

# Exemptions and Smoke-Free Laws

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There is no safe level of exposure to secondhand smoke.<sup>i</sup> Comprehensive smoke-free laws that cover all workplaces and all public places with no exemptions protect all workers and members of the public from the toxic poisons in secondhand smoke.

Exemptions are often proposed by opponents to smoke-free laws with the overt intent of compromise. In reality, exemptions create confusion and enforcement challenges, an unlevel playing field for businesses, potential for legal challenges, and they leave workers unprotected from the hazards of secondhand smoke.

As an enforcement official in Louisville said, "...the governing body should plan for a future re-write if they allow exemptions. Go ahead and bite the bullet now for the sake of public and employee health."

## Exemptions Create Confusion and Make Enforcement a Challenge

- Exemptions based on type of business or public place (i.e. bars, private clubs, one with few employees, bingo parlors, etc.) create uncertainty as to who is covered by the law.
- Monitoring which venues are exempt and which are not is time-consuming, costly and unrealistic for enforcers.
- Exemptions create the perception that the law is not being enforced and people think they can smoke as usual.

## Exemptions Create an Uneven Playing Field: Business Owners Say that is Not Fair

- Those covered by the law claim that businesses that are exempt gain an economic advantage.
- Business owners expect to be treated fairly such that everyone plays by the same rules. Many want to go smoke-free voluntarily but will not make that decision without government intervention.

## Exemptions Provide an Avenue for Legal Challenges

- Lexington has spent over \$330,000 in legal fees since the passage of its smoke-free law in 2003 including the state Supreme Court case and ongoing litigation, largely from the private organization exemption.
- Legal challenges continue in Louisville from the November 2005 ordinance exempting certain establishments serving alcohol and the private organization exemption, and the July 2007 version exempting Churchill Downs.

## Exemptions Leave Workers Unprotected from Secondhand Smoke

- Exemptions often leave workers who are most at risk unprotected from secondhand smoke. Bar and restaurant workers are typically exposed to levels of secondhand smoke 1.6 to 6 times higher than in office workplaces.
- Servers have the greatest risk of developing lung cancer and heart disease compared with other occupations.<sup>ii iii iv</sup>

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<sup>i</sup> U.S. Department of Health and Human Services. *The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General*. 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, 2006.

<sup>ii</sup> Jarvis MJ, Foulds J, Feyerabend C. Exposure to passive smoking among bar staff. *British Journal of Addiction*. 1992;87(1):111-113

<sup>iii</sup> Cains T, Cannata S, Poulos R, Ferson MJ, Stewart BW. Designated "no smoking" areas provide from partial to no protection from environmental tobacco smoke. *Tobacco Control*. 2004;13:17-22

<sup>iv</sup> Siegel M. Involuntary smoking in the restaurant workplace. A review of employee exposure and health effects. *JAMA*. 1993;270(4):490-493

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