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Public Health and Legal Concerns with Loophole Allowing Smoking Events

In Spring 2010, two companion bills were introduced in the New Jersey legislature, that would roll back the 2006 New Jersey Smoke-free Air Act (SFAA), to allow for cigar nights and smoking events at racetracks and off-track wagering facilities (OTW). New Jersey Senate Bill S2001¹ was introduced on May 27, 2010, and Assembly bill A2897² was introduced on June 14, 2010.

S2001 and A2897 are detrimental to public health, in that both would permit smoking to take place in workplaces and public places currently 100% smokefree by the SFAA. As evidenced in other state jurisdictions reduced funding for statewide tobacco control programs can lead to a rollback of smokefree air laws, such as proposed S2001/A2897 eroding the 2006 NJ SFAA. Here are both health and legal concerns with proposed S2001/A2897:

Health

1. Secondhand smoke is a class A human carcinogen, and the Surgeon General recommends no exposure to secondhand smoke at any public place or workplace. In addition, smokefree environments encourage smokers to quit; S2001/A2897 will hinder smoking cessation efforts.
2. Thirdhand smoke is residual secondhand smoke that imbeds into upholstery, rugs, and onto walls, and other surfaces, lingering for weeks. New studies indicate that thirdhand smoke may be more dangerous than secondhand smoke, since thirdhand smoke does not dissipate and continuously emits respirable particles long after secondhand smoke takes place. Workers and patrons at racetracks and OTWs will be exposed to secondhand and thirdhand smoke if these events take place.
3. Smoking one cigar has the equivalent amount of carcinogens as smoking one pack of cigarettes, and cigars generate an enormous amount of secondhand and thirdhand smoke. Workers and patrons may be exposed to higher concentrations of respirable particles because of the highly concentrated amount of carcinogens in cigar smoke, which are present during and long after the event.

¹ http://www.njleg.state.nj.us/2010/Bills/S2500/2001_I1.PDF

² http://www.njleg.state.nj.us/2010/Bills/A3000/2897_I1.PDF

4. Senior citizens visit the racetracks, and this population tends to have various pulmonary and cardiac medical conditions, including heart disease, breathing disabilities, diabetes, and cancer, all exacerbated by secondhand smoke and lingering thirdhand smoke.
5. S2001/A2897 thwarts attempts by public health advocates to repeal the NJ SFAA exemption that for allows smoking on casino gaming floors. For four years since the passage of NJ SFAA, there continues to be a need to support the health and safety of casino workers and patrons with a 100% smokefree gaming floor environment.

Legal

6. The 2006 NJ SFAA does not prohibit cigar smoking outside or under an open-air tent with no walls, as long as it does not migrate into a smokefree indoor workplace or public place. In addition, the 2006 NJ SFAA, after much thoughtful deliberation by the NJ Legislators, specifically prohibits any new cigar bars or expansion or relocation of existing cigars bars after December 31, 2004.
7. Allowing smoking inside a racetrack or OTW may violate state and federal disability laws. Places of public accommodation are required to accommodate persons with disabilities including breathing-disabled. Allowing any type of smoking in these facilities would not allow such persons to enter since their health would be compromised due to exposure to secondhand and thirdhand smoke. In addition, the racetracks are workplaces which need to accommodate workers with disabilities; allowing smoking would compromise the health of these employees.
8. S2001/A2897 may violate the equal protection laws because it allows for exemption of one group of businesses but not others. This narrow exemption can lead to a slippery slope, either by legislation or court decision, of exempting more than just this one type of business in the future, such as bars, restaurants and private clubs.

Other Jurisdictions

9. New York City's smokefree air act, which took place years ago, allows cigar smoking event exemptions. New York City's smokefree coalition reports many concerns about worker and patron exposure to secondhand smoke at these events, and is attempting to have this exemption repealed.
10. In 2009, Nevada rolled back its smokefree air law, and now allows for a smoking exemption at certain conventions. Around the same time, the Nevada legislature greatly reduced it's funding for tobacco control.

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