

Mastering the Art of Plugging Loopholes in State and Local Smoke-free Laws



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1980s = Smoking Sections



1986 Surgeon General's Report:

"The simple separation of smokers and nonsmokers within the same airspace may reduce but not eliminate nonsmoker exposure to environmental tobacco smoke."

1990s = Smoking Rooms

Some laws allowed for Smoking Rooms, that were separately ventilated and enclosed.

Smoking Rooms offered no real protection.



**Today = 100% smokefree workplaces
(now many laws *include* casinos/gaming)**



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A woman with long dark hair, wearing a blue and purple strapless top, is smiling and looking upwards. She is surrounded by falling slot machine coins (gold and silver) and colorful slot machine lights in the background.

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**2006 Surgeon General's Report:
"No safe level of exposure"**

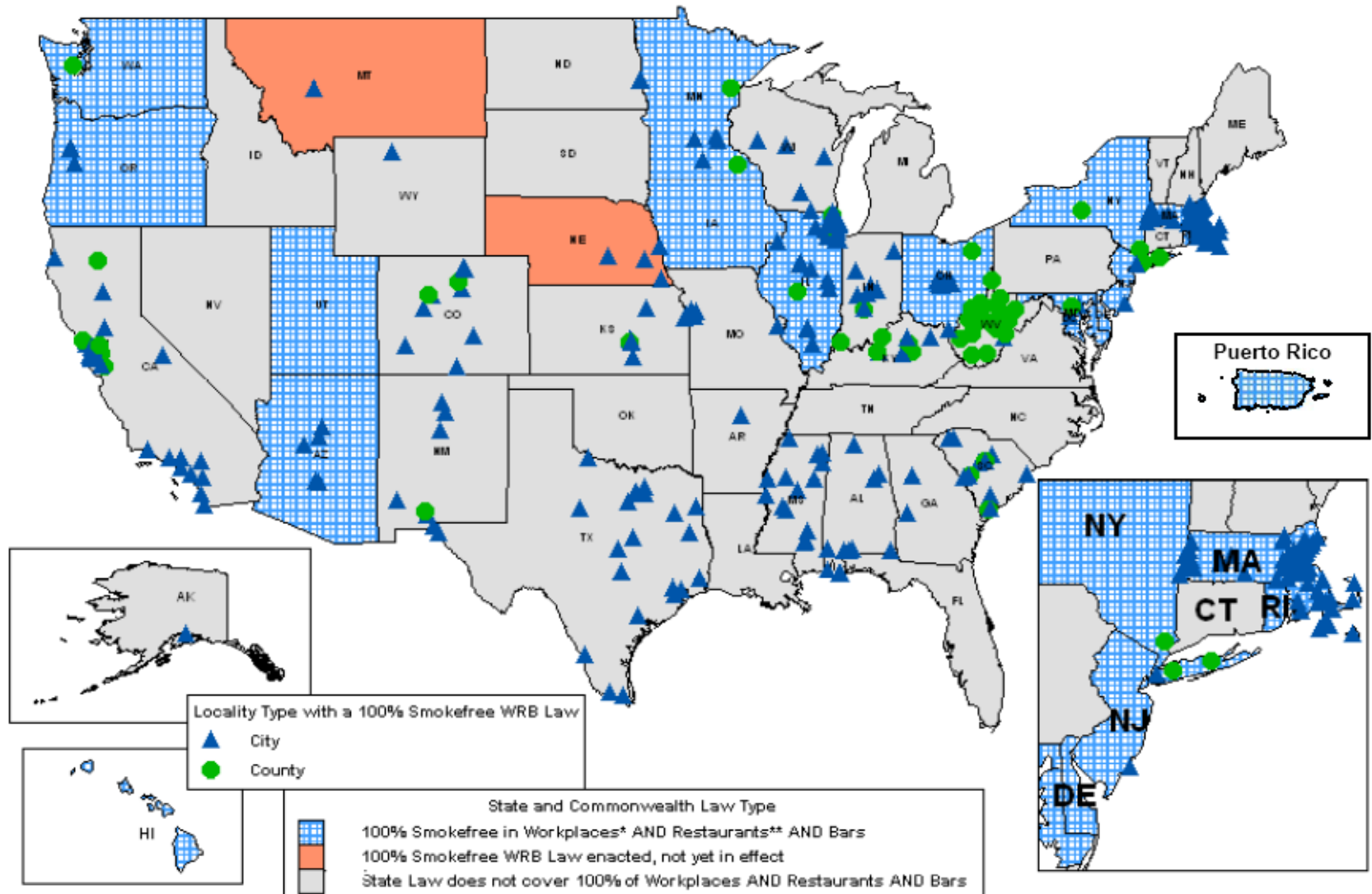
Policy finally caught up to science:

- 15 states with smokefree laws covering workplaces, restaurants, AND bars.
- Compromises that were once “accepted” are no longer up for debate.
- To protect worker health, we must pass strong laws and plug the loopholes in outdated laws.
- We must not become distracted.
 - Be prepared. Be informed. Stay on task.

U.S. 100% Smokefree Laws in Workplaces AND Restaurants AND Bars

American Nonsmokers' Rights Foundation

As of January 4, 2009



*Includes both public and private non-hospitality workplaces, including, but not limited to, offices, factories, and warehouses.

**Includes any attached bar in the restaurant.

The Fundamentals of Smokefree Laws

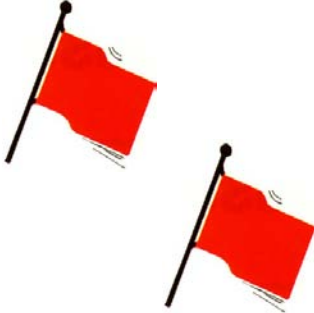
- This document is your guide to effective smokefree policy.
- National partners listed here support the statements inside the document.




What's in a Smokefree Law?

- Use model legislation.
 - Available at www.no-smoke.org
- Certain provisions should appear in every law.
 - Provisions included for a reason
 - Model has withstood legal challenges.
- Shortcuts are not recommended.

Sections of a Smokefree Law:

- Title
- Findings & Intent 
- Definitions (clear)
- Public Places (100% smokefree)
- Workplaces (100% smokefree)

Sections of a Smokefree Law:

- Violations (penalties/fines)
- Public Education
- Liberal Construction
- Severability Clause 
- Effective Date (60-90 days out)
- Reasonable Distance Clause

Sections of a Smokefree Law:

- Restaurants/Bars
- Outdoor Areas/Stadiums
- Where Smoking NOT regulated
- Posting Signs
- Nonretaliation Clause
- Enforcement...



Sections of a Smokefree Law: *Enforcement*

Smokefree laws should....

- Be simple to enforce.
- Have a public education component.
- Involve *local* enforcement.
- Clearly define roles.
- Phase in punishment for violations.
- Be enforced by agencies with a health mission.
- Involve ongoing education & organizing



Where to draw the line?

Removing exemptions
& closing the gaps in
smokefree laws

Loopholes & Gaps in Smokefree Laws

- Certain loopholes are ***never acceptable in any form*** (preemption, ventilation, smoking rooms...)– If your state has these, address them first.
- Goal: 100% smokefree workplaces & public places.
 - Remove old exemptions for certain workplaces
 - Office workplaces, restaurants, and bars should be 100% smokefree - if not already covered.
 - Consider including:
 - Private clubs, casinos, hookah bars, tobacco retailers
 - While once common exemptions, no longer the case
 - Clean up enforcement problems



Anything that prevents future progress is always a dealbreaker.

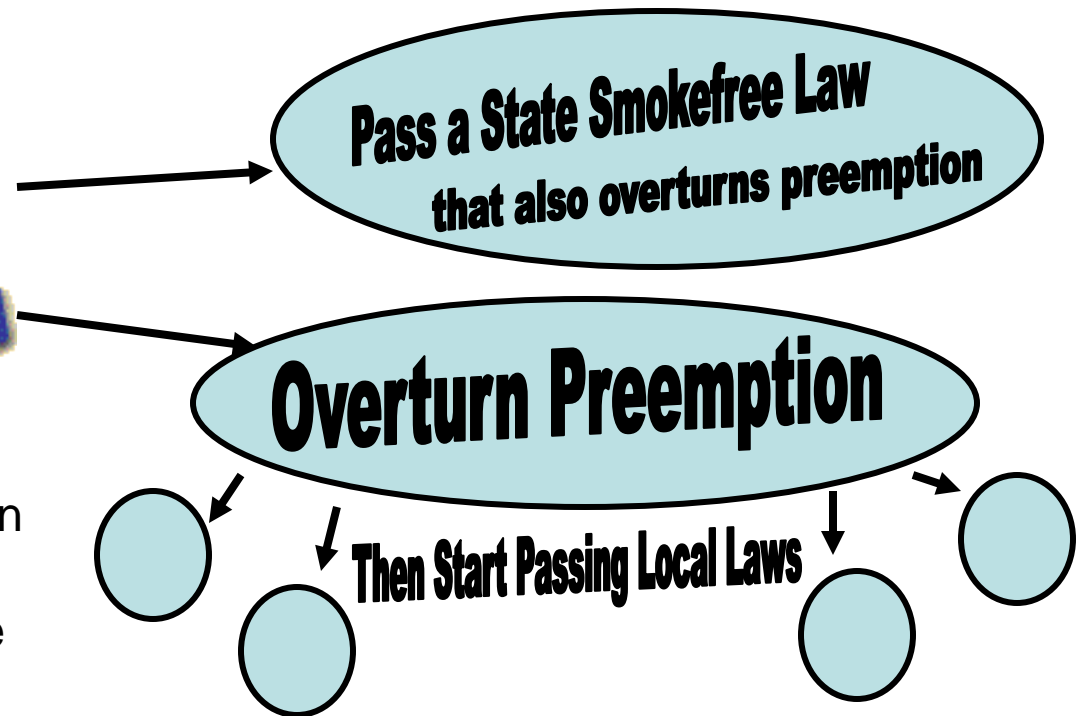
- ✓ Preemption
- ✓ Ventilation
- ✓ Smoking Rooms

Preemption in Smokefree Laws

- A provision in state law that prevents local communities from passing local laws.
- So, how do you get smokefree air?



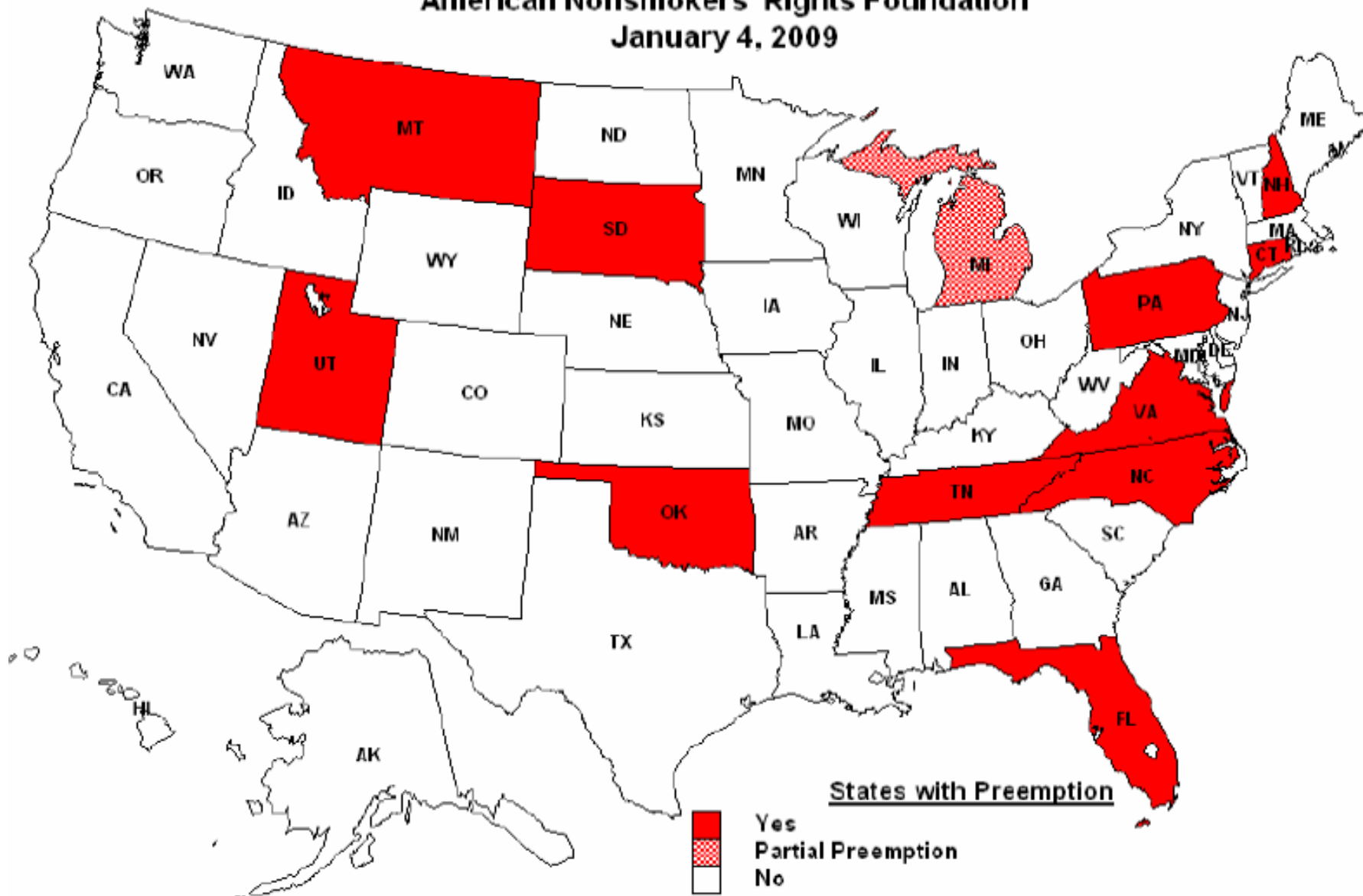
Example: Virginia has preemption so cities and towns are not allowed to pass local smokefree laws. So what can they do?



States with Preemption of Smokefree Air Laws

American Nonsmokers' Rights Foundation

January 4, 2009



State of Alaska



Preemption is unacceptable in any form

- Gaining Preemption is the tobacco industry's number one tactic to halt local progress.
- Big Tobacco will often support a law which includes preemption and other loopholes.
- Never accept preemption, even if it comes with a “strong” smokefree law.

Plugging Gaps

Cover all Workplaces:

- Office Workplaces
- Restaurants
- Bars
- Casinos
- Tobacco Retailers
- Hookah Bars, Private Clubs, Truck Stops...

Include: (once workplaces covered)

- Reasonable distance from doorways
- Outdoor Provisions

Remove:

- Ventilation
- Smoking Rooms
- Signage Provisions
(Red light/Green Light)
- Hours provisions
- Hardship clauses
- Minors only clauses

Plugging Gaps: A few tips for 2009

- **You are part of the solution.**
- **Be prepared.** Even if health advocates do not introduce a smokefree bill, someone will.
- **Never assume** the tobacco industry has given up.
- **Stay on track.** Other bills will come up this year (*kids in cars, fire-safe cigarettes*).
- **Prioritize smokefree workplaces.** Then work on other gaps.
- Use the “**Fundamentals**” document as a guide

Need a hand?

We can help.



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