
NC Public Health Agreement on Critical Elements for Smokefree Worksites and Public Places laws

NC Division of Public Health and NC Association of Local Health Directors
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We support model statewide legislation to ban smoking in all North Carolina worksites and public places that is consistent with the following critical elementsⁱ necessary to protect the health of the public and all workers.

An effective law should include the following:

Compliance and Education elements include provisions:

- 1) to *communicate* the law to those affected including businesses and the public; and
- 2) to include *clear definitions*;
- 3) to develop a *compliance and education plan* to ensure success, including but not limited to:
 - signage,
 - clear state and local communication,
 - compliance roles,
 - plan to educate and publicize the law through earned media,
 - time to develop the plan and train state and local officials. 90 days is recommended for a NC law in order for the State and Local Public Health Departments to prepare for communication, compliance and enforcement.

In addition, the public health community needs a clear understanding of enforcement protocols including responsible agency, offender violations and penalties. Violations and penalties should address both employers who fail to comply with the law as well as individuals who smoke in an area where smoking is prohibited; and

Non preemption language makes it clear that local government has the authority to pass stronger regulations than the state law to protect their local citizens and workers from a public health hazard.

An effective law should avoid the following:

Ventilation systems and/or Smoking Rooms are ineffective and costly. Ventilation cannot remove the harmful constituents of secondhand smoke and smoking rooms put employees who work in them at risk.

Exemptions for Bars, Bowling Alleys, Billiard Halls and Bingo Parlors

The law must protect all workers. Prohibiting smoking in places such as bars, bowling centers, billiard halls and bingo parlors may be contentious. But smoking should be completely eliminated in these and other venues in order to protect worker health; the health hazards of secondhand smoke are dangerously high in these establishments.

Minors Only Provisions allow smoking if minors are not allowed on the premises. These provisions do not protect employees or patrons. Smoke-free laws are important for everyone, not just minors.

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

Hours Provisions restrict smoking only during certain hours of operation. These provisions are not only ineffective, but create confusion and are difficult to enforce.

Preemption in any form is where local governments are bound by state action, and states are bound by federal action. This favorite tobacco industry tactic - to pass weak laws at the state level and preempt local action - shifts the struggle for smoke-free air from local jurisdictions, where grassroots smoke-free advocates are more likely to be in touch with local support.

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

Grandfather Provisions exempt certain existing businesses from the smoke-free regulations, which is unfair to both employees and patrons. There is no legitimate economic argument for permitting older establishments to avoid a health regulation.

Consent Provisions allow smoking if all employees in a business consent. Employees are then pressured into "consenting" to work in smoke-filled areas either voluntarily or contractually (by signing a contract as a condition of employment). Employees should never be put in a position where they must choose between jeopardizing their health or their job.

Licensing Fees allow businesses to permit smoking on the premises upon payment of a licensing or other fee. This arrangement is completely ineffective and does not protect the public health.

Tax Incentives that make going smokefree voluntary in order to have a tax incentive for smoke-free businesses merely reward businesses for doing something that they should be required to do in any case - providing a safe and healthy workplace for their employees and customers.

Long Phase-in Provisions delay health protections. Laws typically become effective within 30-90 days of enactment, which allows ample time to inform business owners and residents of their responsibilities. Longer periods simply allow time for possible weakening or repeal of the law.

Exemptions for Casinos and Other Gambling Venues

Casino or other gambling venues are workplaces and should be included within the coverage of a smoke-free law.

Exemptions for Private Clubs

This exemption is not recommended. Restaurants and bars may try to establish themselves as private clubs in order to avoid compliance with the law. If private clubs are exempted, the definition of a private club must be clearly a place not open to the public, and include only not-for-profit clubs with no paid employees.

¹ This is based on "*Fundamentals of Smokefree Workplace Laws*" April 2006 - endorsed by 12 national organizations, including the American Public Health Association, National Association of Local Boards of Health (NALBOH), American Cancer Society, American Heart Association, American Lung Association, Americans for Nonsmokers Rights, Campaign for Tobacco Free Kids, the Tobacco Control Legal Consortium National Latino Council on Alcohol and tobacco Prevention (LCAT), the Praxis Project, APPEAL, and the Tobacco Technical Assistance Consortium.