

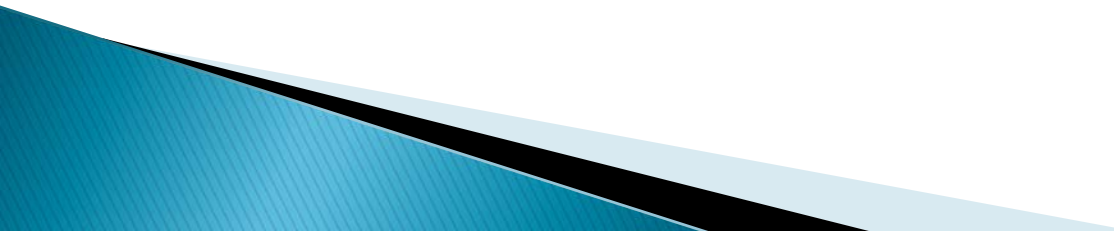
Lemonade from Lemons: *Using Rule-Making to Strengthen a Weak Law*

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**TCN Strategies for Smoke-free Air Policy Implementation
Teleconference 4
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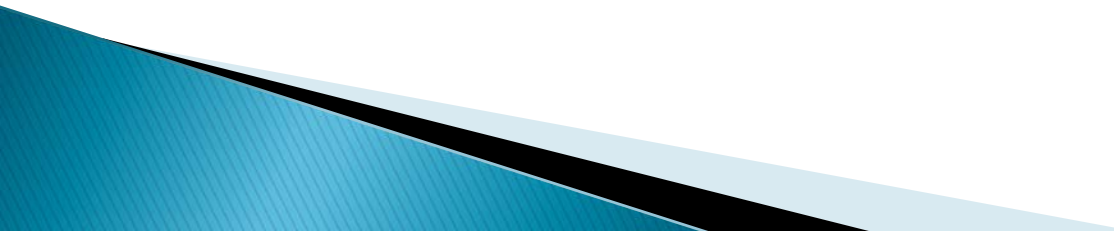
Timeline

- ▶ Summer of 2003 Good ordinance passed
 - ▶ Fall of 2003 Ordinance weakened by new mayor and city council
 - ▶ Spring of 2005 Good ordinance restored by voters
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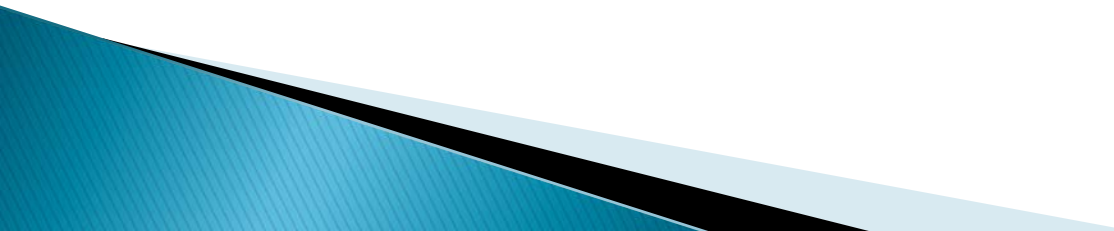
Weakened Provisions

- ▶ Separately Ventilated Smoking Rooms – bingo, bowling alleys, bar areas of restaurants could apply for a permit to be a *Restricted Smoking Facility*, allowing them to construct a smoking room.
 - ▶ Smoking not allowed between 6:00 a.m. and 2:00 p.m. in smoking rooms.
 - ▶ Under 18 years not allowed in smoking rooms.
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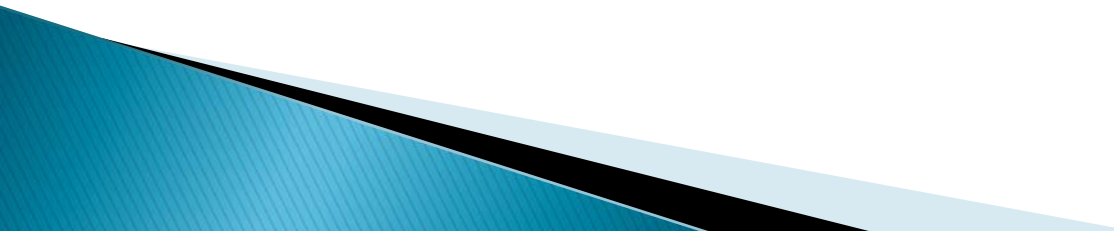
Harm Reduction Strategy

- ▶ Make the smoking rooms as “tight” as possible to offer as much protection as possible.
 - ▶ Limit, to the best of our ability, the number of businesses that decided to construct smoking rooms.
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Footholds

- ▶ Design, construction, operation and maintenance of smoking rooms.
 - ▶ Under 18 restrictions for smoking rooms.
 - ▶ Time limitations for smoking rooms (no smoking between 6:00 am and 2:00 pm).
 - ▶ Permits to be a *Restricted Smoking Facility*.
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Gathering Information

- ▶ Technical aspects of separately ventilated smoking rooms.
 - ▶ Enforcement protocols and rules in other jurisdictions that had laws allowing for separately ventilated smoking rooms.
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Letter from Lawrence Schoen, Immediate Past Chair, Source and Ventilation Rates Subcommittee of Ventilation for Acceptable Indoor Air Quality, Standard 62 (ASHRAE)

Question 1: What are the specifications for designing, constructing, maintaining and operating such a room?

Question 2: In practice, what track record do these types of rooms have vis a vis sequestering smoke from non smoking areas?

Question 3: How can one monitor these rooms to determine whether they are meeting their purpose of preventing smoke from entering non smoking areas (i.e., what types of equipment would be required, what types of compounds would one test for, are there any existing protocols for conducting this type of testing)?

Question 4: Is there any information about the contaminant levels in such rooms, and their health effects on occupants (workers and patrons)?

Question 5: Are there any recent developments that we should be aware of with respect to these issues?

Design, Construction, Operation and Maintenance

- ▶ Under no circumstances shall entrance to any smoke-free area be required to go through smoking room (e.g., entry or exit to restrooms, indoor waiting area).
- ▶ Solid, impermeable, true-floor-to-true-ceiling walls, floors, ceilings.
- ▶ Automatic sliding glass door (to minimize leakage caused by pumping effect of opening/closing doors).
- ▶ Separate HVAC system, exhausted at least 25 feet away from any intakes (e.g. doors, windows, air conditioning, etc.).
- ▶ Negatively pressured.
- ▶ Air exchange requirements.
- ▶ Ventilation system of smoking room must run during all hours of operation.
- ▶ Serviced and maintained on regular basis, filters replaced regularly.

Larry Schoen's Concluding Paragraph

Summary

Separation of smoking areas does not protect the workers and occupants within the smoking area. When separation is properly done (and this is not common), it can reduce the exposure of occupants in the nonsmoking areas, but there is no quantitative assurance that the remaining exposure meets any current health standard or goal.

Under 18 and Time Restrictions

- ▶ Restaurants, Bowling Centers, Bingo – at no time can someone under the age of 18 be allowed in the smoking room, even if no smoking is occurring.

Permits

- ▶ Must submit design specifications to Health and Human Services as part of application for a *Restricted Smoking Facility* permit.
- ▶ Plans must be signed by a mechanical engineer affirming that they meet requirements.
- ▶ After construction, HHS inspects to confirm that meets requirements and monitor for leakage.
- ▶ Annual renewal of Permit: (1) HHS inspect to confirm still meets all requirements and is operating; (2) Operator provide Health and Human Services with records regarding service and maintenance.

In Conclusion.....

- ▶ Strategically, this type of weak law is worse than no law – but you still must make the most of a bad situation.
 - ▶ The Austin experience is instructive, not so much for the specifics of how we tried to make the best of a bad law, but for the strategy.
 - ▶ It is unclear if this strategy could (or should) be used for a weak law that's been on the books for a while.
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