issue is for him, a very personal one. He spoke about his father, who passed away from a smoking-related illness.

"My father made his personal choices," said Micciche. "But my siblings and I didn't. I'm the lucky one of the three. They all had respiratory issues from living through second-hand smoke effects."

Micciche said more than 400 businesses and organizations have signed on in support of his bill. Committee Chairman Fred Dyson said most of the comments his office has received about the bill have also been supportive of the state doing something.

Larry Hackenmiller testified from Fairbanks on behalf of the Interior Cabaret, Hotel, Restaurant and Retailer's Association. He said Fairbanks rejected a similar law. He also took issue with some of the numbers put forward about hazards related to second-hand smoke.

"There is no hazard to second-hand smoke in a workplace ... period," said Hackenmiller.

Gary Superman owns the Hunger Hut bar in Nikiski. He called the smoking ban an infringement on his rights as a business owner. Superman described his bar as a "blue-collar tavern" that would be "irreparably harmed economically" by the ban.

Kenai businessman John Parker spoke in favor of the proposed ban, saying it would "level the playing field" for business owners on the Kenai Peninsula who may be afraid that banning smoking would give a leg up to their competition. More importantly, Parker said that customers and employees have a fundamental right to smoke-free air.

A couple of amendments have been proposed to the bill. One would include the use of e-cigarettes in the ban. The other would set up an appeal process for businesses who would like to "opt out."

The bill also provides an "opt out" clause for local municipalities, which would be granted only if a local election is held and a majority of voters choose to exempt themselves from the smoking ban.

After nearly an hour of testimony, SB 209 passed out of the Senate State Affairs Committee. It heads now to the Health and Social Services Committee. A companion bill is also working its way through the Alaska House.

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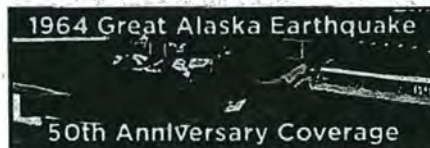
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Trails Conference



1964 Earthquake coverage



Introduced By: City Manager
Date: February 25, 2015
Action: Adopted
Vote: 4 Yes, 0 No, 2 Absent

CITY OF SOLDOTNA
RESOLUTION 2015-014

A RESOLUTION SUPPORTING SENATE BILL 1, REGULATION OF SMOKING

WHEREAS, tobacco use is the leading preventable cause of disease and death in Alaska; and

WHEREAS, SB 1 prohibits smoking in public spaces, in certain enclosed areas, including workplaces, child and adult care facilities, and in certain outdoor spaces; and

WHEREAS, the intent of this bill is to reduce tobacco use overall, reduce health care costs and to reduce the exposure of second hand smoke;

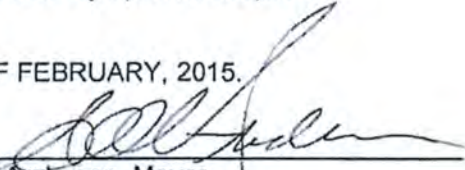
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOLDOTNA, ALASKA:

Section 1. The Soldotna City Council urges the 29th Alaska State Legislature to enact SB 1 "An Act prohibiting smoking in certain places; relating to education on the smoking prohibition; and providing for an effective date."

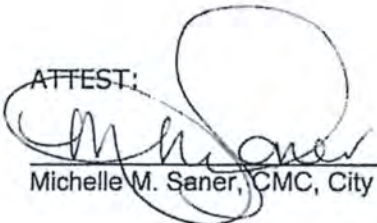
Section 2. That a copy of this resolution will be sent to Senate sponsor Peter A. Micciche and to Health & Social Services Committee Chair, Senator Bert Stedman.

Section 3. This resolution shall become effective immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL THIS 25TH DAY OF FEBRUARY, 2015.



Nels Anderson, Mayor

ATTEST:


Michelle M. Saner, CMC, City Clerk

Ayes: Sprague, Baxter, Whitney, Bos
Noes: None
Absent: Murphy, Daniels

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Introduced by: Assembly Member Griffin
Requested by: Betty MacTavish
Drafted by: Betty MacTavish
Introduced on: 02/19/2015
Adopted on: 02/19/2015

**KODIAK ISLAND BOROUGH
RESOLUTION NO. FY2015-17**

**A RESOLUTION OF THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH
SUPPORTING A LAW IN ALASKA TO MAKE ALL WORKPLACES 100%
SMOKE FREE TO PROTECT THE HEALTH AND SAFETY OF ALL WORKERS
AND VISITORS FROM THE DANGERS OF SECONDHAND SMOKE**

WHEREAS, secondhand smoke contains more than 7,000 chemicals, including at least 69 of which are known to cause cancer, including formaldehyde, benzene, vinyl chloride, arsenic, ammonia and hydrogen cyanide, and people who are exposed to secondhand smoke are inhaling many of the same cancer-causing substances and poisons as smokers; and

WHEREAS, numerous studies have found that tobacco smoke is a major contributor to indoor air pollution and that breathing secondhand smoke is a cause of disease in healthy nonsmokers, including heart disease, stroke, respiratory disease and lung cancer; and

WHEREAS, the 2006 U.S. Surgeon General's Report, "*The Health Consequences of Involuntary Exposure to Tobacco Smoke*," concluded that there is no risk-free level of exposure to secondhand smoke; ventilation and other air cleaning technologies cannot eliminate exposure of nonsmokers to secondhand smoke; and smokefree workplace policies are the only effective way to eliminate secondhand smoke exposure in the workplace; and

WHEREAS, the 2010 U.S. Surgeon General's Report, "*How Tobacco Smoke Causes Disease*," determined that even occasional exposure to secondhand smoke is harmful; and

WHEREAS, there are serious questions about the safety of inhaling the substances in some e-cigarette aerosol, and ecigarettes have not been subject to thorough, independent testing, making it difficult for users to be sure of what they are actually inhaling. Some studies have shown that some e-cigarettes can cause short-term lung changes and irritations and the long-term health effects, are unknown; and

WHEREAS, for every nine smokers who die, one nonsmoker dies from exposure to secondhand smoke; and

WHEREAS, approximately half of Alaska's population is not protected by a smokefree workplace law; and

WHEREAS, among those who work primarily indoors, young adults aged 18 to 29 are significantly less likely to be protected by a smokefree indoor workplace policy than other Alaska adults; and

WHEREAS, research in communities where smokefree laws have been adopted has consistently shown neutral or positive economic effects to the hospitality industry following a smokefree workplace requirement; and

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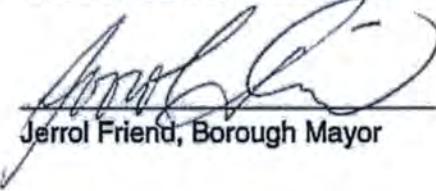
WHEREAS, smokefree workplace laws protect people from secondhand smoke, reduce tobacco use overall and reduce health care costs; and

WHEREAS, all Alaskans have the right to breathe smokefree air; and

NOW, THEREFORE BE IT RESOLVED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH that we hereby support a law in Alaska to make all workplaces 100% smokefree to protect the health and safety of all workers and visitors from the dangers of secondhand smoke.

**ADOPTED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH
THIS NINETEENTH DAY OF FEBRUARY, 2015**

KODIAK ISLAND BOROUGH



Jerrol Friend, Borough Mayor

ATTEST:



Nova M. Javier, MMC, Borough Clerk

66



The Health and Economic Benefits of Making Alaska Smoke-Free

Making all Alaska workplaces, restaurants, and bars 100% smoke-free would prevent about 1,900 youth from becoming smokers, and within five years, save an estimated \$5.04 million in lung cancer, heart attack, and stroke costs.

According to the Surgeon General, the science is clear: There is no safe level of exposure to second-hand smoke. Just as tobacco smoke causes lung cancer, heart attacks, strokes, and other preventable diseases in smokers, secondhand smoke causes disease and death in non-smokers, as well. Smoke-free laws not only decrease exposure to tobacco smoke and the resulting disease and death, they also decrease the number of youth who start smoking, increase the number of smokers who quit, and cut health care costs for smokers and non-smokers alike.

Alaska is one of only 15 states that currently has no law prohibiting smoking in all workplaces or restaurants or bars. Making all workplaces, restaurants, and bars in the state 100% smoke-free is the **only** way to protect all Alaska residents from the dangers of secondhand smoke.

SAVING LIVES

Making all Alaska workplaces, restaurants, and bars 100% smoke-free would be expected to provide the following reductions in the number of smokers and the number of deaths caused by smoking or exposure to tobacco smoke:*

Adults Who Would Quit Smoking	Youth Who Would Never Start Smoking	Reduction in Smoking-Related Deaths	Reduction in Deaths of Non-Smokers
4,500	1,900	2,800	300

SAVING MONEY

In addition to saving lives, making Alaska smoke-free would cut health care costs for both smokers and non-smokers. Over five years, a comprehensive smoke-free law covering all Alaska workplaces, restaurants, and bars would be expected to produce the following economic benefits:*

Lung Cancer Treatment Savings	Heart Attack and Stroke Treatment Savings	State's Medicaid Program Savings	Smoking-Related Pregnancy Treatment Savings
\$1.35M	\$3.69M	\$520,000	\$980,000

*Estimates are based on analysis performed on behalf of the American Cancer Society Cancer Action Network. Totals in charts have been rounded.



Alaska Smoke-Free Indoor Workplaces

Only half of Alaska's population is covered by a current smoke-free workplace law. A statewide smoke-free indoor workplaces law would update existing Alaska state law to provide comprehensive protection from secondhand smoke for employees and customers in all enclosed workplaces and places of public accommodation.

This law would prohibit smoking in all indoor workplaces, businesses and public spaces. It would require that those who choose to smoke "take it outside" in order to better protect the health and safety of all workers, patrons and visitors from the disease and premature death caused by secondhand smoke. No one should have to choose between their health and a good job. Due to limitations in local authority, it is time for a statewide law.

A statewide law would create a standard with regard to secondhand smoke that puts all businesses and workplaces across Alaska on a level playing field.

Everyone has the right to breathe smoke-free air.

Smoke-Free Laws Save Lives

There is conclusive scientific evidence that secondhand smoke causes heart disease.

- Studies of at least 10 communities published in peer-reviewed journals have proven a decrease in heart attack incidence after the implementation of smoke-free laws.²
- Helena, MT enjoyed a 40% decrease in heart attacks among Helena residents while smoke-free laws were in place.²
- Heart attack hospitalizations fell by 41% in Pueblo, CO after a comprehensive smoke-free law was enacted. This decrease was sustained over a three-year-period.²

Anchorage Experiences

Smoke-Free Laws Benefit Businesses

Using employment data on Anchorage bars from 2001 to 2010, a report commissioned by the Alaska Department of Health and Social Services Tobacco Prevention and Control Program (2011) found:

Bar employment within the Municipality was 10% higher than it would have been if the smoke-free law had not been implemented.

The Institute of Social and Economic Research interviewed representatives of 50 full-service restaurants and bars in Anchorage on their perceptions of the impact of the smoke free indoor ordinance.

- 76% of restaurant and bars reported very positive or somewhat positive feedback from customers and employees.
- A total of 96% (48/50) of surveyed full-service restaurant and bar representatives identified at least one benefit from the passage of the smoke-free ordinances in Anchorage.
- Most respondents identified a cleaner environment, increased customer and employee satisfaction, improved employee health, more new customers, and lower maintenance costs as benefits of a smoke-free Anchorage.



Alaskans strongly support smoke-free indoor workplaces.

- 4 in 5 Alaska adults support smoke-free workplaces.⁴
- Support for smoke-free indoor workplaces includes a strong majority of current smokers (59%) as well as former smokers (80%).⁴
- Alaskan support for smoke-free indoor workplaces is high throughout all regions of the state, ranging from 75% to 84%.⁴



The Need for Legislation

- Secondhand smoke is a major cause of needless, preventable death, causing or worsening a wide range of adverse health effects, including lung cancer, heart disease, respiratory infections, and asthma. Most significantly, it has been shown that even brief exposure can be dangerous.
- Non-smokers exposed to secondhand smoke increase their risk of heart disease and lung cancer by up to 30 percent.
- The U.S. Surgeon General's Report, "The Health Consequences of Involuntary Exposure to Tobacco Smoke," (2006) concluded that there is no risk-free level of exposure to secondhand smoke; ventilation and other air cleaning technologies cannot eliminate exposure of nonsmokers to secondhand smoke; and that comprehensive smoke-free workplace policies are the only effective way to eliminate secondhand smoke exposure in the workplace.¹
- Published research in communities before and after adoption of comprehensive smoke-free workplace laws has documented a significant decline in heart disease-related hospital admissions.

Sources:

1. U.S. Department of Health and Human Services, *The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General*, HHS, CDC, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2006.
2. Institute of Medicine (IOM), *Secondhand Smoke Exposure and Cardiovascular Effects: Making Sense of the Evidence*, Washington, DC: The National Academies Press, 2009
3. Institute of Social and Economic Research, University of Alaska Anchorage, *The Impact of Anchorage's 2000 and 2007 Smoke-free Policies on Select Restaurants and Bars*, 2014.
4. Alaska Tobacco Facts, Update 2013 http://dhss.alaska.gov/dph/Chronic/Documents/Tobacco/PDF/2013_alaska_tobacco_facts.pdf

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Facebook: [Smoke-Free Alaska](https://www.facebook.com/Smoke-Free-Alaska)








Twitter: [@smokefreealaska](https://twitter.com/smokefreealaska)










Green = Comprehensive smoke-free workplaces ordinances in place

Yellow = Sitka has an exemption for bars in stand-alone buildings, but all other workplaces are covered




Orange = Boroughs without the authority to pass smoke-free workplace ordinances on the local level due to lack of health powers

Gray = Legal analysis not conducted, but likely in the same category as the orange-shaded boroughs with inadequate health powers to enact smoke-free

<u>Borough</u>	<u>Borough seat</u>	<u>Class</u>	<u>Population</u>	<u>Area</u>	<u>Map</u>
<u>Aleutians East Borough</u>	<u>Sand Point</u>	Second	3,141	6,988 sq mi (18,099 km ²)	
<u>Anchorage</u>	<i>(Consolidated city-borough)</i>	Unified Home Rule	291,826	1,697 sq mi (4,395 km ²)	
<u>Bristol Bay Borough</u>	<u>Naknek</u>	Second	997	505 sq mi (1,308 km ²)	
<u>Denali Borough</u>	<u>Healy</u>	Home Rule	1,826	12,750 sq mi (33,022 km ²)	
<u>Fairbanks North Star Borough</u>	<u>Fairbanks</u>	Second	97,581	7,366 sq mi (19,078 km ²)	
<u>Haines Borough</u>	<i>(Consolidated city-borough)</i>	Home Rule	2,508	2,344 sq mi (6,071 km ²)	
<u>Juneau</u>	<i>(Consolidated city-borough)</i>	Unified Home Rule	31,275	2,716 sq mi (7,034 km ²)	

<u>Borough</u>	<u>Borough seat</u>	<u>Class</u>	<u>Population</u>	<u>Area</u>	<u>Map</u>
<u>Kenai Peninsula Borough</u>	<u>Soldotna</u>	Second	55,400	16,013 sq mi (41,473 km ²)	
<u>Ketchikan Gateway Borough</u>	<u>Ketchikan</u>	Second	13,477	4,840 sq mi (12,536 km ²)	
<u>Kodiak Island Borough</u>	<u>Kodiak</u>	Second	13,592	6,560 sq mi (16,990 km ²)	
<u>Lake and Peninsula Borough</u>	<u>King Salmon</u>	Home Rule	1,631	23,782 sq mi (61,595 km ²)	
<u>Matanuska-Susitna Borough</u>	<u>Palmer</u>	Second	88,995	24,682 sq mi (63,926 km ²)	
<u>North Slope Borough</u>	<u>Barrow</u>	Home Rule	9,430	88,817 sq mi (230,035 km ²)	
<u>Northwest Arctic Borough</u>	<u>Kotzebue</u>	Home Rule	7,523	35,898 sq mi (92,975 km ²)	
<u>Sitka</u>	<i><u>(Consolidated city-borough)</u></i>	Unified Home Rule	8,881	2,874 sq mi (7,444 km ²)	
<u>Skagway</u>	-	First	968	452 sq mi (1,171 km ²)	

January, 2013

<u>Borough</u>	<u>Borough seat</u>	Class	Population	Area	Map
<u>Unorganized Borough</u>	-	-	78,149	323,440 sq mi (837,706 km ²)	
<u>Wrangell</u>	<i>(Consolidated city-borough)</i>	Unified Home Rule	2,369	2,570 sq mi (6,656 km ²)	
<u>Yakutat</u>	<i>(Consolidated city-borough)</i>	Home Rule	662	7,650 sq mi (19,813 km ²)	

ALASKA SMOKE-FREE WORKPLACES

EVERYONE HAS THE RIGHT TO BREATHE SMOKE-FREE AIR.



Resolutions of Support for a Statewide Smoke-Free Workplace Law

This is a list of well over 800 Alaska businesses and organizations who have signed a resolution in support of a statewide smoke-free indoor workplace law.

They come from businesses and organizations large and small, representing nearly every industry in Alaska. They cross all community and cultural lines. Broken out regionally, you will find they are also representative of every corner of The Great Land. From north to south, east to west, it's time for Alaska to have smoke-free workplaces!

Statewide Supporters

- AARP
- Agnew::Beck
- Akeela
- Alaska Academy of Family Physicians
- Alaska AFL-CIO
- Alaska Association of Naturopathic Physicians
- Alaska Asthma Coalition
- Alaska Commercial Company
- Alaska Community Foundation
- Alaska Dental Association
- Alaska Dental Society
- Alaska Federation of Natives
- Alaska Native Health Board
- Alaska Native Tribal Health Consortium
- Alaska Native Veterans Association
- Alaska Nurse Practitioner Association
- Alaska Nurses Association
- Alaska Primary Care Association
- Alaska Public Health Association
- Alaska Sports Hall of Fame
- Alaska State Dental Hygienists Association
- Alaska State Hospital and Nursing Home Association (ASHNHA)
- Alaska State Medical Association
- Alaska Teen Media Institute
- Alaska Tobacco Control Alliance
- Alaska's Center for Resource Families
- American Academy of Pediatrics - Alaska Chapter
- American Cancer Society
- American Diabetes Association Alaska
- American Heart Association
- American Lung Association
- Arctic Office Products
- Asthma and Allergy Foundation of America - Alaska Chapter
- BDO USA, LLP
- Big Brothers Big Sisters of Alaska
- CIRI Alaska Tourism Corporation
- Doyon Limited
- Evangelical Lutheran Church of America - Alaska Synod
- Grant Aviation, Inc.
- Hilcorp Alaska
- March of Dimes
- Mountain Pacific Quality Health - Alaska
- Premera Blue Cross Blue Shield of Alaska
- Ravn Alaska
- RurAL CAP
- RurAL CAP Head Start Child Development & Policy Council
- The Alaska Club
- Tobacco Free Rainbow Alliance
- Volunteers of America - Alaska Chapter
- YWCA Alaska

Anchorage Supporters

- 8 Star Alaska Adventures
- Advanced Physical Therapy of Alaska
- Alaska Advanced Dentistry
- Alaska Bagel Restaurant
- Alaska Enterprise Solutions, Inc.
- Alaska Fresh Seafood & The Bubbly Mermaid
- Alaska Lens Rental
- Alex Hotel & Suites
- Allergy, Asthma, and Immunology Center of Alaska
- Anchor Inn - Whittier
- Anchorage Medical Society
- Anchorage Neighborhood Health Center
- Anchorage Pediatric Group
- Anchorage School District
- Anchorage Senior Activity Center
- Anchorage Youth Court
- Anchorage Youth Development Coalition
- Arctic Management, LLC
- Arctic Roadrunner
- Batteries Plus Bulbs - Anchorage
- Bear Paw Bar & Grill
- Bernie's Pharmacy, Inc.
- Catfish Haven Restaurant
- Chilkoot Charlie's
- Club Paris
- Diagnostic Health Anchorage
- Downtown Grill
- Fell, William P., DDS
- Flattop Pizza & Pool
- Fromagio's Artisan Cheese
- Gallo's Mexican Restaurant
- Generous Health
- George, Rev. Carol
- Graceworks Alaska
- Grandview Baptist Church
- Helander, Ken
- Heritage Birth Center
- Hotel Captain Cook
- Humpy's Great Alaskan Alehouse
- Identity Inc.
- JC Rentals
- KACN TV
- Kanady Chiropractic Center
- Kay's Family Restaurant
- Lawn Wizard Lawn Care
- Living Water Baptist Church
- Lone Star Steak House
- Medical Park Family Care
- Michelsohn & Daughter Construction, Inc.
- Middle Way Cafe
- Midnight Sun Brewing Company
- Mike's Maniacs Slow Pitch Softball
- Mitchell Chiropractic
- Moose's Tooth Pub & Pizzeria
- Mountain View Family Dentistry
- Natural Pantry
- Northwest Strategies
- Obeidi Limited
- Peanut Farm Bar and Grill
- Pediatric OT Services, LLC
- Pil's Deli
- Porcaro Communications
- Pro-Care Home Medical
- Providence Pulmonary Rehab
- Puffin Inn
- Pulmonary Associates
- Repairs Unlimited, LLC
- Sacks Cafe
- Safe & Sound Inc.
- Seagalley Restaurant
- Seward's Folly Bar & Grill
- Side Street Espresso
- Smoke-Free Anchorage Coalition
- Snow City Cafe
- Snow Wizard Snow Plowing
- Sonia's Magic Hairstyles
- Spenard Roadhouse
- Starting Point, Inc.
- Sub Zero Bistro & Microlounge
- Terra Bella, Inc.
- The Builders Collaborative
- The Flying Dutchman Pastry
- Tobacco Free Rainbow Alliance
- UAA Department of Health Sciences
- UAA Physical Education Department
- UAA School of Social Work
- Uncle Joe's Pizzeria
- Walsh Sheppard
- Weaver Brothers
- Yak & Yeti Himalayan Restaurant

Gulf Coast Supporters

- A Balanced Approach - Kodiak
- A Smiling Bear Bed & Breakfast - Kodiak
- Alaska One Realty LLC - Kodiak
- Alaskan Real Estate
- Arc N Spark Welding - Kodiak
- AT&T - Kodiak
- Bases Loaded
- Beachside Rental House - Kodiak
- Brother Francis Shelter - Kodiak
- Center Star Training, LLC - Kodiak
- Coastal Creation - Kodiak
- Connecting Ties, Inc. - Kodiak
- Daniels Jewelry - Kodiak
- E-Clips Haircare Studio - Cordova
- Emily's Alterations & Design - Kodiak
- Family Chiropractic - Kodiak
- Galley Gourmet - Kodiak
- Henry's Great Alaskan Restaurant, Inc. - Kodiak
- Humane Society of Kodiak
- Images Hair and Tanning
- Island Air Service- Kodiak
- Kendra's Kreations - Kodiak
- Kings Diner Inc.
- KMK Rentals - Cordova
- Kodiak Area Native Association
- Kodiak Bed & Breakfast
- Kodiak Island Ambulatory Care Clinic, Inc. (KIACC Inc.)
- Kodiak Island Borough School District
- Kodiak Lawn Care
- Kodiak Motors, Inc.
- Kodiak Printmasters
- Kodiak Teen Court
- Kodiak Women's Resource & Crisis Center
- M & S Enterprises
- Mill Bay Coffee & Pastries - Kodiak
- Nordic Dancer Bed & Breakfast - Kodiak
- Norman's Fine Gifts & Jewelry - Kodiak
- Northwoods Massage - Kodiak
- Old Harbor Native Corporation - Kodiak
- Orca Book and Sound
- Orion's Mountain Sports - Kodiak
- Ouzinkie Native Corporation
- Pearson Cove Bed & Breakfast - Kodiak
- Providence Kodiak Island Counseling Center
- Re/Max of Kodiak
- Sparrows - Kodiak
- St Denny Surveying - Kodiak
- St. James the Fisherman Episcopal Church - Kodiak
- St. Mary's Catholic Parish - Kodiak
- Stringbeadz by Susan - Kodiak
- Sutliff's Hardware - Kodiak
- Sweeney Insurance - Kodiak
- TC Enterprises, LLC - Kodiak
- Threshold Services, Inc. - Kodiak
- Ton of Fun - Kodiak
- Total Interior Furnishings - Kodiak
- Wells Fargo Bank - Kodiak
- Wild Iris Salon

Interior Supporters

- A&K Electric, LLC - Fairbanks
- Access Alaska
- Aframe Gas Station
- Airport Equipment Rentals
- Alaska Acupuncture and Herb
- Alaska Fur Gallery
- Alaska Homegrown - Russell Bickness
- Alaska Universal Productions, Inc
- Alpine Chiropractic and Massage
- American Village of Alaska Inc. / Caribou Hotel - Glennallen
- Arctic Burner Service - Fairbanks
- Arctic Chiropractic
- Arctic Fire Hot Sauce-Fairbanks
- Arctic Lights Candle Company-Fairbanks
- Arts Venture - Fairbanks
- Baan O Yeel Kon Corporation - Rampart
- Bergeron, Daniel M., DDS
- Bettisworth North Architects
- Black Diamond Resort Company
- Bonnie's Baskets & Things-Fairbanks
- Brewster's
- Canyon Gift Company
- Castlerock Self Storage
- Cheesh'na Tribal Council
- Co-Op Diner
- Coghill's Store - Nenana
- Concierge Medicine of Alaska - Fairbanks
- Copper River Native Association
- Copper Valley Historical Society
- Cross Road Medical Center - Glennallen
- Denali Adventure Tours
- Denali ATV Adventures
- Denali Borough
- Denali Chamber of Commerce
- Denali Dome Home B&B
- Denali Gift Company
- Denali Glacier Scoops & Gifts
- Denali Jeep Excursions
- Denali Lakeview Inn
- Denali Mountain Works
- Denali Outdoor Center
- Denali Princess Wilderness Lodge
- Denali Raft Adventure
- Denali Taxi Shuttle - Healy
- do TERRA Essential Oils
- Grassroots Guitar Co.
- Greater Fairbanks Board of Realtors
- Hair Salon - Glennallen
- Hatcher Photography - Fairbanks
- Healy Heights Family Cabins
- Heartstream Yoga
- Hub of Alaska - Glennallen
- I ACT FREE Coalition
- If Only... a fine store
- Information Insight
- Interior Alaska Center for Non-Violent Living - Fairbanks
- Interior Community Health Center
- Interior Excavation & Trucking - Fairbanks
- Jazzercise Fairbanks
- Jeff King Inc. / Husky Homestead
- Jolly Roger, Inc.
- Karibu Gallery & Gifts
- Kristi's Quisine
- Lake Louis Lodge
- Last Frontier Denali Photography
- Lavelle's Bistro
- Lemongrass Thai Cuisine - Fairbanks
- McAfee Chiropractic-Fairbanks
- McCarthy Ventures LLC
- McKinley Gifts
- Miles of Alaska - Nenana
- Minto Development Corporation
- Monderosa Bar & Grill
- Motel Nord Haven - Healy
- Mount Pleasant Baptist Church - Fairbanks
- Nenana A Frame
- Nenana City Public Schools
- Nenana Native Village
- Nenana Taekwondo
- Nenana Tortella Council on Aging, Inc.
- Nenana Urban Farm
- Northern Alaska Environmental Center - Fairbanks
- Northern Alaska Tour Company - Fairbanks
- Northern Business Systems
- Northstar Youth Court - Fairbanks
- Perspicacity Contract Services
- Pichette Counseling Services - Fairbanks
- Positive Changes Coaching and Training - Fairbanks

- Donna's House of Petals & Gifts
- Duncan Designs - Fairbanks
- Eagle Tribal Buildings
- Elegant Memories
- Elem Robotics
- Enchanted Forest - Fairbanks
- Evans Industries
- Fairbanks Choral Society
- Fairbanks Clinic Insurance
- Fairbanks Daily News-Miner, Inc.
- Fairbanks Economic Development Corporation
- Fairbanks Family Dental Care
- Fairbanks Forrest and Farm
- Fairbanks Memorial Hospital
- Fairbanks Native Association
- Fairbanks Potters Guild
- Fairbanks Youth Soccer Association
- Finish Line - Fairbanks
- First Fruits Consulting -Fairbanks
- Fisher's Fuel Inc
- Food Factory-Fairbanks
- Frontier Farms
- Furred and Feathered Friends 4-H Club - Nenana
- GCI Fairbanks
- Geraldo's - Fairbanks
- Glenallen Chiropractic Clinic
- Glenn Transport LLC - Glennallen
- Granma's Quilt Shop
- Railbelt Mental Health and Addictions
- Raven Retirement Community of Fairbanks
- Resource Center for Parents and Children - Fairbanks
- Robotics Think Bots
- Ronn Murray Photography
- Rose's Cafe
- Santa's Senior Center
- Shear Heaven Salon
- Sipping Streams Tea Company- Fairbanks
- Stanley Nissan
- Sue Cole Creations-Fairbanks
- Tanana Chiefs Conference
- Tartan Tundra Music
- The Himalayan
- Tosina Lodge
- Trax Outdoor Center - Fairbanks
- Tri-Valley Fire Department
- Turning Point Counseling Services - Fairbanks
- Valley Chapel
- Walsh, Kelliher & Sharp, CPAs, APC
- Warbelow's Air Ventures
- West Valley Vision Center, Inc. - Fairbanks
- White Palms Art Gallery
- Wolfrun Restaurant-Fairbanks
- Workshop Acres - Nenana
- World Eskimo Olympics
- Wright Air Service

Kenai Peninsula Supporters

- 811 Auk Apartments 6 Plex
- A Flyin Skein LLC - Seward
- A Home Away From Home - Homer
- ABC Pregnancy Care Center
- AK Exports, LLC
- Alaska Advanced Care Chiropractic
- Alaska Christian College
- Alaska Fjord Charters - Seward
- Alaska Lanes
- Alaska Maxi Storage
- Alaska West Air - Nikiski
- Alaskan Cottages - Homer
- Alex Russell Pediatrics
- Aloha Bed & Breakfast - Homer
- Anderson Tug & Barge - Seward
- Angels Rest on Resurrection Bay LLC - Seward
- Aurora Health & Nutrition
- Aurora Taxes & Accounting - Anchor Point
- Bayan Asian Market
- Beach House Rentals - Seward
- Bear Creek Winery & Lodging - Homer
- Beemun's Variety
- Behrens, Dr. Bobbie J.
- Big 'G' Electric & Engineering Inc
- Blazy Construction Inc.
- Box Canyon Cabins - Seward
- Boys and Girls Club of the Kenai Peninsula
- Bridges Community Resource Network
- Brown and Hawkins / Sweet Darlings
- Bunnell Street Arts Center - Homer
- Captain Coffee Roasting Company - Homer
- Central Peninsula Health Foundation
- Central Peninsula Hospital
- Chez Moi Boutique
- Chilson Computer Services
- Chugachmuit
- Clinic of Chiropractic Health - Homer
- Community Action Coalition
- Cook Inlet Council on Alcohol & Drug Addiction (CICADA)
- Cooper Landing Chamber of Commerce
- Cosmic Kitchen - Homer
- Linda Loris B&B Seward
- Lisa Turner, MS
- Love, Inc of the Kenai Peninsula
- Lucky 13 Fashions
- McDonald's Restaurants of the Kenai Peninsula
- Michael P Moriarty, PC Seward
- Moose Pass Chamber of Commerce & Visitors Bureau
- Mykel's Restaurant & Soldotna Inn
- Nancy Field Insurance
- Nature's Way Rehab Services, LLC
- Neal, Gwen M., Attorney at Law - Homer
- Ninilchik Family Dentistry
- Odie's Bead-It
- Oral Surgery Associates Inc.
- Orange Poppy
- Parker and Associates
- Paul Turner, PhD
- Peninsula Accounting Services
- Peninsula Allergy & Asthma Center
- Peninsula Community Health Services
- Peninsula Dental Center
- Peninsula Health Center Inc
- Peninsula Internal Medicine, P.C.
- Peninsula Medical Center
- Peninsula Pediatric Dentistry
- Peninsula Power Sports
- Peninsula Radiation Oncology Center
- Peninsula Radio Group
- Phormation Chiropractic Inc
- Pioneers of Alaska Igloos #9 - Seward
- Pizza Boys Inc
- Preventative Dental Services PC - Homer
- Professional Escrow Services., Inc
- Qutekcak Native Tribe
- Rangeview Bed & Breakfast - Homer
- Renewal Skincare Studio
- Resurrection Bay Lions Club - Seward
- Rez Fitness
- Schiff RV & Boats
- Sea Otter Community Center - Seldovia
- Seaview Cafe & Bar

- Cottler, Dr. Harry - Soldotna
- Delta Leasing LLC
- Diamond M Ranch Resort, LLC
- Donna's Country & Victorian Gifts
- Family Medical Clinic
- Fine Thyme Cafe
- First American Title - Seward
- Foster Construction
- Frontier Community Services
- Good Karma Inn - Homer
- Havenwood Guest House - Seward
- Health North Family Medicine
- Homer Bookstore
- Homer Head Start
- Horace Mann Insurance Co. - Brenda Johnson
- Hospice of the Central Peninsula
- Hutchings Auto Group
- Integrated Robotics Imaging Systems
- Jammin Java
- Jeannie Annette Enterprises
- Jo Doug Inn - Seward
- Kaladi Brothers Coffee
- Kenai Civil Air Patrol
- Kenai Peninsula School District
- Kenai Peninsula United Way
- Kenai Peninsula Urology LLC
- Kenai Peninsula Youth Facility
- Kenai Public Health Center
- Kenai River Drifters Lodge
- Kenai Spine
- Kenai Sports & Family Chiropractic
- Kenai Watershed Forum
- Kenda's Studio
- King's Treasures Christian Bookstore
- KPO Rehabilitation and Sports Medicine
- Kruzof Fisheries LLC - Seward
- Kuskokwim Wilderness Adventures
- Le Barn Appetit Inn & Creperie - Seward
- Legends Dental
- Seaview Community Services
- Semaka Charters - Seward
- Seward Chamber of Commerce, CVB
- Seward Rotary Club
- Seward Vacation Properties
- Seward Wellness for All Coalition
- Silhouette Shingles, LLC - Seward
- Snack Shack
- Snowder Chiropractic
- Soldotna Chiropractic & Therapeutic Massage
- Soldotna Dental Arts
- Soldotna Dental Clinic
- Soldotna Mini Storage
- Soldotna Y Chevron
- Spenard Builders Supply - Kenai
- Stan's Barber Shop
- Starbird Studios - Seward
- Sunny Cove Sea Kayaking - Seward
- SVT Health and Wellness
- Sweeny's Clothing
- Tammy's Flowers and Gifts
- The Daily Buzz
- The Duck Inn
- The Fitness Place
- The Medicenter - Kenai
- The UPS Store # 2752
- Thorn's Showcase Lounge - Seward
- Tina's Hair Pros
- Trustees Services of Alaska Inc
- Turnagain Heights., LLC
- Ulmer's Drug & Hardware
- Upstream Family Medicine
- Veronica's
- VIDA!
- Weaver Brothers
- West Chiropractic Clinic
- White Crane Academy
- Wilderness Way
- Winter's Grace Guidance Center

Mat-Su Valley Supporters

- Above Alaska Aviation, LLC - Talkeetna
- Alaska Center for Dentistry
- Alaska Center for Resource Families
- Alaska Family Services
- Alaska Midnite Scents - Wasilla
- Alaska Premier Real Estate LLC
- Alaska Sunset View Resort
- Alaska's Mat-Su Bed & Breakfast Association
- All I Saw Cookware - Wasilla
- Allison Little Steel Art
- Alpha Counseling and Education Services
- Animal Food Warehouse
- Architects Alaska
- Area 51 Hobby and Games, LLC - Wasilla
- Arkose Brewery - Palmer
- Aurora Dora - Talkeetna
- Beadberry Patch - Talkeetna
- Big Brothers and Sisters of Alaska - Mat-Su
- Board Media Group LLC
- C'est La Vie Affordable Fashions - Wasilla
- CAP Solutions
- Capstone Medical Group
- CCS Early Learning
- Chickaloon Village Traditional Council
- Choose Food Wisely LLC
- Christensen Chiropractic
- Church of the Covenant
- Classified Employees' Association of Matanuska-Susitna Borough School District
- Colony Inn
- Country Financial
- Country Legends 100.9 FM - Wasilla
- Crumb LLC
- Denali Images Art Gallery - Talkeetna
- DermaGlow Alaska - Wasilla
- Ehman Outdoors
- Envision Matsu
- Family Promise Mat-Su
- Fancy Lou Boutique - Wasilla
- Fence Emporium of Alaska Inc.
- Fireside Books
- First Presbyterian Church of Wasilla
- Flagship Properties LLC
- Flying Squirrel Bakery Cafe - Talkeetna
- Forget Me Knot Hair Salon - Wasilla
- Geneva Woods Pharmacy
- Mat-Su Education Association (MSEA)
- Mat-Su Health and Social Service Board
- Mat-Su Heath Foundation
- Mat-Su Integrative Medicine, LLC - Wasilla
- Mat-Su Midwifery and Family Health
- Mat-Su Regional Medical Center
- Mat-Su Regional Medical Center Cardiac Rehab
- Mat-Su Senior Services
- Mimi's Closet - Wasilla
- Mocha Me Crazy
- Moonstone Farm
- Murphy & Associates Engineering
- My House/The Gathering Place
- New Horizons Telecom LLC - Palmer
- Non Essentials LLC
- North Star Animal Hospital
- Northern Susitna Institute - Talkeetna
- Now Health, LLC - Palmer
- OnMission Church
- Palmer Pentecostal Church
- Percussion in the Valley - Palmer
- Pia's Custom Picture Framing - Wasilla
- Pioneer Peak Dental
- Pippel Insurance
- PJ's Crafty Corner - Wasilla
- RMG Real Estate
- Rock-On Climbing, LLC
- Rose Ridge Vacation Center
- Sea Star Strategies LLC
- Set-Free Alaska
- Sheep Mountain Lodge
- Spenard Builders Supply - Wasilla
- Stage 2 Studios, LLC
- Steve's Toyo Stove Repair
- Summit Worship Center - Wasilla
- Sunshine Community Health Center
- Susitna Mechanical
- Tailgaters Sports Bar & Grill LLC
- Take Shape for Life
- Talkeetna Roadhouse
- The Alaska Boathouse Restaurant
- The Alcove Salon - Wasilla
- The Algone Center
- The Baby Store Toys and More - Wasilla
- The Beader's Paradise - Wasilla
- The Dancing Leaf Gallery - Talkeetna

- Greater Palmer Chamber of Commerce
- Hatcher Pass Bed & Breakfast
- Hitchcock Piano Studio - Palmer
- Howdie Inc. - Wasilla
- JC Brandt Insurance & Financial Services, Inc. - Wasilla
- Jensi Automotive
- Just Imagine Toys
- Knik Tribal Council
- Latitude 62 Lodge - Talkeetna
- Learning Essentials
- Locals Pub & Pizzeria
- Lodestar Family Eye Care, PC - Palmer
- Lucas Chiropractic Clinic
- Mat-Su Borough School Board
- Mat-Su Coalition on Housing & Homelessness
- Mat-Su Conservation Services
- Mat-Su Convention & Visitor Bureau
- The Grand View Inn & Suites
- The Grill @ The Grand View
- The Metro Cafe - Wasilla
- Thrive Mat-Su
- Unaccompanied Youth Task Force
- United Way of Alaska
- Urban Roots Hair Studio
- Valley Christian Conference
- Valley Orthodontics
- Valley Rotaract
- Village Arts & Crafts Gift Shop - Talkeetna
- Wasilla Chiropractic Clinic
- Wasilla Chrysler Dodge Jeep Ram
- Wasilla Physical Therapy
- Wasilla Presbyterian Church
- Wild Iris Family Medicine & Maternity Care - Wasilla
- Windbreak Café/Trouthouse Lounge

Northern Alaska Supporters

- AC Q-Stop - Barrow
- AC Value Center Barrow
- Airport Pizza
- Alaska Airlines - Barrow
- Alaska Technical Center - Kotzebue
- Alaska Technical Center-Kotzebue
- Arctic Cab - Barrow
- Arctic Chiropractic - Kotzebue
- Arctic Grocery Inc. - Barrow
- Arctic Kitchen and Apartments - Barrow
- Arctic Pizza - Barrow
- Barrow Kitchen
- Bearing Song & Gifts
- Bering Air-Kotzebue
- Bering Air, Inc. - Nome
- City of Kiana
- Era Alaska Kotzebue
- FBX Aviation Services - Kotzebue
- Illisagvik College - Barrow
- Inupiat Cleaners - Barrow
- Inupiat Cleaners - Barrow
- KBRW FM - Barrow
- KNOM Radio Mission, Inc.
- Leeza's Beauty Salon - Barrow
- Maruskiya's of Nome Alaska Native Art
- McIntyre Optometry Services, Inc. - Barrow
- Native Village of Brevig Mission
- Native Village of Kotzebue
- Native Village of Koyuk IRA Council
- Native Village of St Michael
- Noorvik Native Community
- Northwest Arctic Borough
- Northwest Inupiat Housing Authority
- Northwest Inupiat Housing Authority - Kotzebue
- Northwestern Aviation - Kotzebue
- Osaka Asian Cuisine - Barrow
- OTZ Telecommunications, Inc. - Kotzebue
- Ravn Alaska - Kotzebue
- Ravn Alaska / Hageland Aviation - Barrow
- Ryan Air
- Ryan Air - Kotzebue
- Sam & Lee's Restaurant - Barrow
- Samuel Simmonds Memorial Hospital - Barrow
- Savoonga Native Store
- Sitmasialk Native Corporation
- The Fur Shop - Barrow
- UAF Chukchi Campus - Kotzebue
- Village of Nome IRA Council
- Village of Solomon
- Water Service - Barrow
- Wells Fargo Bank - Barrow
- Wolf Creek Sales & Service - Kotzebue

Southeast Alaska Supporters

- 1st City 1st Aid - Ketchikan
- Adventure Karts - Ketchikan
- Aimee Shull Photography
- Alaska Arts Southeast
- Alaska Electric Light & Power Company - Juneau
- Alaska Galore Tours - Juneau
- Alaska Grafix - Juneau
- Alaska Island Community Services
- Alaska Laundry and Cleaners - Juneau
- Alaska Native Brotherhood & Alaska Native Sisterhood Grand Camp - Ketchikan
- Alaska Native Girls - Metakatia
- Alaska Native Sisterhood Camp #16
- Alaska Rainforest Sanctuary
- Alaska Robotics
- Aquatic Alaska Adventures
- Armstrong - Keta, Inc. - Baranof Island
- At the White House B& B - Skagway
- Aurora Chiropractic Center
- AWARE Inc-Juneau
- BCD Construction, Inc. - Juneau
- Bev's Flowers and Gifts
- Braveheart Volunteers
- Breakaway Adventures - Wrangell
- Brenner's Fine Clothing and Gifts
- Catholic Charities
- Changing Tides LLC - Juneau
- Chilkoot Indian Association
- City Center Chiropractic - Juneau
- Creek Street Historic Properties
- Creekside Family Health Clinic - Ketchikan
- Diamond C Cafe - Wrangell
- Diversified Investments & Insurance - Ketchikan
- Easeful Being - Juneau
- Fairweather Gallery - Juneau
- Foggy Mountain Shop - Juneau
- Frontier Shipping & Copyworks - Ketchikan
- Garnet School
- Gateway Center for Human Services/Akeela
- Glacier Auto Parts
- McDonald's of Southeast Alaska
- National Council on Alcohol and Drug Dependence
- Native Craft Co-Op - Juneau
- Natural Healthcare - Juneau
- North Star Television Network
- North to Alaska
- Northern Light United Church - Juneau
- Northwind Architects - Juneau
- Organized Village of Kasaan
- Paper Pirates-Sanctuary
- Peace Health Ketchikan Medical Center
- Petersburg Indian Association
- Petersburg Mental Health
- Petersburg School District
- Radio Shack Ketchikan
- Rainbird Community Broadcast Corp. - Ketchikan
- Rainbow Foods - Juneau
- Rainforest Crafts - Ketchikan
- Rainforest Naturopathic Medicine
- Red Onion Saloon
- Rob Cohen Music - Juneau
- Robertson's Gallery & Custom Framing
- Rodfather's Broiler Restaurant
- Seaside Yarns, LLC - Juneau
- Shattuck & Grummett Insurance
- Sitka Dental Clinic
- Sitka Tribe of Alaska
- Sitkans Against Family Violence
- Skagway Brewing Company
- Southeast Alaska Guidance Association (SAGA)
- Southeast Alaska Regional Health Consortium (SEARHC)
- Southeast Furniture Warehouse
- Southeast Medical Clinic
- Starboard Frames and Gifts - Ketchikan
- State Farm Insurance - Ketchikan
- Stereo North Inc.
- Stikine Drug - Wrangell
- Studio Max - Ketchikan

- Goldbelt Inc - Juneau
- Haines Brewing Company, Inc.
- Healing Touch Alaska - Juneau
- Hearthside Books & Toys - Juneau
- Heritage Coffee
- Heritage Northwest Inc. - Juneau
- Hi-Tide Construction - Juneau
- Hoonah Indian Association
- Hoonah Liquor Store
- Icy Straits Lodge
- Ike's Fuel
- Inn at Creek Street - Ketchikan
- Inside Passage Midwifery & Natural Medicine
- Island Pharmacy - Ketchikan
- Jerry's Books and Games - Ketchikan
- Juneau Arts & Humanities Council
- Juneau Family Health and Birth Center
- Juneau's Imagination Station
- Ketchikan Public Health
- Ketchikan Ready Mix Inc.
- Ketchikan Wellness Coalition
- Ketchikan Youth Court
- Knockout Productions - Juneau
- Lifetime Eye Care
- Love in Action - Ketchikan
- Sylvan Enterprises
- Taku Lanes - Juneau
- Taquan Air - Ketchikan
- The Fox Hole - Ketchikan
- The Office Bar - Hoonah
- The Wild Oven Bakehouse - Juneau
- Tideland Tackle Marine - Hoonah
- Tongass Federal Credit Union - Ketchikan
- Tongass Mobile Estates - Hoonah
- Trickster Company - Juneau
- TSS, Inc. - Ketchikan
- University of Alaska - Southeast Campus
- Urban Eskimo - Juneau
- Videl Entertainment
- Wanzer, Terral - Ketchikan
- Weaver, Douglas, DDS - Juneau
- Wellspring Inc Integrative Medicine
- Wellwood Center Bed & Breakfast - Copper Center
- Willow Mountain Lodge
- Wostmann & Associates Inc
- Wrangell Early Childhood Education Coalition
- Wrangell Public Health Center
- Wrangell School District
- Yoga Union Inc.

Southwest Alaska Supporters

- 4th and Broadway Boutique
- Alakanuk Tribal Council
- Aleut Community of St. Paul
- Aleutian Pribilof Island Association
- Arctic Belle Boutique - Bethel
- ArXotica Inc
- Association of Village Council Presidents (AVCP)
- Bethel Alaska PC
- Bethel Car Rental
- Bethel Chamber of Commerce
- Bethel Community Services Foundation
- Bethel Family Clinic
- Bethel Friends of Canines
- Bethel Native Corporation
- Bethel Public Health Center
- Bristol Alliance Fuels, LLC - Dillingham
- Bristol Bay Area Health Corporation
- Bristol Express - Dillingham
- Bristol Express Fuels, Inc. - Dillingham
- Bristol Express Gas Station & C-Store - Dillingham
- Brown Slough Bed & Breakfast - Bethel
- City of Dillingham Senior Center
- Donlin Gold
- Herron, Bob
- Iqurmiut Traditional Council - Russian Mission
- Kuskokwim Commercial Supply - Bethel
- Kuskokwim Wilderness Adventures - Bethel
- Let's Get Growing
- Lime Village Traditional Council - McGrath
- Lucy's Cache - Bethel
- Marilyn's Hair Salon
- Native Village of Bill Moore's Slough
- Native Village of Eek
- Native Village of Emmonak
- Native Village of Kwinhagak
- Native Village of Marshall
- Native Village of Nunam Iqua
- Native Village of Tununak
- Northern Lights Essential Oil Products
- Ohogamiut Traditional Council - Marshall
- Orutsaramiut Native Council - Bethel
- Portraits by Pipa
- Pribilof School District
- Sammy's Market - Bethel
- Sattler Strategies - Bethel
- Snack Shack - Bethel
- Stan's Barber Shop - Bethel
- The Delta Discovery, Inc. - Bethel
- Toksook Bay Head Start
- Unalaska City School Board
- Unalaskans Against Sexual Assault and Family Violence
- USA Pools - Bethel
- Volcarce Law Office - Bethel
- Yukon-Kuskokwim Health Corporation
- Yupiit of Andreafski Tribe - St. Marys
- Yupiit Piciryarait Cultural Center - Bethel
- Yupiit Piciryarait Museum - Bethel
- Yuut Elitnaurviat - The People's Learning Center, Inc. - Bethel

Senate Peter A. Micciche

Alaska State Legislature

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Toll Free: (800) 964-5733

To: Senator Bert Stedman
Chair, Senate Health & Social Services

From: Senator Peter Micciche *PM*

Date: February 10, 2015

Re: SSSB 1 – Summary of Support and Opposition letters to-date

To date, the most recent support and opposition letters received by my office total 1,002 in support, and 445 opposed. From the opposition letters I have viewed, it appears most of the opposition concerns the inclusion of e-cigarettes in the bill language.

272 PAGES OF
PREPRINTED FORMS FROM
272 PERSONS IN SENATE
DISTRICT R IN SUPPORT
OF SB 1 ARE PRESENT
IN THE PAPER FILE.

A SAMPLE PAGE
FOLLOWS.

EVERYONE HAS THE RIGHT TO BREATHE SMOKE-FREE AIR.

I want my elected representative and senator
to support a statewide smoke-free indoor
workplace law in Alaska.



NAME: Margaret Roth

PHYSICAL ADDRESS: [REDACTED] CITY/ZIP: [REDACTED]

EMAIL: _____ PHONE: [REDACTED]

I would like to help to get a statewide smoke-free indoor workplace law passed by...

- Calling my legislators Writing a letter to the editor I don't know, tell me what you need



367 PAGES OF FORM
LETTERS FROM 367
PERSONS IN OPPOSITION
TO SB 1 ARE PRESENT
IN THE PAPER FILE.

A SAMPLE PAGE
FOLLOWS.

To Whom It May Concern,

I do not support Senate Bill 1 in its current form. The inclusion of "electronic cigarettes" is negligent and factually inappropriate. The secondhand effect from vaporizers is negligible per "Peering Through The Mist", Drexel University.

Thank you,

Nancy Cantare
Name

[REDACTED]
Address