

**Senate Bill 05-207: Colorado Clean Indoor Air Act**  
**Bill Analysis**

For the Health District of Northern Larimer County Board of Directors  
March 30, 2005

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**Bill Title:** Colorado Clean Indoor Air Act

**Sponsors:** Grossman, Isgar, Larson, Lindstrom

**Committees:** State Veterans and Military Affairs

**History:** Introduced in the Senate on March 29, 2005

**Date of Analysis:** March 30, 2005

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**Background:**

Secondhand smoke is a mixture of the smoke given off by the burning end of a tobacco product (sidestream smoke) and the smoke exhaled by the smoker (mainstream smoke).<sup>i</sup> According to the National Cancer Institute, secondhand smoke contains an estimated 4,000 chemicals and more than 60 chemicals that have been classified as carcinogens, including formaldehyde, cyanide, arsenic, carbon monoxide, methane, benzene, and radioactive polonium-210.<sup>ii</sup> The U.S. Environmental Protection Agency (EPA) has classified secondhand smoke as a "Class A" carcinogen.<sup>iii</sup>

The threat to human health resulting from secondhand smoke exposure is known. Secondhand smoke causes an estimated 53,000 deaths annually in the United States, including<sup>iv</sup>:

- 3,000 lung cancer deaths.
- 2,000 SIDS deaths (Sudden Infant Death Syndrome).
- 35,000 deaths from coronary heart disease.

*Adults*

1. Of the 3,000 fatal, adult lung cancer deaths attributed to secondhand smoke each year, an estimated 800 are exposed at home and 2,200 are exposed at work or in social situations.<sup>v</sup>
2. A nonsmoker's risk of lung cancer and heart disease increases 20-30 percent when exposed to long-term to secondhand smoke.<sup>vi</sup>
3. Workers exposed to secondhand smoke on the job are 34% more likely to get lung cancer.<sup>vii</sup>
4. The workplace is the primary source of secondhand smoke exposure for adult nonsmokers in the United States.<sup>viii</sup>
5. Food service workers rank last among Census Bureau's list of major occupation groups in terms of worksite smoking policy coverage. More than half of the nation's food service workers are at risk from exposure to job-related secondhand smoke.<sup>ix</sup>
6. Levels of secondhand smoke in restaurants are approximately 160% to 200% higher than in office workplaces.<sup>x</sup>
7. Levels of secondhand smoke in bars are 400% to 600% higher than in office workplaces.<sup>xi</sup>

*Children*

1. Exposure to secondhand smoke is associated with an increased risk for sudden infant death syndrome (SIDS), asthma, bronchitis, pneumonia, and ear infections in young children.<sup>xii</sup>
2. Each year, secondhand smoke is associated with an estimated 8,000-26,000 new asthma cases in children.<sup>xiii</sup>

*Children (cont.)*

3. Annually, an estimated 150,000-300,000 new cases of bronchitis and pneumonia in children are associated with secondhand smoke exposure in the United States.<sup>xiv</sup>

*Best Practices in Comprehensive Tobacco Control*

According to the U.S. Surgeon General, secondhand smoke exposure remains a common public health hazard that is entirely preventable.<sup>xv</sup> Interventions to reduce secondhand smoke exposure include the establishment of smoke-free areas in workplaces, public areas and in the home.

- With respect to eliminating nonsmokers' exposure to secondhand smoke, smoke-free policies are the most effective method for reducing secondhand smoke exposure.<sup>xvi</sup>
- The Taskforce on Community Preventive Services **strongly recommends** policies, regulations, and laws that limit smoking in workplaces and in public areas.<sup>xvii</sup>

*The International Perspective*

Ireland is the first country in the world to ban smoking in all workplaces, including bars and restaurants. On January 10, 2005 a ban on smoking in all public places such as bars, restaurants, discotheques and offices went into effect in Italy. The Swedish Government has announced its intention to introduce a law to ban smoking in all restaurants and bars effective July 1, 2005 and the Finnish government is preparing amendments to smoking legislation aimed at curbing smoking in restaurants and to prevent employees being exposed to ambient tobacco smoke. This new tobacco law should come into effect in summer 2006.

*Smoke-free States*

In 2004, state and local smoke-free workplace laws were enacted throughout the country. In the Northeast, Massachusetts and Rhode Island passed comprehensive smoke-free air laws prohibiting smoking in workplaces including restaurants and bars. Idaho became the first state in the Rocky Mountain region to go smoke-free, prohibiting smoking in most workplaces. Under a bill endorsed by the Montana House of Representatives, a statewide smoking ban in businesses and public places would be phased in starting in July. In addition, Florida, South Dakota and Utah have, to varying degrees, prohibited smoking in workplaces and restaurants. The list of smoke-free states that prohibit smoking in **all** workplaces including bars and restaurants by the end of 2004 is at six.<sup>xviii</sup>

State	Effective
California	1995
Connecticut	2003
Delaware	2002
Maine	2004
Massachusetts	2004
New York	2003

(Source: American Lung Association-2004)

*The Colorado Experience*

In Colorado 46 counties and/or municipalities have, to some extent, attempted to regulate secondhand smoke exposure through local ordinances. Of these counties and/or municipalities eight, including the City of Fort Collins, are comprehensive and prohibit smoking in the workplace, bars, restaurants and most indoor public spaces as is proposed by the Colorado Clean Indoor Air Act.

<b>Municipality/County</b>	<b>Date</b>
Boulder County	2004
Broomfield City and County	2004
Dillon	2004
Fort Collins	2003
Greeley	2003
Louisville	2002
Pueblo	2002
Snowmass Village	2001

(Source: GASP of Colorado: Ordinance Index)

### *The Fort Collins Experience*

In 2003 the City of Fort Collins went smoke-free. Currently smoking is prohibited in bars, restaurants and in most indoor public spaces. There are few differences between the major pieces of the proposed Colorado Clean Indoor Air Act and the major pieces of the smoke-free Fort Collins ordinance.

	<b>Smoke-free Fort Collins</b>	<b>Colorado Clean Indoor Air Act</b>
<b>Workplace</b>	Employers are responsible for providing smoke-free work areas for all employees, retaliation prohibited	Same
<b>Restaurants</b>	Smoking prohibited	Smoking prohibited
<b>Bars</b>	Smoking prohibited	Smoking prohibited
<b>Public Places</b>	Smoking prohibited	Smoking prohibited
<b>20 ft. Perimeter</b>	Yes	No
<b>Private Club Exemption</b>	Yes	No
<b>Separately ventilated and designated areas that take up no more than 50% of the bingo facility or bar area square footage.</b>	Yes	No

### *State Law vs. Local Ordinance*

According to the literature on the role of public policy change on tobacco control, local jurisdictions have been the innovators of and testing grounds for the development of effective tobacco control polices. So far:<sup>xix</sup>

- The local level is where the strongest and most comprehensive tobacco control policies have typically been enacted, and is where the greatest progress has been made.
- Local legislation remains far easier to pass than state or federal tobacco control legislation.
- Local ordinances are almost always stronger and more comprehensive than their corresponding state laws.

States also have a role to play in protecting the health and wellness of the state citizenry through smoke-free law.

- State governments have a history of enacting law as a means of mitigating threats to public health. The Colorado General Assembly has a history of intervening on behalf of public health as evidenced by Title 25 of the Colorado Revised Statutes.
- Despite continued high levels of support for restrictions on smoking in enclosed places, local clean indoor air ordinance development has fallen off sharply.<sup>xx</sup>

- Although only six states have enacted law prohibiting smoking in all workplaces including bars and restaurants, the Surgeon General notes that as of December 31, 1999 smoke-free indoor air to some degree or in some public places was required by 45 states and the District of Columbia.<sup>xxi</sup>

### **Overview**

SB05-207, also known as the Colorado Clean Indoor Air Act, will:

- Prohibit smoking in any indoor area in the state including but not limited to:
  1. Public meetings
  2. Government owned or operated means of mass transportation
  3. Taxicabs and limousines
  4. Grocery stores
  5. Jury waiting and deliberation rooms
  6. Court rooms
  7. Child day care facilities
  8. Health care facilities including hospitals, health care clinics, doctor's offices
  9. Restrooms, lobbies, reception areas, hallways and other common-use areas
  10. Lobbies, hallways and other common areas in apartment buildings, condominiums and other multiple unit residential facilities.
  11. Lobbies, hallways and other common areas in hotels and motels and in no less than 75% of the sleeping quarters within a hotel or motel that are rented to guests.
  12. The common area of retirement faculties and nursing homes.
  13. Public buildings
  14. Auditoriums
  15. Theatres
  16. Museums
  17. Libraries
  18. Public and nonpublic schools and other educational and vocational institutions.
  19. Pool halls
  20. Limited gaming facilities
  21. Indoor sports arenas
  22. Bowling alleys
  23. Bars and restaurants
  24. Elevators
- Require employers (any person, partnership, association, corporation or nonprofit entity that employs four or more persons) to provide a smoke-free work area for every employee requesting not to have to breathe secondhand smoke.
- Require that no local regulation be less stringent than the act if it is signed into law.

### *Exemptions*

The legislation states that the following entities are exempt from the bill's smoking restrictions:

1. Private homes and residences.
2. Automobiles
3. Limousines under private hire.
4. A hotel or motel rented to one ore more guests if the total percent of the hotel or motel rooms in the hotel or motel do not exceed 25%.
5. Any retail tobacco business.
6. The outdoor area of any business.

## *Enforcement*

SB05-000 makes any violation of the act a class 2 petty offense punishable by:

- A fine not to exceed \$200.00 for a first violation within a calendar year.
- A fine not to exceed \$300.000 for a second violation within a calendar year.
- A fine not to exceed \$500.00 for a third violation within a calendar year.

As introduced in the Colorado General Assembly, the legislation also makes it unfair employment practice, unfair housing practice and discriminatory practice for a place of public accommodation to retaliate against any person or discharge any employee for requesting enforcement of the act or otherwise reporting a violation (**note: amendments to SB05-207 occurring on April 11, 2005 has resulted in the removal of these provisions from the legislation**).

### **Why is this issue important?**

In Colorado:

1. Costs attributable to secondhand smoke are estimated to be \$180 million for direct medical expenditures.
2. Costs attributable to secondhand smoke exposure and loss of life in Colorado are \$19 million.<sup>xxii</sup>

### **Potential reasons stated for supporting this bill:**

- According to the *Task Force on Community Preventive Services* and the *Guide to Community Preventive Services*, there is strong scientific evidence that smoking bans and restrictions reduce exposure to secondhand smoke in the workplace.<sup>xxiii</sup>
- Smoke-free laws help the seven out of every ten smokers who want to quit smoking by providing them with public environments free from any pressure or temptation to smoke.<sup>xxiv</sup>
- A 2003 study in the journal *Tobacco Control* offered a comprehensive review of all available studies on the economic impact of smoke-free workplace laws and concluded that: "All of the best designed studies report no impact or a positive impact of smoke-free restaurant and bar laws on sales or employment."<sup>xxv</sup>
- According to the National Cancer institute, workplace smoking restrictions is accompanied by an increase in cessation attempts and a reduction in number of cigarettes smoked per day by continuing smokers.<sup>xxvi</sup>
- A study in the May 2000 issue of the *American Journal of Public Health* on the impact of California's clean indoor air laws on cessation efforts found that laws with comprehensive restrictions led to more worksites with smoking policies and increased the likelihood that workers would quit smoking.
- There is a perception that a statewide smoking ban would "level the playing field" for businesses around the state, eliminating the temptation for smokers in a "smoking ban" community to take their business elsewhere.
- If signed into law, the Colorado Clean Indoor Air Act will promote the health and wellness of all Colorado workers through work environments free of secondhand smoke.

### **Potential reasons stated for opposing or delaying action on this bill:**

- Some feel that local communities and not the state should determine policy regarding secondhand smoke exposure in the workplace.
- Business owners-particularly owners of restaurants and bars-are most familiar with how to accommodate the needs of their patrons and should be awarded the opportunity and flexibility to determine the smoking policy for their establishment.

- In indoor public places where smoking is permitted, business owners should have the flexibility to decide how best to address the preferences of non-smokers and smokers through separation, separate rooms and/or high quality ventilation.
- Opposition to statewide smoking bans note that such bans infringe on personal freedom and property rights.

## Board Position

The Health District Board strongly supports SB05- 207, the Clean Indoor Air Act, as it currently stands. In the event that it is replaced by a referred measure that also supports the same provisions as SB05-207, our support is to be transferred to that referred measure. In our minds, a referred measure is the second choice, and we support legislative action as the preferred action.

### About this Update

This update was prepared by Health District of Northern Larimer County staff to assist the Health District Board of Directors in determining whether to take an official stand on various health-related issues. Updates are based on bills or issues at the time of their consideration by the Board and are accurate to the best of staff knowledge. It is suggested that people check to see whether a bill has changed during the course of a legislative session by visiting the Colorado General Assembly web page at [www.state.co.us/gov\\_dir/stateleg.html](http://www.state.co.us/gov_dir/stateleg.html). To see whether the Health District Board of Directors took a position on this or other policy issues, please visit [www.healthdistrict.org/policy](http://www.healthdistrict.org/policy).

### About the Health District

The Health District is a special district of the northern two-thirds of Larimer County, Colorado, supported by local property tax dollars and governed by a publicly elected five-member board. The Health District provides medical, mental health, dental, preventive and health planning services to the communities it serves. Their mission is to improve the health of the community.

For more information about this analysis or the Health District, please contact Katherine Young, at [kyoung@healthdistrict.org](mailto:kyoung@healthdistrict.org), or (970-224-5209)

<sup>i</sup> Centers for Disease Control. (2005). Tobacco Information and Prevention Source: Secondhand Smoke Fact Sheet. Available online at: [http://www.cdc.gov/tobacco/factsheet/secondhand\\_smoke\\_factsheet.htm](http://www.cdc.gov/tobacco/factsheet/secondhand_smoke_factsheet.htm)

<sup>ii</sup> National Cancer Institute. (1999). *Health effects of exposure to environment tobacco smoke* (NIH Publication No. 99-4645). Smoking and Tobacco Control Monograph, no. 10. Bethesda, MD: U.S. Department of Health and Human Services, National Institutes of Health.

<sup>iii</sup> U.S. Department of Health and Human Services. Public Health Service, National Toxicology Program, (2000). *Report on carcinogens, ninth edition*. Washington, DC: U.S. Government Printing Office.

<sup>iv</sup> Centers for Disease Control. (2002). Annual smoking-attributable mortality, years of potential life lost, and economic costs-United States, 1995-1999. *Morbidity Mortality Weekly Report*, 51(14), 300-303. Retrieved November 11, 2004, from [http://www.cdc.gov/tobacco/research\\_data/economics/mmwr5114.intro.htm](http://www.cdc.gov/tobacco/research_data/economics/mmwr5114.intro.htm).

<sup>v</sup> U.S. Environmental Protection Agency, Office of Research and Development & Office of Air and Radiation. (1992). *Respiratory health effects of passive smoking: Lung cancer and other disorders* (Publication No. EPA/600/6-903006F). Washington, DC.

<sup>vi</sup> White, C. (1998). Smoking in public should be restricted. *British Medical Journal*, 7135, 316.

<sup>vii</sup> Fontham, E.T., et al. (1991). Lung cancer in nonsmoking women: A multicenter case-control study. *Cancer Epidemiology Biomarkers & Prevention*, 1, 35-43.

<sup>viii</sup> Hammond SK. Exposure of U.S. workers to environmental tobacco smoke. *Environ Health Perspect*. 1999;107(suppl 2):329-340.

<sup>ix</sup> American Lung Association. (2004). *State of Tobacco Control: 2004*. Retrieved on March 30, 2005 and available online at [http://www.lungusa2.org/embargo/sotc04/sotc\\_2004final.pdf](http://www.lungusa2.org/embargo/sotc04/sotc_2004final.pdf)

<sup>x</sup> State and Local Legislative Action to Reduce Tobacco Use. Smoking and Tobacco Control Monograph 11. Bethesda, MD: US Dept of Health and Human Services, National Institutes of Health, National Cancer Institute, August 2000. Siegel M. Involuntary smoking in the restaurant workplace: a review of employee exposure and health effects. *JAMA*. 1993;270:490-493.

<sup>xi</sup> State and Local Legislative Action to Reduce Tobacco Use. Smoking and Tobacco Control Monograph 11. Bethesda, MD: US Dept of Health and Human Services, National Institutes of Health, National Cancer Institute, August 2000. Siegel M. Involuntary smoking in the restaurant workplace: a review of employee exposure and health effects. *JAMA*. 1993;270:490-493.

<sup>xii</sup> National Cancer Institute. (1999). *Health effect of exposure to environment tobacco smoke* (NIH Publication NO. 99-4645). Smoking and Tobacco Control Monograph, no. 10. Bethesda, MD: U.S. Department of Health and Human Services, National Institutes of Health.

<sup>xiii</sup> U.S. Environmental Protection Agency, Office of Research and Development & Office of Air and Radiation. (1992). *Respiratory health effects of passive smoking: Lung cancer and other disorders* (Publication No. EPA/600/6-903006F). Washington, DC.

<sup>xiv</sup> U.S. Environmental Protection Agency, Office of Research and Development & Office of Air and Radiation. (1992). *Respiratory health effects of passive smoking: Lung cancer and other disorders* (Publication No. EPA/600/6-903006F). Washington, DC.

<sup>xv</sup> U.S. Department of Health and Human Services. *Reducing Tobacco Use: A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease and Health Promotion, Office on Smoking and Health, 2000.

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- <sup>xx</sup> National Cancer Institute. *State and Local Legislative Action to Reduce Tobacco Use*. Smoking and Tobacco Control Monograph No. 11. Bethesda, MD: U.S. Department of Health and Human Services, National Institutes of Health, National Cancer Institute, NIH Pub. No. 00-4804, August 2000.
- <sup>xxi</sup> U.S. Department of Health and Human Services. *Reducing Tobacco Use: A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease and Health Promotion, Office on Smoking and Health, 2000.
- <sup>xxii</sup> Miller, L.S., Zhang, X., Rice, D.P., et al. (1998). State estimates of total medical expenditures attributable to cigarette smoking, 1993. *Public Health Reports* 113, 447-458.
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- <sup>xxiv</sup> Fiore MC, Bailey WC, Cohen SJ, et al., *Treating Tobacco Use and Dependence*. Clinical Practice Guideline, HHS Public Health Service, June 2000.
- <sup>xxv</sup> Scollo M, et al, "Review of the quality of studies on the economic effects of smoke-free policies on the hospitality industry", *Tobacco Control* (2003); 12:13-20.
- <sup>xxvi</sup> National Cancer Institute, *Population Based Smoking Cessation: Proceedings of a Conference on What Works to Influence Cessation in the General Population*, Smoking and Tobacco Control Monograph No. 12, NIH Pub. No. 00-4892, November 2000.