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**Left Behind in the Smoke:
Reducing Health Inequities by Closing the Gaps
in California's Smokefree Workplace Act**

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Program Consultant, California Tobacco Control Program



TODAY'S PRESENTERS



Becky Johnson **Ray Leung** **Richard T. Kwong** **Nicole Handal**



ChangeLab Solutions

ChangeLab Solutions creates innovative law and policy solutions that transform neighborhoods, cities, and states. We do this because achieving the common good means everyone has safe places to live and be active, nourishing food, and more opportunities to ensure health. Our unique approach, backed by decades of solid research and proven results, helps the public and private sectors make communities more livable, especially for those who are at highest risk because they have the fewest resources.



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ChangeLab Solutions is a non-partisan, nonprofit organization that educates and informs the public through objective, non-partisan analysis, study, and/or research. The primary purpose of this discussion is to address legal and/or policy options to improve public health. There is no intent to reflect a view on specific legislation.

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Law & policy innovation for the common good.

Topics

- How exemptions in the California Smokefree Workplace Act impact health inequities
- Local Policy Options for Closing the Gaps in the California Smokefree Workplace Act
- CTCP's Infographic "Breathing secondhand smoke should not be a condition of employment in California"
- Strategies from CTCP's Health Equity Summit and Roundtables



**THE CALIFORNIA SMOKEFREE
WORKPLACE ACT**



HOTELS

- 65% of guestrooms
- 25% - 50% of lobbies
- Meeting and banquet rooms



TOBACCO SHOPS AND PRIVATE SMOKERS' LOUNGES



CABS OF TRUCKS OR TRACTOR TRUCKS

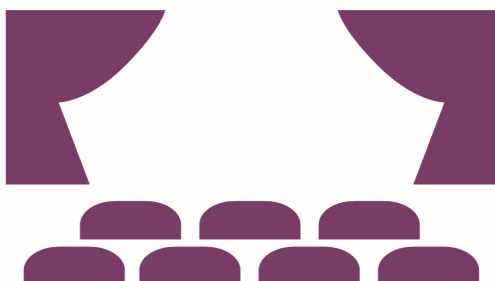


WAREHOUSE FACILITIES

- More than 100,000 square feet
- 20 or fewer full-time employees
- Does not include office spaces



THEATRICAL PRODUCTION SITES



MEDICAL RESEARCH OR TREATMENT SITES



PRIVATE HOMES



LONG TERM HEALTH CARE FACILITIES



WORKPLACES THAT ARE LOCATED OUTDOORS



BREAKROOMS

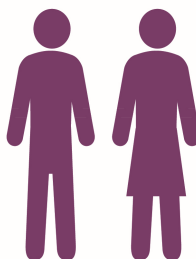


- If air from the smoking room is exhausted directly to the outside by an exhaust fan.
- If the employer complies with state and federal ventilation standards.
- If smoke room is located in non-work areas.

AND

- If there are sufficient breakrooms for non-smokers.

EMPLOYERS WITH 5 OR FEWER EMPLOYEES



- If smoking area is not accessible to minors.
- All employees who enter area consent to permit smoking.
- If air from the smoking room is exhausted directly to the outside by an exhaust fans.

AND

- If the employer complies with state and federal ventilation standards.

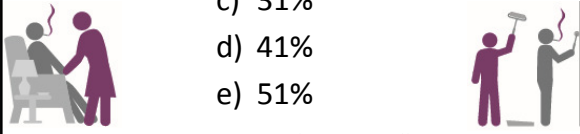
1 in 7 Californians face secondhand smoke exposure at work



California Department of Public Health, California Tobacco Control Program. 2010. Two Decades of the California Tobacco Control Program: California Tobacco Survey, 1990-2008.

What percentage of workers who are employed in places where smoking is not prohibited report being exposed to secondhand smoke in the last two weeks?

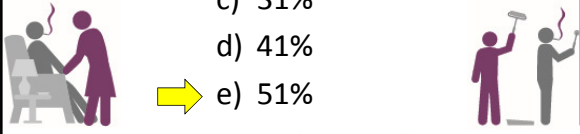
- a) 11%
- b) 21%
- c) 31%
- d) 41%
- e) 51%



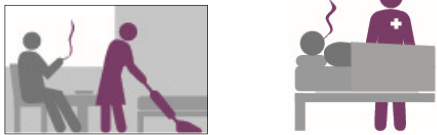
Ma, W, Sung, H, and Shi, Y. 2012. Exposure to Secondhand Smoke at Home and at Work in California. Public Health Reports: 127(1): 81-88.

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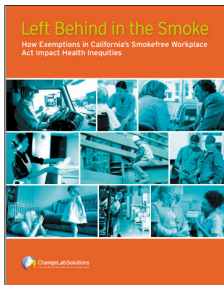


Nonsmokers who are exposed to secondhand smoke at work are 20% to 30% more likely to die

U.S. Department of Health and Human Services. 2006. The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General.

LEFT BEHIND IN THE SMOKE: How exemptions in California's Smokefree Workplace Act Impact Health Inequities

- Hotels
- Cabs of trucks or tractor trucks
- Warehouse facilities
- Private residences and home health workers
- Long term health care facilities
- Workplaces located outside
- Other exemptions



HOTELS

- 65% of guestrooms
- 25% - 50% of lobbies
- Meeting and banquet rooms



HOTELS

73% of hotel workers are:

Maids and Housekeeping

90% female
80% Latina
Annual income: \$25,200



Desk Clerks

57% female
54% from communities of color
Annual income: \$25,180



Waiters and Waitresses

65% female
55% from communities of color
Annual income: \$22,490

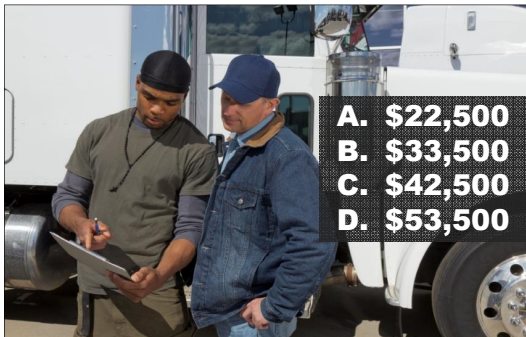


U.S. Bureau of Labor Statistics, 2013, May 2013 State Occupational Employment and Wage Estimates, California.
U.S. Census, 2010, IED or Detailed Census Occupation by Sex and Race/Ethnicity for Residence Geography Universe: Civilian Labor Force 16 years and Over.

CABS OF TRUCKS OR TRACTOR TRUCKS

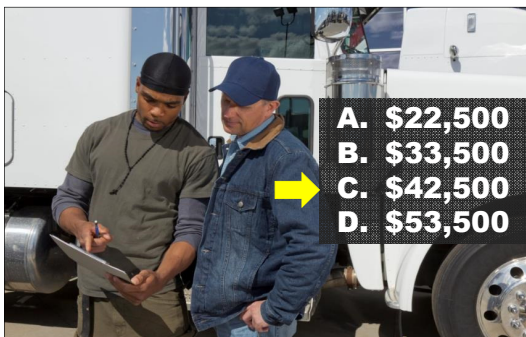


HOW MUCH DO HEAVY & TRACTOR TRAILER DRIVERS EARN PER YEAR?



U.S. Bureau of Labor Statistics. 2013. May 2013 State Occupational Employment and Wage Estimates: California.
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WAREHOUSE FACILITIES

- More than 100,000 square feet
- 20 or fewer full-time employees
- Does not include office spaces



WAREHOUSE FACILITIES

60% of warehouse workers are:

- **Laborers**
82% male
72% from communities of color
Annual income: \$27,270
- **Industrial Truck and Tractor Operators**
94.5% male
85.5% from communities of color
Annual income: \$37,090
- **Packers**
63% female
92.5% from communities of color
Annual income: \$22,470

U.S. Bureau of Labor Statistics. 2013. May 2013 State Occupational Employment and Wage Estimates: California.
U.S. Census. 2010. EEO 1r. Detailed Census Occupation by Sex and Race/Ethnicity for Residence Geography Universal: Civilian Labor Force 16 years and Over.

WORKPLACES THAT ARE LOCATED OUTDOORS



What percentage of those who work in mining and food service smoke?

- A. 15%
- B. 20%
- C. 25%
- D. 30%



More than 1.5 times the national average of 17.8%

Castellan, R., Engstrom, M. & Shaw, L. 2011. Current Cigarette Smoking Prevalence Among Working Adults - United States, 2004-2010. MMWR. 60(38): 1305-1309.

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Castellan, R., Engstrom, M. & Shaw, L. 2011. Current Cigarette Smoking Prevalence Among Working Adults - United States, 2004-2010. MMWR. 60(38): 1305-1309.

These exemptions become part of a system that makes it easier for the most affected populations to:

1. Start smoking
2. More difficult to quit smoking, and;
3. More likely to die from diseases associated with tobacco use

Local Authority to Pass Broader No-Smoking Laws

Police Power

- U.S. Constitution, Amend. X: Grants authority to States
- California State Constitution, Article XI § 7: Grants authority to cities and counties

Labor Code § 6404.5

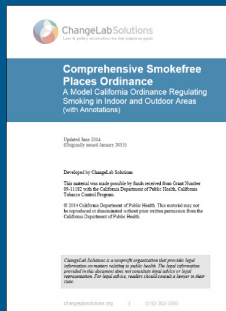
- Subsection (i) explicitly allows local jurisdictions to regulate smoking in any area not defined as a "place of employment" or where smoking is not regulated
- Court of Appeal clarified: this law allows municipalities to impose and enforce their own smoking restrictions to areas not covered by state law. *City of San Jose v. Dept. of Health Services*, 66 Cal. App.4th 35, 44 (1998)




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Model Comprehensive Smokefree Places Ordinance


- Prior to 2013: Separate, stand-alone Model Ordinances
 - Exempted Workplaces
 - Public Places
 - Outdoor Dining Areas
 - Beaches, Parks, etc.
- January 2013: Combined all into One Model Comprehensive Smokefree Places Ordinance



HOW TO USE THE MODEL ORDINANCE

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AN ORDINANCE OF THE [CITY / COUNTY] OF [____] 
 AMENDING THE [____] MUNICIPAL CODE TO REGULATE
 SMOKING [AND TOBACCO PRODUCT USE] 

The [City Council of the City / Board of Supervisors of the County] of [____] does ordain
 as follows: 

COMMENT: This is introductory boilerplate language that should be adapted to the
 conventional form used in the jurisdiction.

SECTION I. FINDINGS.

The [City Council of the City / Board of Supervisors of the County] of [____] hereby finds
 and declares as follows:

Key Updates to Findings Section:

- Updated a number of findings based on the 2014 Surgeon General’s report on the health consequences of smoking
- New findings demonstrating how closing the loopholes in the state smokefree workplace law can contribute to reductions in health disparities
- New findings to support regulation of the use of electronic smoking devices

Comprehensive Smokefree Places Ordinance

Pending Updates to Definitions

We are in the process of updating our definitions

- “smoking,” and deleted “smoke”
- “electronic smoking device”
- “tobacco product”

Comprehensive Smokefree Places Ordinance

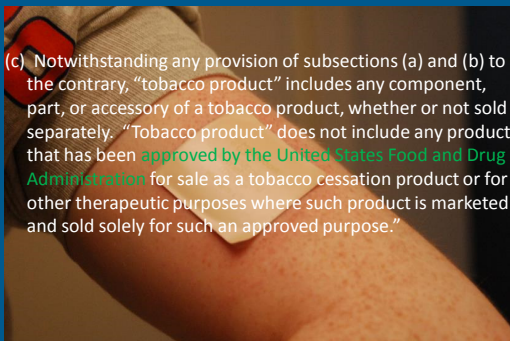
New Definition

“Tobacco Product” means

- (a) any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff; and
- (b) Any electronic device that delivers nicotine or other substances to the person inhaling from the device, including, but not limited to an electronic cigarette, cigar, pipe, or hookah.

Comprehensive Smokefree Places Ordinance

“Tobacco Product” continued



- (c) Notwithstanding any provision of subsections (a) and (b) to the contrary, “tobacco product” includes any component, part, or accessory of a tobacco product, whether or not sold separately. “Tobacco product” does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is marketed and sold solely for such an approved purpose.”

Comprehensive Smokefree Places Ordinance




How do you close the gaps?
Key Considerations

Local Ordinance: Key Considerations

- Findings
- Definitions
- What Products: Smokeless Tobacco; Electronic Smoking Devices?
- What Places: Indoor/Outdoor?
- Exemptions?



ChangeLab Solutions Resources



ChangeLab Solutions


ChangeLab Solutions Staff is available to provide technical assistance on most tobacco-related questions to tobacco control program staff throughout California

Call
510.302.3380

Visit
<http://changelabsolutions.org/tobacco-control-ask-us>




Advancing Health Equity in Tobacco Control



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California Tobacco Control Program



We all have to work, however Breathing secondhand smoke should not be a condition of employment in California

25 states are considered 100% smoke-free by the Centers for Disease Control and Prevention, but California is not among them.

More than 90% of Californians support laws to protect workers from secondhand smoke exposure in the workplace.

California law allows smoking in:

- Hotels/Motels
- Small Businesses
- Warehouses
- Company Vehicles
- Health Care Facilities
- Private Residences

Ventilation cannot eliminate second-hand smoke. The only proven way is to have smoke-free environments.

Exemptions in California law mean that 1 in 7 workers are being exposed to secondhand smoke in the workplace.

California adults still report secondhand smoke exposure. Some groups have higher rates of exposure than others.

Group	Rate (%)
Young Adults (ages 18-24)	13.1
Low Income (less than \$10K)	12.1
Latino	7.5
African American	7.2

CDC: California is not a smoke-free state

- A state smoke-free law is considered “comprehensive” if it prohibits smoking in private sector worksites, restaurants and bars, with no exceptions (e.g., ventilation).
- 25 states and the District of Columbia have comprehensive state smoke-free laws in effect.
- California considered “less restrictive or no restrictions”

Ventilation cannot eliminate secondhand smoke

- CA: Smoking allowed in **breakrooms** and **small businesses** provided that "ventilation standards" adopted by OSHB or the federal EPA are met.
 - No standards have been adopted since the enactment of this law.
- U.S. OSHA:
 - "From the industrial hygiene perspective, general ventilation as delivered by heating, ventilation and air condition (HVAC) systems, is not an acceptable engineering control measure for controlling occupational exposures to [environmental tobacco smoke]."
- Both the federal EPA and CalEPA have declared SHS to be a Class A carcinogen to which there is no safe level of exposure.

Health Equity Issue

- One in five (19.5 percent) **non-smoking Hispanic adults** report current SHS exposure in the workplace.
 - Highest rate among all race/ethnic groups and twice the rate of white people.
- Current workplace SHS exposure among **non-smoking young adults** (ages 18-24) was significantly higher (23.5 percent) than among older adults (Max, 2012).

SHS Infograph is Your Resource

- A great educational and informative tool for:
 - Tobacco control advocates
 - New/current staff
 - Community partners
 - Policymakers
- Where can I find it?
 - CTCP website, Fact Sheets and Data page, Environmental Exposure section:
<http://www.cdph.ca.gov/programs/tobacco/Documents/Resources/Fact%20Sheets/Secondhand%20Smoke%20Infograph.pdf>

Advancing Health Equity in Tobacco Control Plan


- Health Equity Summit, June 2013
 - Created a strategic vision for tobacco control to achieve tobacco-related health equity;
 - Identified a set of achievable, population-specific outcome measures.
 - Identified Top 11 Priority Strategies
 - Establish commercial tobacco-free workplaces (outdoors) (e.g. construction sites)

<http://www.cdph.ca.gov/programs/tobacco/Documents/Resources/Publications/HealthEquitySum-Web.pdf>



Advancing Health Equity in Tobacco Control Plan

- Health Equity Roundtables, June 2014
 - Focused on four of the Priority Strategies to define actionable approaches
 - Establish commercial tobacco-free workplaces (outdoors) (e.g. construction sites)
 - Key findings across the strategies:
 - Data – baseline, enriched, and/or stratified data is critical
 - Education – target audiences, policy makers, stakeholders
 - Best practices – assessing what works



Roundtable Data Walk

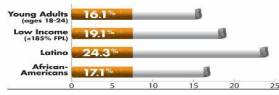
Establish Commercial Tobacco-Free Workplaces (Outdoors, e.g. Construction Sites, Dining)

Description: Public policies that designate outdoor worksite premises (e.g. construction sites, logging operations, fishing operations) and outdoor dining (e.g. beverage, service areas of restaurants, bars, nightclubs, mobile catering businesses) as smoke-free.

Background:

- 1 in 7 workers are exposed to SHS in the workplace.
- 74 percent of voters support smoking restrictions to protect workers at restaurants and bars.

Groups most impacted:



Group	Percentage
Young Adults (18-24)	16.1%
Low Income (< \$15k/yr)	19.1%
Latino	24.3%
African Americans	17.1%

Policy Successes:

- 99 cities and counties have passed 100 percent smoke-free outdoor dining ordinances.

Establish Tobacco-Free Work Places

Priority Strategies	Partners/Stakeholders	Technical Assistance/Training Needs
Identify corporate policies	Unions	Guide/toolkit working with the different worksites/industries
Set definition of "outdoor environment"	Workers' rights groups	Testimonials from workers
Assess public attitudes	HR departments	Multi-language educational materials
Educate business owners on labor code	Business associations	Sample letters to the editor
Identify policy loop holes	OSHA	Data on worksite fires
Frame as a social justice issue	Health and safety	
Identify the impact and cost savings	Chambers of Commerce (ethnic-based)	
Utilize a city/county ordinance	Tribal leadership	
Tailoring interventions and messages based on specific worksites and industries	Civil rights groups	

CTCP Planned Activities

- Update the Labor Code 6404.5 Workplace exemption infographic to include e-cigarettes and disseminate through educational visits with decision makers.
- Develop one sample letter to the editor and one "evergreen article" promoting a smoke-free workplace standard for all employees in California for use by local partners.
- Monitor workplace exposure to secondhand smoke exposure especially for populations most impacted.
- Coordinate with statewide grantees and partners to provide trainings.
- Provide and identify information, support, and resources to local projects
- Identifying promising local strategies and activities including replication approaches



Tobacco Control Health Equity Report Card

- Goal: To ensure accountability and transparency through tracking progress across balanced indicators, engagement, resources, and actionable data to support and evaluate the implementation of California's *Advancing Health Equity in Tobacco Control* plan.
- Health Equity Roundtables Input and Feedback:
 - Focused on five health equity metrics:
 - Capacity
 - Cessation
 - Media
 - Population data
 - Tobacco control policies
 - Key findings across the strategies:
 - Data – stratified, traditional vs. newer products, and patterns
 - People – understanding attitudes of affected groups
 - Contact – newer and better means of communicating
 - Enforcement – impact of voluntary and legislative policies




Health Equity Report Card Next Steps

- Identifying criteria, indicators and data sources
- Identify gaps in data sources
- Consult with CTCPC's Evaluation Task Force
- Conduct listening sessions to receive input and feedback
- Develop Report Card format
- Release first Report Card in Summer 2015, tentatively



Health Equity Efforts

- Coordinating and collaborating with CDPH's Office of Health Equity
- Included a health equity objective in the TEROC Master Plan
- Funded 8 Reduce Inequities Grantees
- Supporting The LOOP's efforts
- Released the *Advancing Health Equity in Tobacco Control* plan
- Releasing the findings from the Health Equity Roundtables
- Initiating strategy exchange/listening sessions with stakeholders
- Released the 15-100 Achieving Tobacco-Related Health Equity Among California's Diverse Populations RFA on November 13, 2014



ChangeLabSolutions

Thank you!

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