

BACKGROUND PAPER 95-4

SMOKING STATUTES

Paula Winne, Research Analyst
Research Division
Legislative Counsel Bureau

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SMOKING STATUTES

INTRODUCTION

Public policies that restrict smoking are very controversial. Regulations concerning such restrictions strike a chord with the smoker and nonsmoker alike. The main areas of debate include personal rights, costs of health care for smokers, and healthy workplace conditions.

The number of smoking regulations has increased in both the private and public sector over the past 10 years. The Federal Government regulates smoking in many different areas, and the United States Occupational Safety and Health Administration (OSHA) is holding initial hearings for a ban on smoking in the workplace. In addition, Nevada has adopted its own set of smoking restrictions.

This report will describe Nevada's smoking laws highlighting the latest legislation from the past three legislative sessions. Current public policy in Nevada on the restriction of smoking is also discussed. A brief overview of activities in other states also is included.

THE FEDERAL PERSPECTIVE

Federal Regulations

This section of the paper cites and summarizes various provisions of the *Code of Federal Regulations* (C.F.R.) by which the Federal Government regulates the activity of smoking.

- 49 C.F.R. § 1061.1 prohibits smoking on interstate and passenger-carrying motor vehicles:
 - (a) All motor common carriers of passengers shall prohibit smoking (including the carrying of lit cigars, cigarettes, and pipes) on vehicles transporting passengers in scheduled or special service in interstate commerce.
 - (b) Each carrier shall take such action as is necessary to ensure that smoking by passengers, drivers, and other employees is not permitted. This shall include making appropriate announcements to passengers, the posting of the international no smoking symbol, and the posting of signs in all vehicles transporting passengers in letters in sharp color contrast to the background, and of such size, shape, and color as to be readily legible.

- 28 C.F.R. § 551.160 regulates the purpose and scope of smoking in the Bureau of Prisons:
 - (a) All areas of Bureau of Prisons facilities and vehicles are no smoking areas unless specifically designated as smoking areas by the Chief Executive Officer consistent with the guidelines set forth in this rule.
 - (b) Chief Executive Officers shall limit smoking areas to the minimum possible consistent with effective operations. Smoking is not permitted in the following areas:
 1. Administrative areas and offices;
 2. Auditoriums;
 3. Class and conference rooms;
 4. Corridors and halls;
 5. Dining facilities;
 6. Elevators;
 7. Gymnasiums and exercise rooms;
 8. Institution/government vehicles;
 9. Kitchen and food preparation areas;
 10. Libraries;
 11. Medical/dental care delivery areas;
 12. Rest rooms; and
 13. Storage rooms and warehouses.
- 41 C.F.R. § 101-20.105-3(a) regulates smoking in buildings and facilities controlled by the U.S. General Services Administration (GSA), including leased space and delegated facilities. In recognition of the increased health hazards of passive smoke on the nonsmoker, smoking is to be held to an absolute minimum in areas where there are nonsmokers. However, the needs of smokers are also acknowledged--smoking areas are to be designated within federal buildings where convenient, if they do not negatively impact worker productivity, and do not impinge on the health of those who do not smoke. Agency heads are given the responsibility to determine which areas are to be smoking areas and which areas are to be nonsmoking areas.
- 41 C.F.R. § 101-20.105-3(b) prohibits smoking in the following areas: (1) most general office space; (2) auditoriums, classrooms, and conference rooms; (3) elevators; (4) corridors, lobbies, rest rooms, and stairways; (5) medical care facilities such as medical clinics and units; (6) libraries; and (7) hazardous areas.
- 41 C.F.R. § 101-20.105-3(c) requires that smoking areas be established in cafeterias and in "Designated smoking areas" established by agency heads.

Agencies are responsible for providing adequate ashtrays or receptacles in designated smoking areas. Suitable, uniform signs reading "No Smoking Except in Designated Areas" are to be placed on or near entrance doors of buildings.

Existing federal law bans smoking on domestic, commercial airline flights of 6 hours or less, excluding flights to Alaska or Hawaii. A U.S. House of Representatives proposal, House Bill 4495 (103rd Congress, Second Session, 1994), which would ban smoking on international flights using United States airports, passed the House by a voice vote on October 4, 1994. The measure stalled in the Senate's Committee on Commerce, Science, and Transportation. No action was taken before adjournment. That bill would have extended the prohibition against smoking to the first leg of an international flight departing from a U.S. airport or a final leg of an international flight arriving in the U.S. The prohibition also would have been extended to flights to Alaska and Hawaii.

Taxes

Cigarettes, cigars, pipe tobacco, and smokeless tobacco manufactured in or imported into the U.S. are subject to federal excise taxes under 26 *United States Code* (USC) § 5701 *et seq.* These taxes are assessed by: (1) number and size for cigarettes and cigars; and (2) weight concerning pipe and smokeless tobacco.

Occupational Safety and Health Administration Smoking Proposal

Smoking has been a health issue for many years, but it was the recent identification by the U.S. Environmental Protection Agency (EPA) of secondhand smoke as a health hazard that helped build political pressure for the government to act. In its 1992 report, the EPA concluded that "the widespread exposure to environmental tobacco smoke in the United States presents a serious and substantial health impact." The agency recommended that secondhand smoke be classified as a known human carcinogen, or cancer-causing agent.

From September through December of 1994, OSHA held initial hearings on a proposal that would ban smoking in every workplace in the Nation. The ban would affect bars, factories, offices, and restaurants--anywhere people work. The OSHA workplace smoking proposal is as simple as it is broad. The Federal Government is proposing that all employers either ban smoking or provide a designated smoking area that is enclosed and ventilated directly to the outside. The smoking regulation is part of a government proposal to deal with overall air quality in the workplace, the so-called "sick building syndrome."

The proposal would not apply to private homes or personal cars used for business. Restaurants, bars, and other public accommodations would be able to comply with the law by providing segregated smoking sections--provided they filtered the air rapidly enough to protect employees assigned to those facilities.

According to Joe Dear, the Assistant Secretary of Labor in charge of OSHA, the agency is seeking a zero-exposure level for tobacco smoke. He concedes, however, that the final regulation may well be different from that being proposed.

NEVADA LAWS

The first smoking law that appeared in Nevada was codified in the 1911 Crimes and Punishment Act § 313. This act is now codified as *Nevada Revised Statutes* (NRS) 475.050. This law states:

Every person who lights a pipe, cigar or cigarette in, or who enters with a lighted pipe, cigar or cigarette, any mill or other building on which is posted in a conspicuous place over and near each principal entrance a notice in plain, legible characters stating that no smoking is allowed in such building is guilty of a misdemeanor.

This statute was apparently related to workplace safety issues associated with the possibility of explosives or chemical spills in these facilities.

The provisions of NRS 473.065 appear to be a result of living in an arid, dry state. In this statute (**Senate Bill 165**, Chapter 248, *Statutes of Nevada 1981*), the State Forester Firewarden may prohibit or restrict the smoking of tobacco or other substances in any place other than a motor vehicle or an area cleared of flammable vegetation. This is particularly important within the boundaries of any fire protection district when a danger to public safety or natural resources exists because of conditions which create a high risk of fire.

Most of the remaining provisions associated with smoking appear in Chapter 202 of the NRS, "Crimes Against Public Health and Safety." *Nevada Revised Statutes* 202.2485 through 202.24925 are specific to smoking in public places. A description of the changes to this portion of Nevada law follows:

1975 Legislation

The original provisions within Chapter 202 were established through **Assembly Bill 17** (Chapter 326, *Statutes of Nevada 1975*) which passed during the 1975 Legislative Session. It restricts smoking of tobacco in public places to protect human health and safety. Specifically, smoking is prohibited in elevators, libraries, museums, public buses, rooms in public buildings (while public meetings are in progress), public areas of state buildings, and public areas of any medical or dental office. The measure specifies that separate smoking areas may be provided.

1989 Legislation

In 1989, **Senate Bill 25** (Chapter 705, *Statutes of Nevada 1989*) was passed prohibiting the smoking of tobacco in public buildings, except in designated areas.

This measure requires persons in control of the following areas to post signs prohibiting smoking in any place not designated for that purpose: (1) public areas of a medical facility or health care practitioner's office; (2) a hotel, motel or restaurant, when so designated by the operator; (3) a non-gaming, public area of a grocery store; or (4) a bus, other than a chartered bus. In addition, the person is allowed to designate separate rooms or portions of the area which could be used for smoking.

The person in control of a public building is required to post in the area signs prohibiting smoking in any place not set aside for that purpose. He or she also is required to designate a separate room or an area which could be used for smoking. A school district which prohibits the use of tobacco by pupils is not required to designate a room or area in which students could smoke.

This bill defines "public building" as any building owned by the State of Nevada or any county, city, school district, or other political subdivision of the state and used for any public purpose. The definition also includes any building owned by the University of Nevada System and used for any university purpose.

Additionally, **Assembly Bill 728** (Chapter 409, *Statutes of Nevada 1989*) prohibits smoking in a licensed child care facility caring for 13 or more children. The measure provides for the designation of a room or area as a smoking area, but prohibits the facility operator from allowing children access. Also, the bill provides that the smoking area or room be sufficiently separate or ventilated to prevent the irritating or toxic effects of smoke in other areas of the facility.

1991 Legislation

The 1991 Legislature passed **Senate Bill 313** (Chapter 259, *Statutes of Nevada 1991*). That law revises the restrictions on the smoking of tobacco in certain public places. It requires the county board of health to enforce the smoking restrictions, and it prohibits a local government from imposing more stringent restrictions.

This measure also prohibits smoking in any maintenance facility or office associated with a bus system operated by a regional transportation commission. It clarifies that persons in control of public buildings and certain school districts may designate an area which may be used for smoking, but need not designate a room for smoking. The operator of a restaurant with a seating capacity of 50 or more must maintain a flexible nonsmoking area within the restaurant and offer each patron the opportunity to be seated in either a smoking or a nonsmoking area.

The bill exempts licensed gaming establishments from the smoking prohibitions, but allows them to designate separate smoking or nonsmoking rooms or areas within the establishment. The definition of "public building" was revised to mean any building or office space owned or occupied by state or local government. If only part of a building is owned or occupied, the term only applies to that portion of the building which is so owned or occupied.

Assembly Bill 324 (Chapter 248, *Statutes of Nevada 1991*) added school buses to the list of places where smoking is prohibited. The prohibition applies whether or not children are present.

Assembly Bill 667 (Chapter 359, *Statutes of Nevada 1991*) prohibits an employer from discriminating against a worker or prospective worker who engages in the lawful use of a product outside the employer's premises during the employee's nonworking hours. The prohibition exists as long as the use of the product does not adversely affect workplace safety or the employee's job performance. The bill allows employees to bring a civil suit against employers who practice this form of discrimination.

The bill prohibits so-called employment and preemployment screening for "unhealthy" behaviors, such as use of alcohol or tobacco. Supporters of this bill asserted that employers might use this information to deny health benefits or screen out employees who might be expected to have increased health-related absences.

1993 Legislation

During the 1993 Legislative Session, **Senate Bill 421** (Chapter 651, *Statutes of Nevada 1993*) was passed into law. Senate Bill 421 strengthens the state laws restricting the smoking of tobacco in public places. The measure prohibits the placement of cigarette vending machines in public elevators, public waiting rooms of medical facilities or medical professionals' offices, stores that sell food, child care facilities, and buses, if minors are permitted access to these areas.

A violation of the provision restricting smoking is deemed a misdemeanor. In addition to the criminal penalty, a civil penalty of \$100 per violation is authorized. The money collected must be placed in an account which may be used only for health educational programs to minors.

The bill requires state and district health officers to enforce the civil penalty provisions. These officers and other peace officers are charged with enforcing the provision in general.

Taxes

Nevada's cigarette excise tax rate is 35 cents per pack. The amount was last changed, effective July 1, 1989, from 20 to 35 cents. The excise tax rate on smokeless chewing tobacco and snuff is 30 percent of the wholesale price.

Statutes that define the tax on tobacco in Nevada can be found in Chapter 370 of NRS. Licenses and taxes on cigarettes are dealt with in NRS 370.080 through 370.345. *Nevada Revised Statutes* 370.440 through 370.503 relate to other products made from tobacco, such as smokeless chewing tobacco.

Other Activities

Both the private and public sectors have been active with regard to smoking restrictions. In Las Vegas, the Boulevard Mall initiated a policy of smoking in seven designated areas. As of January 1994, customers were no longer able to smoke as they walked from store to store in the common area. On November 19, 1994, the Belz Factory Outlet World, an indoor mall located at the south end of Las Vegas Boulevard, opened with a no smoking policy. Smoking is no longer permitted inside the Thomas & Mack Center nor at seats at Cashman Field Center in Las Vegas.

United Smokers Association, a Las Vegas based group with more than 200,000 members nationwide, succeeded in getting nonsmoking policies overturned in national corporations such as Wal-Mart and Carl's Jr. The association works to let the public know the importance of smokers' rights.

The Lawlor Events Center, on the University of Nevada, Reno (UNR) campus, has a no smoking policy in its arena, offices, meeting and rest rooms. Smoking is only allowed in designated areas in hallways and on the concourse. Mackay Stadium at UNR does not allow smoking in seating areas.

In April 1994, a proposed university policy aimed at reducing health risks from secondhand smoke was introduced and unanimously approved by the UNR Faculty Senate. The resolution calls for smoking to be banned in all university buildings and within 25 feet of entrances. In some buildings smoking is banned, while others have designated areas. The resolution was forwarded to Dr. Joseph Crowley, President of UNR, and, as of December 1994, is still in the draft stage.

OVERVIEW OF SELECTED LAWS IN OTHER STATES

More than 40 states and the District of Columbia already have enacted some form of legislation to restrict smoking in public. Eleven states have restricted smoking in the workplace.

In Maryland, a workplace is defined as indoor places of employment, including: bars, classrooms, hallways, hotels and motels, meeting and conference rooms, offices, and restaurants. Excluded from this regulation are: smoking for the purposes of scientific research, tobacco stores, and vehicles occupied by only one person.

In Washington, restrictions apply to workplaces defined to include any indoor enclosed area, where one or more persons are employed. In food and beverage establishments, as well as production and manufacturing facilities, this regulation applies only to office areas.

Those states restricting smoking in the workplace are:

Public Only

California

Kentucky

Louisiana

Minnesota

Montana

North Carolina

Utah

Vermont

Public and Private

Maryland

Rhode Island

Washington

Arizona

In 1993, legislation was enacted to establish a task force to develop a plan to reduce youth access to tobacco. The task force presented its plan to the governor in September 1993.

During the November 1994 election, the voters approved an increase in the excise tax on a pack of cigarettes by 40 cents per pack, devoting a portion of the revenues to developing tobacco education and research programs. The tax in Arizona is now 58 cents per pack, the third-highest rate in the Nation--behind Michigan at 75 cents and Hawaii at 60 cents.

California

California's 1993 legislation included prohibiting smoking in buildings owned or leased by the state and banning the practice within 5 feet of the exits or entrances of state buildings. Legislation also prohibited smoking in licensed day care centers and in areas where children are present in private residences during the hours they operate

as licensed day care centers. California increased its tobacco excise tax by 2 cents per pack on cigarettes, to 37 cents per pack, and designated the proceeds from this increase to go toward a breast cancer fund.

In 1994, California enacted legislation prohibiting smoking in enclosed places of employment, except for designated break rooms which are separately ventilated and located in areas where nonsmokers are not required to enter. Exemptions to this law include tobacco shops, 65 percent of hotel and motel rooms, meeting and banquet rooms, cabs of motortrucks, warehouse facilities, and private homes not being used as day care centers. Smoking is permitted in bars and taverns until January 1, 1997, or unless the Occupational Safety and Health Standards Board or the federal EPA adopts regulations concerning employee exposure to smoke. In the November 1994 election, voters defeated Proposition No. 188, a ballot initiative sponsored by the tobacco industry. This initiative would have overthrown the new statewide law enacted in 1994 restricting smoking in public places as well as all local tobacco legislation.

Florida

Smoking is restricted to designated areas in arenas, auditoria, common areas of retirement homes and condominiums, courtrooms, grocery stores, libraries, museums, public meeting rooms, recreational facilities, retail stores, and theaters. Smoking is banned entirely in aiseways, conference rooms, corridors, elevators, entryways, hallways, jury waiting and deliberation rooms, lobbies, public mass transit vehicles, rest rooms, stairwells, and water fountain areas. Smoking is restricted to designated areas in buildings, or portions of buildings, owned or leased by the state or any political subdivision and used for governmental purposes. All employees are required to develop and post a workplace smoking policy, designating smoking and no smoking areas in private workplaces.

Smoking is banned entirely in schools and other educational facilities, on school buses, and at day care centers. Smoking also is restricted to designated areas in restaurants seating 50 persons or more.

In 1994, Florida allowed state agencies to sue third parties on behalf of Medicaid patients. The state can, therefore, sue tobacco companies to recover money paid for treatment of Medicaid patients with tobacco-related diseases.

Florida's tobacco excise tax on a pack of cigarettes was raised from 24 to 33.9 cents, effective July 1, 1990. The smokeless tobacco excise tax for chewing tobacco and snuff is 25 percent of the wholesale price.

Michigan

In 1993, Michigan prohibited the use of tobacco products in public school buildings and on public school grounds. The statute does not apply to exterior grounds on weekends, days when classes are not scheduled, or after 6 p.m. on regular school days. The state also required restaurants seating more than 50 persons to designate at least 50 percent of seating as nonsmoking. Michigan banned smoking in day care centers located in school buildings and made a smoking ban a licensing requirement for child care centers and group and family day care homes.

During Michigan's 1994 Legislative Session, legislators increased the cigarette excise tax by 50 cents, from 25 cents to 75 cents, and instituted a smokeless tobacco tax of 16 percent of the wholesale price. This measure was part of a referendum which included numerous tax changes to fund public education in the state.

CONCLUSION

The Federal Government regulates smoking on interstate and passenger-carrying motor vehicles and on domestic airline flights, as well as in buildings and facilities controlled by the Bureau of Prisons and GSA. From September through December of 1994, OSHA held hearings on a proposal that imposes a virtual ban on smoking in every workplace in the country. This ban, if passed, would take approximately 10 years to implement.

As is the case in other states, Nevada law contains a number of provisions that restrict smoking. Smoking is prohibited, except in designated smoking areas, in selected public areas, in most public transportation, and in public buildings. Specifically, smoking is restricted in Nevada to designated areas in any: (1) office space owned or occupied by the state or a political subdivision; (2) building or office space owned or occupied by a county school district, or the University and Community College System of Nevada; (3) day care facilities; and (4) public hallways, waiting rooms, and cafeterias in medical facilities and offices of health care professionals.

More than 40 states and the District of Columbia already have enacted some form of legislation to restrict smoking in public. Eleven states have restricted smoking in the workplace, both public only, and public and private.

The social and health issues associated with smoking have evolved over the years. Current legislative efforts at both the federal and state level reflect these changes and demonstrate that the process is still evolving.

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APPENDIX A

**STATE LEGISLATED ACTIONS ON TOBACCO ISSUES
AT-A-GLANCE**

Coalition on Smoking OR Health
December 1994

Coalition on Smoking OR Health

STATE LEGISLATED ACTIONS ON TOBACCO ISSUES AT-A-GLANCE

| STATE | RESTRICTIONS ON SMOKING IN PUBLIC PLACES | CIGARETTE EXCISE TAX (cents/pack) | SMOKELESS TOBACCO EXCISE TAX (% of wholesale sales price) | SALES TO MINORS (age) | SAMPLE DISTRIBUTION (restrictions) | VENDING MACHINES (restrictions) |
|-------------|--|---|---|-----------------------------|--|---------------------------------------|
| Alabama | none | 16.5 | 1/2¢/oz. | 19 | none | none |
| Alaska | moderate | 29 | 25 | 19 | none | exten. |
| Arizona | minimal | 58 | 6.5¢/oz. | 18 | none | none |
| Arkansas | minimal | 31.5 | 23 ¹ | 18 | restr. | moder. |
| California | comp. | 37 | 26.82 | 18* | ban | none |
| Colorado | moderate | 20 | 20 ¹ | 18 | none | minima |
| Connecticut | moderate* | 50 | 20 | 18 | none | minima |
| Delaware | minimal | 24 | 15 | 18 | none | none |
| Florida | moderate* | 33.9 | 25 | 18 | minors | minima |
| Georgia | minimal | 12 | none | 18 | restr. | minima |
| Hawaii | extensive | 60 | 40 | 18 | none | exten. |
| Idaho | moderate | 28 | 35 | 18 | none | none |
| Illinois | moderate* | 44 | 20 | 18 | minors | none |
| Indiana | minimal | 15.5 | 15 | 18 | minors | minima |
| Iowa | moderate* | 36 | 22 | 18 | restr.* | minima |
| Kansas | moderate | 24 | 10 | 18 | minors | none |
| Kentucky | minimal* | 3 | none | 18 | minors* | minima |
| Louisiana | moderate* | 20 | none | 18 | minors | none |
| Maine | moderate | 37 | 50 | 18 | minors | minima |
| Maryland | moderate | 36 | none | 18 | none | none |
| Mass. | moderate | 51 | 50 | 18 | none | none |
| Michigan | extensive | 75 | 16 | 18 | none | moderat |
| Minnesota | extensive | 48 | 35 | 18 | ban | moderat |
| Mississippi | none | 18 | 15 ¹ | 18 | minors* | minima |
| Missouri | moderate | 17 | 10 ¹ | 18 | minors | none |
| Montana | minimal | 18 | 13.38 | 18* | minors* | minimal |
| Nebraska | moderate | 34 | 15 | 18 | ban ¹ | moderat |
| Nevada | moderate* | 35 | 30 | 18 | none | minimal |
| N.H. | extensive | 25 | 20.1 | 18 | minors | none |
| New Jersey | moderate* | 40 | 24 | 18 | none | none |

| STATE | RESTRICTIONS ON SMOKING IN PUBLIC PLACES | CIGARETTE EXCISE TAX (cents/ pack) | SMOKELESS TOBACCO EXCISE TAX (% of wholesale sales price) | SALES TO MINORS (see) | SAMPLE DISTRIBUTION (restrictions) | VENDING MACHINES (restrictions) |
|--------------|--|--|---|-----------------------------|--|---------------------------------------|
| New Mexico | minimal | 21 | 25 | 18* | minors* | mod.* |
| New York | extensive | 56 | 20 | 18 | restr.* | moderate |
| N. Carolina | minimal* | 5 | 2 | 18 | none | none |
| N. Dakota | moderate* | 44 | 28 | 18 | none | none |
| Ohio | moderate | 24 | 17 | 18 | none | minimal |
| Oklahoma | moderate* | 23 | 30 | 18 | minors* | minimal* |
| Oregon | moderate | 38 | 35 | 18 | minors | mod.* |
| Pennsylvania | minimal* | 31 | none | 21 ³ | none | none |
| Rhode Island | moderate | 56 | 20 | 18 | minors | none |
| S. Carolina | minimal | 7 | 36 | 18 | none | none |
| S. Dakota | moderate | 23 | none | 18 | restr.* | minimal* |
| Tennessee | minimal | 13 | 6 | 18 | restr.* | minimal* |
| Texas | minimal | 41 | 35.21 ¹ | 18 | none | none |
| Utah | comp. | 26.5 | 35 ¹ | 19 | ban | exten. |
| Vermont | comp. | 21 | 20 ² | 18 | none | moderate |
| Virginia | moderate* | 2.5 | none | 18 | none | none |
| Washington | extensive | 56.5 | 74.9 | 18 | restr.* | mod.* |
| West Va. | minimal | 17 | none | 18 | none | none |
| Wisconsin | extensive | 38 | 20 | 18 | minors | minimal* |
| Wyoming | minimal | 12 | none | 18 | none | moderate |

NOTES:

- 1 $\frac{1}{2}$ of manufacturer's sales price
- 2 $\frac{1}{2}$ of distributor's price
- 3 21 for cigarettes and cigarette papers; 18 for other tobacco products
- 4 smokeless tobacco only

Comp. (comprehensive) is highest rating

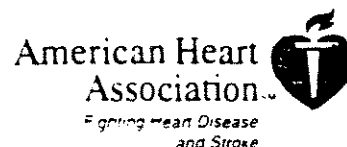
* preempts powers of localities to pass stronger ordinances

December 1994

APPENDIX B

STATE LEGISLATION ENACTED IN 1994

Coalition on Smoking OR Health
December 1994



Coalition on Smoking OR Health

STATE LEGISLATION ENACTED IN 1994

ALABAMA

Permitted county licensing and tax officials to levy a penalty on persons possessing untaxed tobacco products.

CALIFORNIA

Prohibited smoking in enclosed places of employment, except for in designated breakrooms which are separately ventilated and located in areas where nonsmokers are not required to enter. Exemptions to this law include tobacco shops, 65% of hotel and motel rooms, meeting and banquet rooms, cabs of motortrucks, warehouse facilities, and private homes not being used as day care centers. Smoking is permitted in bars and taverns until the earlier of January 1, 1997 or the date the Occupational Safety and Health Standards Board or the federal Environmental Protection Agency (EPA) adopts a regulation reducing the level of employee exposure to smoke to one that will permit only insignificantly harmful effects to exposed employees.

Required the Department of Health Services to conduct compliance checks of tobacco retailers to enforce sales to minors law. Funded through SAMHSA block grant and moneys collected from civil penalties in enforcement of the act. Guidelines on use of minors include immediate notification to retailer if sale to minor is made; a photograph of the minor shall be taken prior to inspections for purposes of verifying appearances and minors must be under surveillance of DHS inspectors. Penalties run from \$200-\$300 fine for first violation to \$5,000-\$6,000 fine for fifth and subsequent violations within five years. Civil penalties imposed shall be enforced against the owner or owners of the retail business and not the employees of the business.

COLORADO

Prohibited smoking in all public nursery schools, day care centers, child care facilities, head start programs, kindergartens, and elementary or secondary schools, and on the surrounding property of these areas. Each local Board of Education is responsible for developing a policy to comply with this law.

Restricted smoking to designated areas in most state buildings; the Legislative Council will establish a smoking policy for office space within legislative buildings.

DELAWARE

Prohibited smoking in elevators, courtrooms, jury rooms, gymnasiums, public meetings, and day care centers, and restricted smoking to designated areas in schools, theaters, museums, and food service establishments that seat more than 50 people. Employers are required to adopt written smoking policies that must provide nonsmoking areas and that may provide smoking areas. This law preempts any local ordinances passed after the law is adopted.

FLORIDA

Allowed state agencies to sue third parties on behalf of Medicaid patients. The state can, therefore, sue tobacco companies to recover money paid for treatment of medicaid patients with tobacco-related diseases.

GEORGIA

Prohibited smoking in day care centers, group day care homes, or family day care homes during hours of operation.

HAWAII

Assessed a cigarette excise tax on the possession of cigarettes by wholesalers and dealers.

IDAHO

Increased the cigarette excise tax by 10 cents to 28 cents per pack, effective July 1, 1994. The revenues from this increase will be used for drug education in public schools.

Amended the state youth access law to provide misdemeanor penalties to persons who sell tobacco products to individuals under the age of 18, or to individuals younger than 18 years of age who buy, accept, or possess such products.

KANSAS

Prohibited smoking in any enclosed area of a day care home, a group day care home, or a family day care home during the hours when children are being cared for.

KENTUCKY

Required accessible indoor smoking areas in any state, county, or municipal government building that adopts a smoking policy. Smoking policies must favor allowing smoking in open public areas where ventilation and air exchange are adequate, unless the fire marshall has placed restrictions on smoking in these areas. This law preempts any subsequently enacted local law or ordinance.

Prohibited individuals under 18 years of age from purchasing tobacco products through vending machines, required such machines to be in the line of sight of a cashier, unless they are located in factories, bars, or taverns, and prohibited the distribution of sample tobacco products to individuals younger than eighteen. The Department of Agriculture shall conduct random annual inspections to ensure compliance with these laws. This law preempts any subsequently enacted local law or ordinance.

LOUISIANA

Prohibited smoking in any elementary, secondary school building and restricted smoking to designated areas on the grounds of such schools.

Required signs on tobacco vending machines stating sales are prohibited to minors, made it unlawful for minors to purchase tobacco products, and mandated random inspections of tobacco retailers to ensure tobacco products are not being sold to minors. This law preempts local laws regulating the sale, promotion, or distribution of tobacco products.

MARYLAND

The Commissioner of Labor and Industry issued regulations to ban smoking in the workplace, unless it is done in a designated, separately ventilated room. Workplaces are defined as indoor places of employment, including offices, restaurants, bars, hotels and motels, classrooms, hallways, and meeting and conference rooms. Excluded from this regulation are tobacco stores, a vehicle occupied by only one person, smoking for the purposes of scientific research.

Prohibited the use or possession of tobacco products by persons under the age of 18, and the distribution of tobacco products and coupons redeemable for tobacco products to these individuals.

Revised the state licensing law for tobacco manufacturers and storage warehouses.

MASSACHUSETTS

Gave the state Attorney General the power to sue cigarette companies to recover Medicaid costs spent on smoking-related illnesses.

MICHIGAN

Increased the cigarette excise tax by 50 cents -- from 25 cents to 75 cents -- and instituted a smokeless tobacco tax of 16 percent of the wholesale price. This measure was part of a referendum which included numerous tax changes to fund public education in the state.

MINNESOTA

Restricted smoking to designated areas in the common areas of rental apartment buildings.

MISSISSIPPI

Made it illegal for individuals under 18 years of age to purchase or receive tobacco products, restricted tobacco vending machines to areas not accessible to people under the age of 18, factories or offices not open to the public, or areas in plain view of an employee. The law also prohibited the sale of single cigarettes and the distribution of tobacco product samples to minors. Local ordinances concerning the use, sale, promotion, or distribution of tobacco products are preempted by this law.

NEW YORK

Prohibited smoking in and on the grounds of public and private nursery schools, pre-schools, and elementary and secondary schools. The law also banned smoking in day care centers and other facilities that provide children's services, and in zoos.

Banned the distribution of single cigarettes.

OKLAHOMA

Prohibited the purchase of tobacco products by persons younger than 18, banned the sale of single cigarettes, restricted the placement of tobacco product vending machines, prohibited the distribution of tobacco product samples to persons under 18 years of age, and barred sample distribution in areas within 300 feet of playgrounds, schools, or other facilities used primarily by persons these persons. Localities are preempted from enacting laws governing the sale,

purchase, distribution, advertising, sampling, promotion, display, possession, licensing, or taxation of tobacco products.

Restricted smoking to designated areas in nursing homes, and to separately ventilated designated areas in schools. Permitted restaurants to have designated smoking and nonsmoking areas, or to allow or ban smoking throughout the entire restaurant.

RHODE ISLAND

Increased the excise tax on cigarettes by 12 cents per pack. The state cigarette excise tax is now 50 cents per pack.

Repealed the provision in the state workplace smoking law that exempted employers with 30 or less employees from the provisions of this law. The law now applies to all employers.

Amended the state workplace smoking law to require employers to develop a smoking policy that protects the health of nonsmoking employees and ensures a comfortable environment for all workers. If such an accommodation cannot be made in areas frequented by nonsmokers, then smoking must be banned entirely in those areas.

Restricted smoking to designated areas in universities, including dormitories.

SOUTH CAROLINA

Restricted smoking to designated areas in licensed child care facilities.

SOUTH DAKOTA

Restricted smoking to designated areas in day care centers, day care cooperatives, and in family day care homes in which children who are not family members are receiving child care services.

Prohibited purchase of tobacco products by persons under 18 years of age, restricted the placement of tobacco vending machines, and outlawed distribution of free tobacco product samples within 500 feet of a playground, school, or other facility used primarily by minors. This law preempts local laws concerning youth access to tobacco products.

TENNESSEE

Made it unlawful for those younger than 18 to purchase tobacco products, restricted the placement of tobacco vending machines, banned the sale of single cigarettes, and outlawed distribution of free tobacco product samples within 500 feet of a facility used primarily by minors. This law preempts any local laws concerning the regulation of tobacco products, except for regulations concerning smoking in local government buildings.

UTAH

Prohibited smoking in public places, including public workplaces, restaurants, public and private schools, bowling centers, and truck stops. Excluded from this law are bars, taverns, private clubs, and separately ventilated smoking areas in the Salt Lake City International Airport. Private workplaces may have unenclosed smoking areas if 3/4 of the employees agree and the

layout the workplace prevents smoke in the work areas of non-smoking employees. This law will go into effect January 1, 1995. This law preempts local ordinances that are not essentially identical to the law.

Authorized peace officers to use underage persons to attempt to purchase alcohol or tobacco products. Such officers must directly witness the attempted purchase and, if the purchase is successful, must immediately inform the cashier that the sale was illegal.

VIRGINIA

Prohibited distribution of tobacco products to individuals under 18 years of age.

Banned smoking in public elementary, intermediate, and secondary schools during school hours. Local school divisions may designate smoking areas after school hours if all student activities in the building have been concluded.

Required reasonable nonsmoking areas to be established in recreational facilities of 15,000 square feet or more, including stadiums, arenas, skating rinks, video game facilities, or senior citizen recreational areas.

WASHINGTON

Issued an Administrative Regulation banning smoking in all workplaces, or restricting it to a designated, separately ventilated room. Workplaces include any indoor enclosed area, employing one or more person. In food and beverage establishments, and production and manufacturing facilities, this regulation applies only to office areas. The regulation is effective October 8, 1994. (Enactment was initially slated for September 1, 1994 but was delayed by a court injunction by the tobacco industry and other plaintiffs. State court rejected the preliminary challenge saying regulators had the authority to create the ban.)

Amended the requirement that tobacco vending machines must be located not less than 10 feet from exits or entrances to allow exceptions in certain cases.

WEST VIRGINIA

Required annual, random, unannounced inspections at locations where tobacco products are sold to ensure enforcement of laws that prevent the sale of tobacco products to persons under the age of eighteen. Individuals younger than 18 years of age may be used to check compliance with this law, but only under the direct supervision of the sheriff or the chief of police.

WISCONSIN

Prohibited smoking entirely on the premises, either indoors or outdoors, of a day care center during the time that children are present and receiving child care services.

Prohibited the sale of cigarettes if they are not in a package or container on which a stamp is affixed.