

2010 KY Public Health Association Position Statement

Building Support for a Statewide Smoke-free Law through Local Action

The Kentucky Public Health Association (KPHA) advocates building support for a statewide smoke-free law in Kentucky through local action. In 2004, the Kentucky Supreme Court upheld the Lexington's 2003 smoke-free law citing, "Among the police powers of the government, the power to promote and safeguard public health ranks at the top..... The real issue is whether the public health regulation [Lexington's smoke-free law] is reasonable..... In this case we must conclude that it is."¹ Many communities followed Lexington's lead, and as of September 2009, 24 communities in Kentucky are smoke-free. Fourteen Kentucky communities have comprehensive smoke-free workplace ordinances or Board of Health regulations with 30 percent of Kentucky's population protected in all workplaces and enclosed public places.

The need for smoke-free laws or regulations in Kentucky is apparent since only 25 percent of Kentuckians smoke², yet 70 percent of citizens are exposed to secondhand smoke. Secondhand smoke contains at least 240 toxic chemicals and causes 53,000 deaths among nonsmokers every year.³ Employees in the hospitality industry such as servers and bartenders are disproportionately affected by secondhand smoke on the job.

Examples from states with smoke-free laws illustrate the importance of building local demand prior to introducing legislation at the state level. Tennessee's and Virginia's laws leave many citizens unprotected because of significant exemptions. Ohio's law faced enforcement problems when they enacted a state law before building demand through local action. States that value local action, such as West Virginia and South Carolina, have successfully adopted and enforced many strong smoke-free workplace regulations or ordinances at the local level. Kentucky has been building support for a comprehensive smoke-free law by working with local governments to enact strong smoke-free ordinances and with Boards of Health to adopt strong smoke-free regulations.

As in Ohio, Tennessee, and Virginia, there is a risk that a state law may be weak and/or enacted prematurely. While local smoke-free laws or regulations in 14 Kentucky communities are comprehensive, a push for a state smoke-free law prior to obtaining ample support at the local level across the Commonwealth may lead to a weak preemptive law that might override strong local laws. The American Medical Association opposes preemptive smoke-free laws on these grounds.⁴ A preemptive law would reverse progress toward protecting all Kentucky workers and residents from the dangers of secondhand smoke. Regardless of whether a statewide law is explicitly preemptive, the political will to go further at the local level is often thwarted when states enact a less than comprehensive statewide smoke-free law (i.e., Georgia).

For these reasons, the Kentucky Public Health Association (KPHA) supports building local support for a statewide smoke-free law in Kentucky by continuing to advocate for local *comprehensive* smoke-free workplace ordinances or Board of Health regulations. Building demand for a comprehensive statewide smoke-free law one community at a time ensures that all workers and residents will eventually be protected by a strong smoke-free workplace law at the state level. KPHA opposes any preemptive state legislation that would strip local communities of their ability to protect their citizens from the dangers of secondhand smoke.

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¹ Lexington-Fayette County Food and Beverage Association Vs Lexington-Fayette Urban County Government et al, (Supreme Court of Kentucky 2004).

²Centers for Disease Control and Prevention (2008). "Behavioral Risk Factor Surveillance System (BRFSS), 2008: Prevalence and Trends Data Nationwide (States and DC) - 2008 Tobacco Use." Retrieved June 26, 2009, from <http://apps.nccd.cdc.gov/BRFSS/display.asp?cat=TU&yr=2008&qkey=4396&state=UB>

³ 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.

⁴ Hobart, R. *Preemption: Taking the local out of tobacco control*: American Medical Association; Chicago, IL. 2003.