

Referenda and Ballot Initiatives in Kentucky

Why the Smoke-free Issue Cannot be on the Ballot

- Kentucky law states that an issue cannot be decided by referenda or ballot initiative unless there is specific authority. This authority can derive from the Kentucky Constitution or Kentucky Regulatory Statute (KRS).
- The smoke-free issue is not authorized by the Kentucky Constitution nor KRS, and does not have the authority to be placed on the ballot.

Specific Authority for Referenda

- There is not a specific KRS that lists all issues authorized for ballot consideration. Instead, each issue has been authorized in a specific KRS.
- Listed below are issues authorized for ballot or referenda vote along with the Kentucky Constitution (KC) section or KRS number.

Amendment to the Kentucky Constitution

[KC Section 256](#)

Local option for the sale of alcohol

[KRS 242.020](#)

Annexation

[KRS 81 A. 420](#)

Ad valorem taxation

[KRS 132.100](#)

On matters pertaining to common schools
(including school curricula)

[KRS 158.6451\(4\)](#)

Bridges and public roads

[KRS 178.220](#)

Construction of public parks

[KRS 97.590](#)

Milk production

[KRS 247](#)

To terminate an existing taxing district

[KRS 262.540](#)

Soil conservation

[KRS 262.370](#)

It is Government's Role and Manifest Duty to Protect Public Health and Safety

- Smoke-free laws are designed to protect public health, one of the duties of government. Such an important duty should not be abdicated to voters. Ensuring clean food in restaurants or clean tap water are decisions made by the government, not by public referenda or ballot. In 2004, the Kentucky Supreme Court ruled that local governments have the power to promote and safeguard public health including ensuring safe air by enacting smoke-free laws.
- As of October 2019, 36 local Kentucky communities had implemented comprehensive smoke-free ordinances or regulations (covering all workplaces including restaurants and bars).
- Ballot initiatives can play politics with public health. Ballot initiatives are very costly and drain already limited resources for public health. It is estimated that ballot initiatives are 5-10 times more expensive than smoke-free legislative campaigns. Resources are often diverted from other tobacco control priorities (i.e., helping smokers quit) when health groups are forced to fight anti-health groups in supporting a ballot initiative.

*For more information, contact the Kentucky Center for Smoke-free Policy
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