



# Maintaining the CAAA: New Threats to Smokefree Laws

Liz Williams  
Project & Policy Manager  
American Nonsmokers' Rights Foundation  
[no-smoke.org](http://no-smoke.org)

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**September 20, 2022**

# Overview

1. Where are we now?
2. Threats to Smokefree Air:
  - Cigar/Hookah Lounges, Marijuana SHS, & Preemption
3. Messaging
4. State & Local Examples
5. Resources

# 1. Where are we now?

- Montana Clean Indoor Air Act
  - Most workplaces 100% smokefree since 2005
  - Bars & commercial gaming 100% smokefree since 2009
  - Smoking includes marijuana
  - No exemptions for cigar or hookah bars/lounges
  - Preemption language removed local control 2005-2009
- Communities can adopt stronger protections
  - Vaping products, distance to doorways, outdoor spaces, etc.

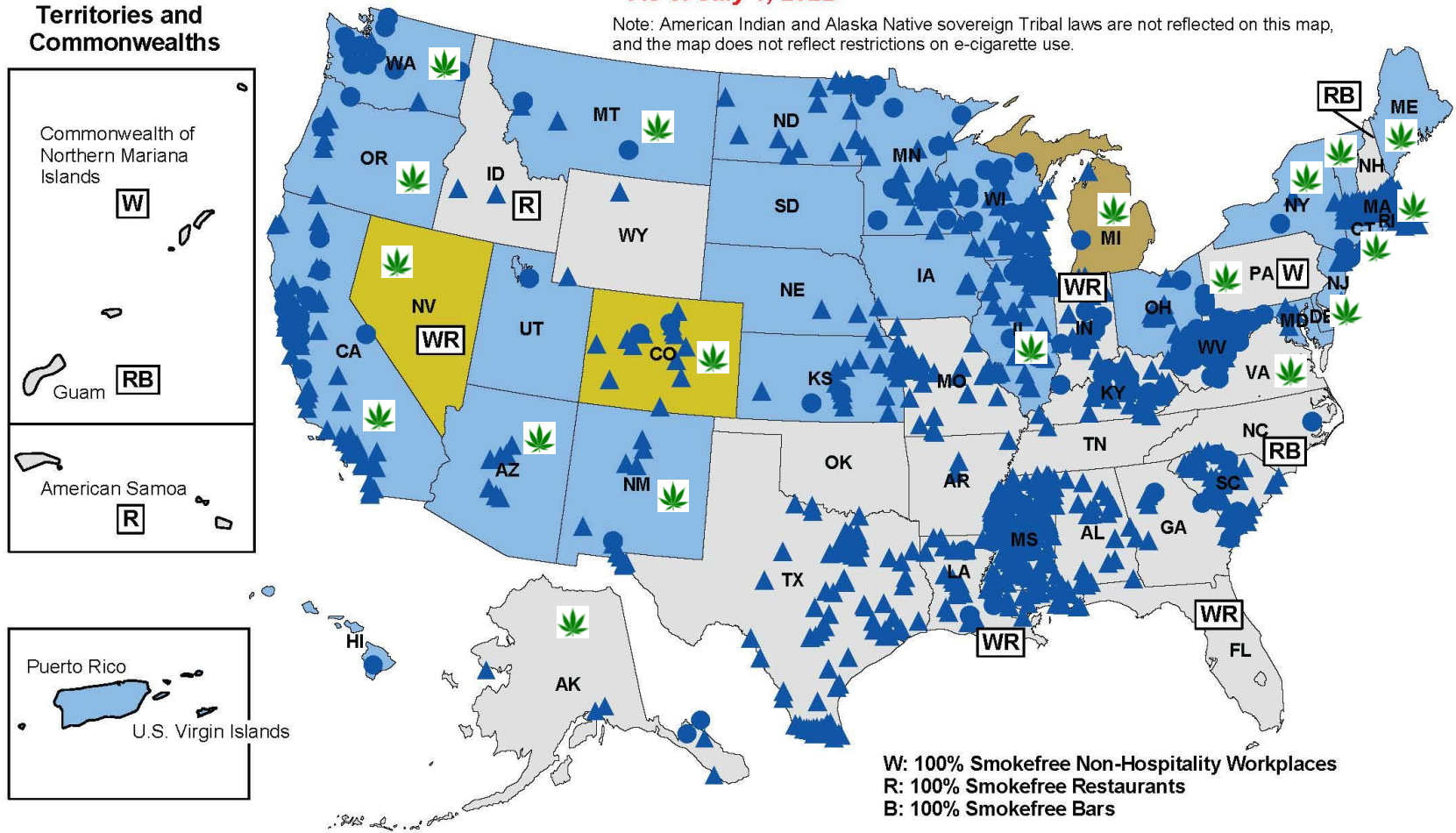
89% of MT  
voters  
support CIAA

# U.S. 100% Smokefree Laws in Non-Hospitality Workplaces AND Restaurants AND Bars

## American Nonsmokers' Rights Foundation

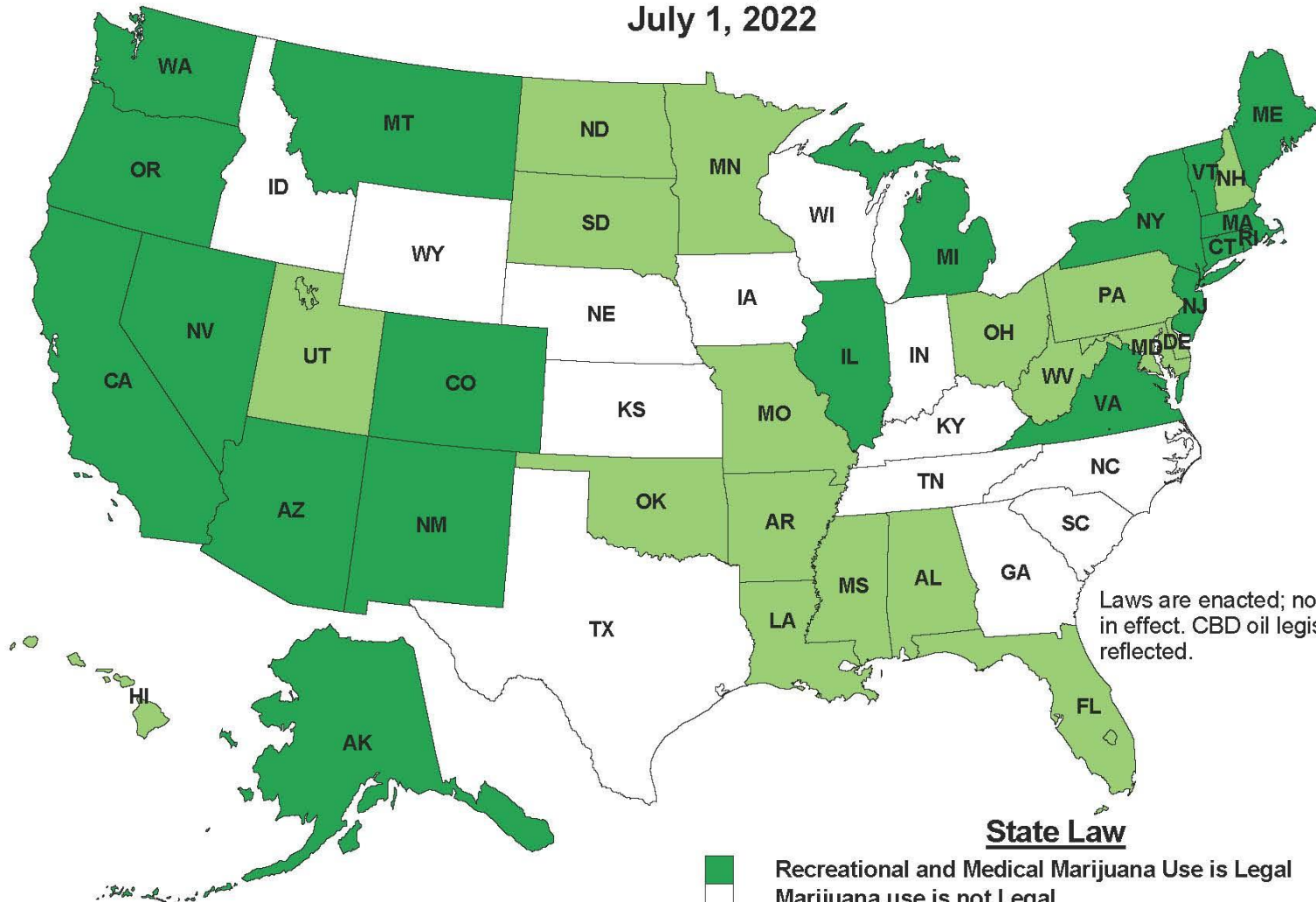
As of July 1, 2022

Note: American Indian and Alaska Native sovereign Tribal laws are not reflected on this map, and the map does not reflect restrictions on e-cigarette use.



# States with Legalized Marijuana

American Nonsmokers' Rights Foundation  
July 1, 2022



Laws are enacted; not yet necessarily in effect. CBD oil legislation is not reflected.

### State Law

- Recreational and Medical Marijuana Use is Legal
  - Marijuana use is not Legal
  - Medical Marijuana Use, but not Recreational, is Legal
- Note: In total, medical marijuana use is legal in 37 states.

To see a map of state and local laws prohibiting smoking and vaping marijuana, visit <https://no-smoke.org/wp-content/uploads/pdf/marijuana-smokefree-laws-map.pdf>

Note: American Indian and Alaska Native sovereign Tribal laws are not reflected on this map.

## 2. Threats to Smokefree Air



- Cigar/Hookah Lounges
- Marijuana Secondhand Smoke
- Preemption



# Threat: Cigar Bars & Hookah Lounges

- Bills to weaken Montana CAAA to allow cigar bars with indoor smoking considered in 2019 & 2021
- Expect similar bills in 2023
- Common cigar industry threat in many cities & states
- Hookah lounges often open under same exemption
- **77%** of MT voters **oppose** allowing cigar smoking in bars

# Cigar Bars = Increased Health Risk

- Same toxic & carcinogenic chemicals as cigarette smoke
- Larger size & longer smoking time = greater SHS exposure
- Don't roll back CAAA protections to allow indoor SHS
- MT workers should not be exposed to SHS on the job
- Cigar bars are difficult to enforce & loophole is exploited
- Cigar industry pushing to re-normalize indoor smoking



# Threat: Secondhand Marijuana Smoke

SECONDHAND  
MARIJUANA SMOKE



contains many of the same  
**TOXIC CHEMICALS** as  
tobacco smoke

# Marijuana & Tobacco Smoke

- Marijuana & tobacco **both** create secondhand smoke when combusted
- **Secondhand marijuana smoke:**
  - Contains many of the same **chemicals & cancer-causing substances** as secondhand tobacco smoke, including:



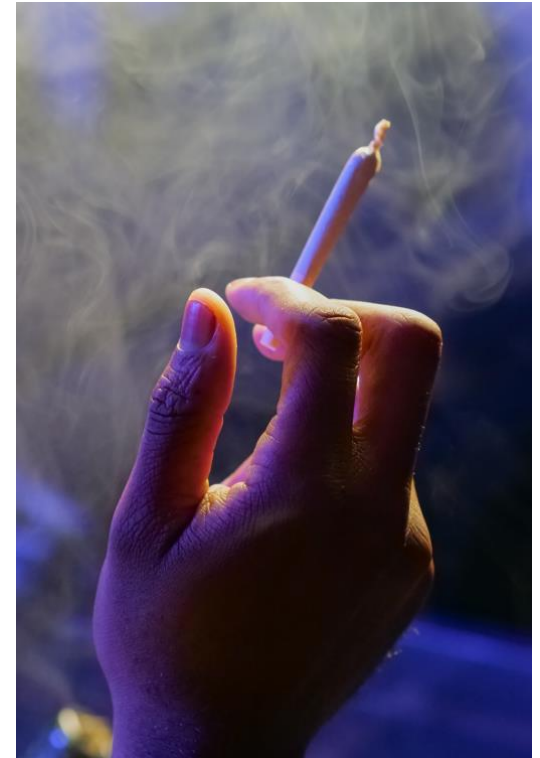
**3 times**  
the amount of  
**ammonia**



significant levels of **mercury,**  
**lead, formaldehyde, benzene,**  
hydrogen **cyanide, & toluene.**

# Secondhand Marijuana Smoke

- Secondhand marijuana & tobacco smoke may have **similar harmful health effects** due to similar chemical composition:
  - Especially to lungs & heart
  - Heart attack, stroke, & atherosclerosis



# All Smoke is Harmful

- Breathing **any** type of smoke is harmful to health.
- Smoke – & aerosol from vaping – contains **fine particulate matter** (PM<sub>2.5</sub>) that poses a health risk to non-smokers.
- **Fine particles** can:
  - Be breathed deeply into lungs
  - Cause lung irritation, asthma attacks, & infections.
  - Make breathing problems worse, like asthma, bronchitis, & COPD.



# Poor Indoor Air Quality

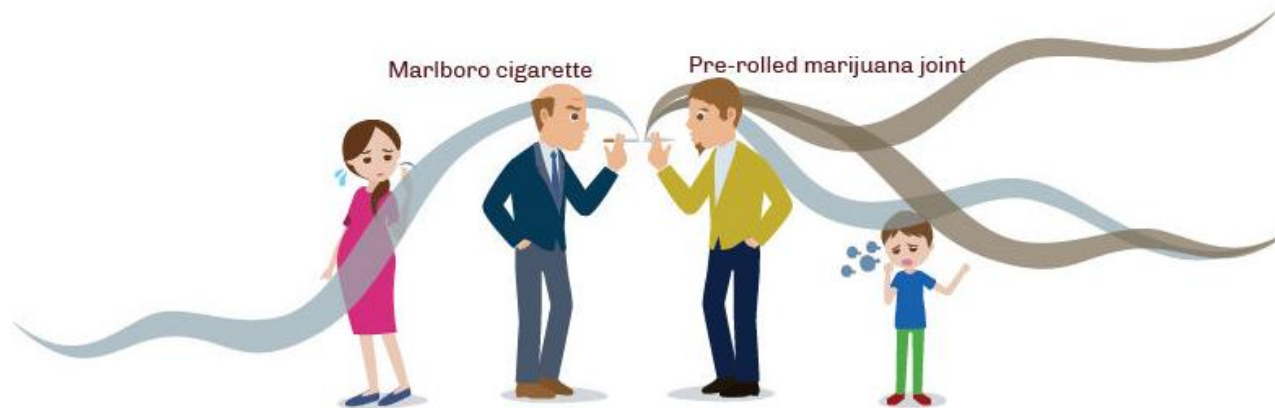
- Smoked marijuana creates **more** PM<sub>2.5</sub> particles than cigarettes

Research affirms that secondhand smoke from marijuana is a health hazard, including high levels of fine particulate matter that lodge deeply in the lungs.

PM<sub>2.5</sub> emission rate of pre-rolled marijuana joints was found to be

**3.5**  
**TIMES**

the average emission rate of Marlboro tobacco cigarettes



- Vaporizing, dabbing, & **vaping marijuana** indoors increased PM<sub>2.5</sub> particle concentrations to unhealthy levels

# Threats to Smokefree Air

- Push to weaken smokefree laws to expand where marijuana smoking/vaping is allowed:
  - **On-site use at retailers:** Lounges, mixed-use buildings
  - **Social consumption spaces:** Restaurants, bars, cafes, events
- Even strong, long-standing smokefree laws are at risk
- Exempting marijuana smoking/vaping will lead to increased: drifting smoke, exposure, & inequities

# Threats to Smokefree Air

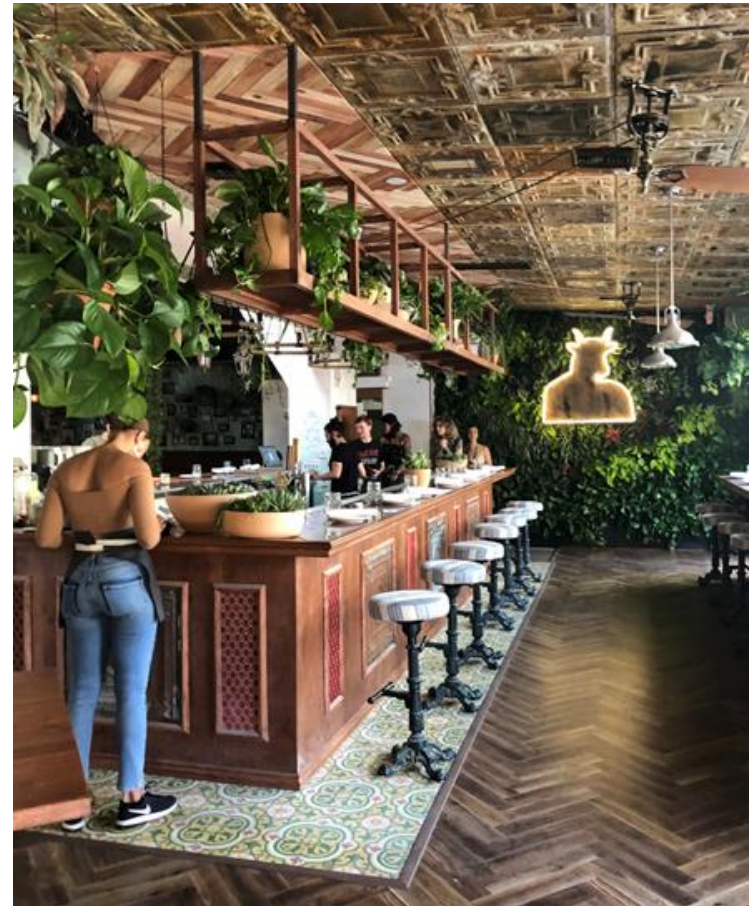
- Challenges for tobacco control to work on marijuana
- Industry's growing money & political influence
- Misinformation & messaging:
  - Lack of awareness about risks of use & exposure
  - Vocal & influential proponents
  - Co-opting messaging on rights & social justice





# What's At Stake in Our Communities?

- Secondhand marijuana smoke exposure is increasing
- Cigar & hookah bars increase SHS
- Long-standing smokefree protections may be rolled back
- Smoking may be re-normalized
- Tobacco control supporters may be pro-marijuana
- Exemptions create inequities in protection & exposure



# Threat: Preemption



- Montana allows for local smokefree laws
- **74%** of Montanans support local control
  - Believe communities should be able to set standards to protect kids & public health
- Preemption bills to remove local control are always a risk
- Best response: Stay vigilant & be prepared
- Set up a Preemption Strike Force among partners to respond quickly & in coordination

### 3. Messaging



**EVERYONE NEEDS SMOKEFREE AIR**

# Messaging

ANY KIND OF  
**SMOKE**  
IS STILL  
**SMOKE**

SUPPORTING DECRIMINALIZATION/LEGALIZATION OF MARIJUANA DOES NOT MEAN THAT WORKERS OR NON-USERS SHOULD HAVE TO BREATHE THE SECONDHAND SMOKE OR VAPOR

Smokefree spaces should be free from **all** types of SHS.

# Messaging

**CIGAR SMOKE** IS HAZARDOUS  
TO PUBLIC HEALTH



CIGAR SMOKE IS COMPOSED OF THE **SAME TOXIC AND CARCINOGENIC CHEMICALS** FOUND IN CIGARETTE SMOKE, THAT IS **HARMFUL TO BOTH SMOKERS AND NONSMOKERS.**

Daily cigar smokers, particularly those who inhale, have an **increased risk of heart disease and chronic obstructive pulmonary disease (COPD).**



**CIGAR SMOKERS ARE AT AN INCREASED RISK FOR A HEART ATTACK.**

Source: [smokefreeatl.org](http://smokefreeatl.org)



# Protect Health

## Maintain the Gain!

- **No rollbacks.** Don't bring back indoor smoking.
- We shouldn't allow **any type** of smoke in workplaces.
  - Including bars/lounges, retailers, & other smokefree spaces.

## Everyone Needs to Breathe.

- **Workers** should not sacrifice their health for a paycheck.

## Protect Local Control.


- Maintain **local rights** to adopt laws to protect community health.

# Suggested Responses to MJ Opposition Arguments

What the Opposition Will Say	Health Advocate Response
<p><b>There is not enough science about secondhand marijuana smoke.</b></p> <p><i>(science - undecided)</i></p>	<ul style="list-style-type: none"> <li>Peer-reviewed and published studies indicate that exposure to secondhand marijuana smoke has health and safety risks for the general public.</li> <li>The science we have so far about secondhand marijuana smoke is enough to be alarmed for the public's health.</li> </ul> <p>• <b>Bottom Line:</b> Marijuana secondhand smoke is a form of indoor air pollution.</p>
<p><b>People really thought they were voting for on-site consumption.</b></p> <p><i>(redefining "open and public")</i></p>	<ul style="list-style-type: none"> <li>The Initiative to legalize marijuana did not include public or on-site use.</li> <li>The marijuana industry is pushing for re-defining "public" as indoors, away from public view, in venues like bars, yoga studios, coffee shops, on-site use clubs, etc. This is contrary to the general public's will and is a threat to smokefree environments.</li> </ul> <p>• <b>Bottom Line:</b> Smokefree laws and policies should make it clear that marijuana smoking is not allowed indoors.</p>
<p><b>Just put in a ventilation system and the problem is solved.</b></p> <p><i>(science - ventilation)</i></p>	<ul style="list-style-type: none"> <li>Ventilation is not a solution. Even with ventilation, there are still health risks from secondhand smoke.</li> <li>Dozens of indoor air quality studies have found that secondhand smoke is a health hazard.</li> <li>Occupational Safety and Health (OSHA) has identified secondhand smoke as a health hazard.</li> <li>ASHRAE Standard 62.1 was an outdated standard for acceptable indoor air quality in smokefree and e-cigarette aerosol environments.</li> </ul> <p>• <b>Bottom Line:</b> There is no safe level of marijuana. The only way to protect public health is to prohibit marijuana use in public places.</p>

## CLEARING THE AIR

### *Addendum*



A companion guide focused on new policy areas and emerging tobacco products.

A publication of Americans for Nonsmokers' Rights



# Marijuana On-Site Use Policy Guidance

Worked with partners to develop guidance language:

- No **indoor** smoking/vaping
- Provide unenclosed **outdoor** space for smoking/vaping that's out of public view
- If not restricted to outdoors: must be stand-alone, single-occupant building
- Do not allow food & alcohol sales or consumption



Guidelines also applicable to cigar bars

## 4. State & Local Examples



**HIGHLAND CIGAR CO.**  
ESTABLISHED 2006  
TRADE-MARK

*Presents:*

**A LIVE  
MUSIC  
EXPERIENCE**

WITH CIGAR MIKE & EMPERORS CUT

FRIDAY  
JUNE 27, 2021  
SHOW STARTS  
AT 10PM

245 N. HIGHLAND AVE  
ATLANTA, GA 30307

FOR RESERVATIONS CALL:  
404-477-2415 |  
INFO@HIGHLANDCIGARCO.COM

**BULLEIT**  
OF PROOF  
**BOURBON**  
FRONTIER  
WHISKEY

**BULLEIT**  
RYE  
AMERICAN  
WHISKEY

**EC**  
EMPERORS CUT

# Marijuana: Colorado

- State law: Weakened smokefree protections
  - Communities can decide to allow marijuana smoking & vaping in hospitality businesses, including restaurants
- Denver:
  - Allows indoor smoking/vaping at hospitality businesses
- Silverthorne:
  - Decided to not allow indoor smoking
- Facing industry interference & community pushback



# Marijuana: Alaska

- State law: Allows on-site use in stand-alone buildings
- Juneau:
  - Allows smoking/vaping only outdoors
- Anchorage:
  - Voters rejected onsite use on ballot
- Homer:
  - City Council voted down onsite use



# Cigar Bars: Kentucky

- Louisville prevented a cigar bar exemption
- Tobacco control & health equity partners coordinated
  - Letters & meetings with City Council members
  - Education & outreach on health risks & worker impacts
- **Main message:** Let's protect the integrity of the local law we fought so hard to get.
  - Don't roll back smokefree protections for some workers
  - No economic benefit: will create costs & legal risks
  - Facilitates pro-cigar culture with marketing, targeting, ads



# Cigar Bars: Kentucky

## Cigar Lounges...A Smokescreen for Making Smoking Fun Again

### Big Tobacco Doesn't Deserve Your Help

The tobacco industry spends \$234 million dollars marketing its products, including cigars, in Kentucky. All the industry needs is an open door to increase its promotions, sell more products, and normalize a smoking culture in Louisville. Approving an exemption for cigar lounges is akin to putting a “welcome” mat at the doorstep to your city.

You've worked so hard to create a more positive cultural norm for your constituents, don't let the tobacco industry undermine your efforts.



### These Are Not Always the Sophisticated Places They Claim

Sounds good on paper, but cigar lounges often become establishments you weren't intending to create. The pro-smoking advocates will sell the idea that these will be sophisticated lounges, but that is not what these establishments become.

Many so-called cigar lounges are merely bars or nightclubs that want to allow smoking under the smokescreen of the “cigar lounge” category. There is nothing sophisticated about them.



### More Work Than It's Worth

Enforcement of a cigar bar loophole can be arduous including tracking licenses, percentage of sales requirements and ongoing compliance checks. **100% smokefree indoor air is easiest to understand.**

# Cigar Bars: North Dakota

- **Like Montana:** Law doesn't allow cigar bars, but facing bills in 2023 to create exemption
- Following KY example for preparing & responding
- Highlighting improvements & risks to public health on 10 year anniversary of state smokefree law
- Meeting this week to plan coordinated approach



# North Dakota Smoke-Free & Healthy

North Dakota voted to become smoke-free on November 6, 2012. **This year (2022) we celebrate 10 years of being a smoke-free state!** In 2012 every county in the state voted in favor of the law, which advanced public health by protecting more workers, residents and visitors from secondhand smoke exposure in public places and places of employment. Our state was the last state to become smoke-free and in 2013 ND's Smoke-Free law was mentioned in the U.S. Surgeon Generals report as comprehensive statewide smoke-free policy.

**1**

**Comprehensive smoke-free policy works to improve the health of our residents.**

A. Since enacted in 2012, North Dakota has seen decreases in the percentage of residents who smoke and new cancer cases.

	<b>Before the Law (2012)</b>	<b>After the Law</b>
Current Adult Smoking Prevalence	21.1%	17.4% (2020)
Age-Adjusted Cancer Incidence	450.5 per 100,000	440.6 per 100,000 (2019)

B. 83% of ND adults don't smoke. More than 1/2 of the United States have a comprehensive smoke-free law.

C. The current ND smoke free law treats everyone equally, good public policy is consistent and fair.

**2**

**Cigars are bad for your health whether consumed directly or exposed to second-hand smoke.**

A. Cigars can have more nicotine than a pack of cigarettes and have higher levels of toxins.

B. 27% of cancer deaths in North Dakota are attributed to smoking.

**4**

**There is no proven economic benefit from cigar bars, but there are proven healthcare costs:**

- A. Smoke-filled environments have been proven to have a negative impact. Absenteeism, loss of productivity, increased maintenance and insurance costs will negatively affect the bottom line.
- B. A smoke-filled cigar bar will not improve tourism. As noted by J.D. Power and Associates, 87% of guests prefer a smoke-free hospitality environment.
- C. Very few cigar bars pay living wages. The average wage for a cigar bar employee is \$24,000. Poverty wages for a family of four in ND is around \$27,750.00.
- D. Granting a cigar bar exemption could encourage costly lawsuits as it threatens equal protections for all workers.
- E. Healthcare costs related to smoking in North Dakota is \$326 million and costs the tax-payer an average of \$916 per household in smoking-caused state and federal expenditures.
- F. Economic studies show no impact from smoke-free laws/ordinances.
- G. Smoke-free ordinances and laws save lives, and economic studies, reveal further evidence that they don't hurt business.

**5**

**Adding a cigar bar exemption is a well-known strategy from the tobacco industry to undermine smoke-free laws, which have been a proven and effective public health strategy for over two decades.**

- A. This past year, several cities and states, North Dakota and Montana included, have seen similar policies advance and be rejected. States and cities recognize the importance of protecting a decades-long successful strategy of protecting the public by keeping indoor spaces smoke-free.
- B. After COVID, Sky Dancer and Prairie Nights Casino's opened up with their main gaming floors as smoke-free, joining Four Bears and Spirit Lakes smoke-free model.

## SMOKING BARS *code name:* “CIGAR LOUNGES”

### 10 Reasons to Oppose the Cigar Lounge Exemption

Messaging:  
Augusta, GA



- 1 ALL BUSINESS ISN'T NECESSARILY GOOD BUSINESS**  
Yes - we are all desperate for economic recovery, but is this the type of business and behaviors you want to encourage? Just because people smoke, doesn't mean we should carve out exemptions and create new spaces for them to do so. Augusta's local economy will thrive without smoking lounges.
- 2 MESSAGE: HEALTH IS A PRIORITY, UNLESS THERE'S MONEY TO BE MADE**  
Modifying the existing ordinance sets a precedence that Augusta's public health priorities are subject to negotiation.
- 3 THESE ARE NOT ALWAYS THE SOPHISTICATED PLACES THEY CLAIM**  
Sounds good in theory, but cigar lounges often become establishments you weren't intending to create. They sell the idea of sophisticated lounges, but that is rarely what these establishments become. Often times, there is nothing sophisticated about them.
- 4 EXEMPTIONS IN OTHER CITIES ARE PROBLEMATIC AND UNENFORCEABLE**  
Comparisons are often made to Atlanta, Philadelphia, and other major cities with exemptions, but those cities are struggling to regulate these establishments. Many so-called cigar lounges are simply bars and nightclubs that want to allow smoking under the smokescreen of the “cigar lounge” category.
- 5 EXEMPTION ABUSE IS INEVITABLE**  
Cigar lounges are notorious for skirting the law. Even when policy provisions are written tightly, establishments know that enforcement and compliance checks are rare. **They often become the smoking lounge for cigars and many other products, including hookah, cigarettes, and marijuana.**

## 5. Resources

[www.no-smoke.org](http://www.no-smoke.org)

# SMOKEFREE IS SMOKEFREE

Nobody should have to breathe secondhand marijuana smoke or vapor at work, in public, or where they live.

Smoke is smoke—regardless of the device or description. Secondhand marijuana smoke contains hundreds of chemicals—just like secondhand tobacco smoke. Many of the chemicals in secondhand marijuana smoke are **toxic and contain hazardous fine particles that pose a significant health risk to non-smokers.**

- More laws legalizing marijuana = increased exposure to secondhand marijuana smoke and vapor.
- Employees & patrons protected by current smokefree laws may have their health put at risk by exposure to marijuana smoke or vapor. Marijuana smoking or vaping should not be allowed in smokefree spaces.
- The commercialized marijuana industry looks and sounds a lot like Big Tobacco. Together they are working to circumvent progress on smokefree air.
- The vast majority of the population are non-smokers. Smokefree means smokefree—no cigarettes and cigars, e-cigarette use, or marijuana smoking or vaping.

### SECONDHAND MARIJUANA SMOKE

contains many of the same **CANCER-CAUSING SUBSTANCES** and **TOXIC CHEMICALS** as secondhand tobacco smoke, including:



**3 times** the amount of **ammonia**



significant levels of **mercury, lead, formaldehyde, benzene, hydrogen cyanide, & toluene.**

## PROTECT HEALTH

**Protect workers and the public from exposure to secondhand smoke** by prohibiting marijuana smoking in all workplaces and enclosed public places.



As of July, 2022, 869 localities and 35 states/territories/commonwealths restrict marijuana use in some or all smokefree spaces. Of these, 468 localities and 21 states/territories/commonwealths prohibit smoking and vaping of recreational and medical marijuana in one or more of the following venues: non-hospitality workplaces, restaurants, bars, and/or gambling facilities.

For more information about marijuana and smokefree laws, visit

[no-smoke.org](http://no-smoke.org)

**ANRF** AMERICAN NONSMOKERS' RIGHTS FOUNDATION



# Resources

## Marijuana info:

- Marijuana SHS Fact Sheet
- Latest maps, lists, research & news
- On-Site Use Policy Guidance
- [www.no-smoke.org/smokefree-threats/marijuana-smoke](http://www.no-smoke.org/smokefree-threats/marijuana-smoke)

## Cigar bar info:

- Coming soon: Cigar bar threats page on [www.no-smoke.org](http://www.no-smoke.org)

## Preemption info:

- Setting Up a Preemption Strike Force fact sheet
- Sample Resolution to Protect Local Control
- Evolving Preemption Tactics fact sheet
- [www.protectlocalcontrol.org](http://www.protectlocalcontrol.org)



## Session 10: Marijuana Industry Threats to Smokefree Air

- New research, latest threats, & impact on laws
- Wednesday, November 9 @ 11am MST
- Advanced registration required
- Learn more & register: [clearingtheairinstitute.com](https://clearingtheairinstitute.com)

# Thank you!

Contact us for more information,  
materials & resources.

Liz Williams

Policy & Project Manager

American Nonsmokers' Rights Foundation

[liz.williams@no-smoke.org](mailto:liz.williams@no-smoke.org)

[no-smoke.org](http://no-smoke.org)

