

Indiana

Campaign for
SMOKEFREE Air



www.SmokefreeIN.com

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Common arguments against statewide smokefree air legislation — and how to respond to them

Local governments should make this decision, not the state.

- All elected officials have a duty to protect the citizens that they represent. Elected officials at the state AND local level should work to protect workers from the harms of secondhand smoke. The scientific evidence indicates that there is no risk-free level of exposure to secondhand smoke. The Surgeon General has concluded that smoke-free workplace policies are the only effective way to eliminate secondhand smoke exposure in the workplace.
- Currently, 31 counties and local governments in Indiana have already taken steps to become smokefree. It is time that the state do the same and pass a comprehensive law that protects all workers and does not undermine the work done in communities such as Bloomington, Fort Wayne, Greencastle, Lowell, Plainfield, West Lafayette and Zionsville.
- Over 75% of Hoosiers do not smoke and deserve to be protected from secondhand smoke.
- Secondhand smoke costs the state of Indiana approximately \$390.3 million dollars in excess medical expenses, or about \$62 dollars per person each year.

Any state law should allow an opt-in/opt-out clause so local governments can choose whether or not to be smokefree.

- If there is going to be an opt-out clause then there is no purpose in passing a statewide law.
- Statewide smokefree laws should provide the floor for local smokefree laws, not the ceiling.
- An opt-in/opt-out clause would lead to much confusion that would hurt compliance and enforcement.
- Allowing local jurisdictions to ignore state smokefree laws denies health protections to over 75% of the state's population that does not smoke.
- Municipalities are not given the opportunity to opt out of other laws passed by the state.

If people don't want to work in a smoky environment then they can work somewhere else.

- Workers have a basic right to a safe workplace.
- Workers shouldn't have to choose between their livelihood and their health. Not everyone has the luxury to quit a job that pays their bills or feeds their families.
- In some areas, such as those that depend on casinos for jobs, the largest employers in the community do not offer a smokefree workplace.

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A portion of Indiana's taxes goes to pay for healthcare for the uninsured. How will we pay for that if people can't smoke and cigarette tax revenues go down?

- The health impact of smokefree air laws is immediate. Studies show that in communities with a comprehensive smoke free air law, heart attacks decrease within months. It would also have an almost immediate impact on the number of secondhand smoke-affected births. These are results that lead to significant health care savings.
- All but one of the 22 states with comprehensive smokefree air laws have also passed at least one cigarette tax increase in the last 6 years – and most of these have done so since 2005. If smokefree air negatively impacted cigarette tax revenues, we would not see so many states that depend on that revenue adopting smokefree air laws.
- Every day, 1.2 million Indiana residents purchase and smoke an average of 1.4 packs of cigarettes. Tobacco use in Indiana exacts a painful, significant cost on the overall economy. Pat Barkey, a labor economist, considered an Indiana economy where tobacco was not used or produced. The results showed that 175,000 more jobs would exist; Per capita income would be about \$108 higher. (Personal income would be \$28.7 billion higher); Indiana's population would grow by more than half a million people; including half of that population gain, would be migrants from other states; and that over \$100 billion in cumulative new investment would take place in Indiana. Tobacco is more than simply a killer of people. It is also a killer of jobs and wealth. Public policies that seek to limit its use have strong justification.

"The Economic Impact of Tobacco Use in Indiana". August 2005.

Patrick M. Barkey, Ph.D. Bureau of Business Research, Ball State University.

Businesses have the right to choose whether to allow smoking. We should let the market decide when a business should go smokefree. This isn't for the government to decide.

- Protecting the health and safety of the community is one of the main purposes of government. State and local governments have a responsibility to enact laws to protect public health and safety. It is not only appropriate for government to protect the community's health; it is also the government's duty.
- Businesses have the right to operate as they see fit but they don't have the right to endanger their employees and the public. Small businesses must follow many state and local laws to protect the health and safety of employees and the public. Examples: food storage regulations, hand washing guidelines and sanitation requirements.
- Exposure to second hand smoke in restaurants and bars is 2-5 times higher than in residences and other workplaces, which puts employees and patrons of these establishments at a disproportionately higher risk.

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I have a Constitutional right to smoke.

- There is no such thing as a Constitutional “right to smoke.” The Constitution does not extend special protection to smokers.
- Smoking is not a specially protected liberty right under the Due Process Clause of the Constitution. The fundamental right to privacy does not apply to smoking.
- Smokers are not a specially protected category of people under the Equal Protection Clause of the Constitution.
- Since the Constitution does not extend special protection to smokers, smoke-free legislation need only be “rationally related to a legitimate government goal” In order to be within the boundaries of the Constitution.
- The Constitution does not explicitly mention smoking. People who claim a right to smoke usually rely on one of two arguments: (1) that smoking is a personal liberty specially protected by the Due Process Clause, or (2) that the Equal Protection Clause extends special protection to smokers as a group. Neither of these claims is legally valid. Since smoking is not a specially protected constitutional right, the Constitution does not bar the passage of local, state, or federal smoke-free laws and other restrictions on smoking.

Samantha K. Graff, Tobacco Control Legal Consortium, There is No Constitutional Right to Smoke (2005).

Smoking bans result in a 30% (or 40% or 50%) decline in business revenue at bars & restaurants.

- Across the country, in cities and small towns, evidence shows that smokefree air policies have no negative impact on local business revenues. Rather, many studies show that smokefree air policies have a positive or neutral impact on local business.
- The only studies showing economic losses have been conducted or paid for by the tobacco industry. Their studies are based on business owners’ perceptions rather than sales tax data, and are designed to scare communities from passing smokefree air laws.
- These anecdotal stories are neither supported by documented facts nor do they take other factors into consideration, such as seasonal fluctuations or the fact that individual restaurants may have bad food, are no longer trendy, have poor customer service, etc. Businesses turn over all the time, in ways not related to smoking regulations.
- The only unbiased, accurate means to measure economic impact is to compare sales tax receipts, provided by the state or local taxing agency, for a sufficient period of time before and after a smokefree law is enacted.
- In 2006, Plainfield adopted a smoking ban and has experienced continual growth in profits collected from food and beverage taxes.
- Last year, 92 percent of Hoosiers said they would be more likely or just as likely to patronize business that go smoke free.

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Secondhand smoke isn't really dangerous.

- Secondhand smoke has been found by hundreds of major peer-reviewed studies to be a health hazard, causing heart disease, lung cancer, heart attacks and respiratory illnesses, including asthma. These studies include:
 - Institute of Medicine, 2009
 - Surgeon General's Report, 2006
 - National Cancer Institute, Monograph #10, 1999
 - California Environmental Protection Agency review, 1997
 - Environmental Protection Agency report 1992
 - National Research Council review, 1986
 - Surgeon General's Report, 1986
- The tobacco industry pays for and promotes studies that claim to find no link between secondhand smoke and disease. They also have carefully planned campaigns to attack and refute reputable science, including studies by the Environmental Protection Agency and World Health Organization.
- The Environmental Protection Agency and World Health Organization studies are in full standing despite attacks from the tobacco companies. In addition, there are many other major studies by reputable health authorities, which further conclude that secondhand smoke kills.

We should compromise...

- Smoking remains legal, but not in ways that harm other people. When people smoke in public places they affect the health of everyone around them.
- The only way to protect people from the proven dangers of secondhand smoke is to completely eliminate smoking indoors.
- There is no known safe level of exposure to secondhand smoke.
- Ventilation systems cannot completely eliminate the harmful gases and particulates in secondhand smoke. The only solution for protecting people in a building from the health hazards caused by secondhand smoke exposure is to make the entire indoor area 100% smokefree.
- Ventilation and 'accommodation' policies are tobacco industry tactics designed to make it seem like something is being done to address the problem of secondhand smoke exposure without actually doing anything to protect people's health. Ventilation can only reduce the odor and visible secondhand smoke; even the best ventilation system still leaves employees and patrons exposed to the many carcinogens in secondhand smoke.
- Accommodation tactics such as age-specific or hours-specific provisions, red light/green light (informed consent) provisions, and size exemptions make it appear that the community's smokefree air law will be protecting people but actually continues to expose them to secondhand smoke.

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This is a civil rights and personal liberty issue, not a health issue. What's next — red meat, fast food, and caffeine?

- Like smoking, excessive consumption of red meat, caffeine and fast food can have negative health consequences for an individual, however there is no direct harm to the health of others. Science clearly shows that even brief exposure to secondhand smoke can cause immediate harm to others, particularly among individuals who are at an increased risk for heart disease and stroke.
- Secondhand smoke is a public health issue. Exposure to secondhand smoke is a leading cause of cancer and heart disease in the U.S. People have the right to work in a workplace free from this health hazard.
- Smoking remains a legal activity, but not in ways that harm other people. When people smoke in public places they affect the health of everyone around them.
- Secondhand smoke is a serious and preventable health hazard. No one should have to choose between their health and their job. Everyone has the right to breathe smokefree air.
- Personal liberty has never been understood to allow one person's behavior to damage or risk damage to another.

National Trends

- 23 States plus D.C. have passed comprehensive legislation prohibiting smoking in all public places and work places.
- According to the 2006 Surgeon General's report, if all workplaces in the United States implemented smokefree policies the country would see 1,540 fewer heart attacks, 360 fewer strokes, and would avoid \$49 million in direct medical costs within one year.
- Over 43% of Americans are protected from the dangers of secondhand smoke in public places through state policies, only 8% of Indiana residents are protected.