



SMOKE FREE

PROHIBITION OF SMOKING IN PUBLIC PLACES

Smoke free laws are successful and have multiple benefits: they help the economy and enjoy public support. There is overwhelming consensus among medical and scientific authorities worldwide that secondhand smoke is a major public health threat, and that the only effective way to protect the public is to eliminate secondhand smoke from all workplaces and public places.ⁱ

What is the definition of smoke free public and work places?

- The concept of smoke free public places means that “everyone is protected from the hazards of second hand tobacco smoke, in all enclosed public and work places”.
- A “public place” means any place to which the public has access.
- A smoke free policy is applicable to all enclosed public places like offices, institutions, airports, cinema theatres, libraries, post offices and banks and some open spaces like open auditoria, railway stations, bus stops etc.

What is Second Hand Smoke? How is it harmful to health?

- Second Hand Smoke (SHS) is the smoke produced from a burning tobacco product or the smoke exhaled by the tobacco smoker. If SHS is inhaled by non-smokers, it is also called ‘passive smoking’.ⁱⁱ
- SHS is a hazardous mixture which contains over 4000 chemicals such as cadmium, lead, arsenic, benzene, carbon monoxide, out of which over 50 are carcinogenic for humans. Apart from this, some of the chemicals in SHS are irritants and systemic toxins whereas some are reproductive and developmental toxins.ⁱⁱⁱ
- SHS is a major cause of disease, death and disability among non-smokers.^{iv}

Why is smoke free a constitutional right?

- According to the Article 21 of the Constitution of India, nobody can harm other people to express their liberty. So it is the duty of the state to protect citizens from all types of harmful exposure like Second Hand Smoke emitted by smokers.
- According to Article 39 and 47 of the Constitution of India, it is the duty of government to raise the level of standard of living and to improve the health of its citizens.
- It is the fundamental right of every citizen to claim clean air to breathe.^v

What is the provision for Smoke-free under the Central tobacco Control Act, 2003 in India?

- As per the section 4 of the COTPA, there is prohibition of smoking in public places.^{vi}



- Rules for prohibiting smoking in public places notified on 25th February, 2004, vide notification No. G.S.R. 137.^{vii}
- On 30th May, 2008 by a notification, the rules under Section 4 have been modified. These rules came into effect on 2nd October, 2008 all over the country.^{viii}

What are the salient features of revised rules?

The owner, proprietor, manager, supervisor or in charge of the affairs of a public places shall ensure that-

- No person smokes in public places.
- There should be a board prominently visible in every entrance and every floor mentioning – “No Smoking Area – Smoking Here is an Offence” in any Indian languages as applicable.
- The size of the board should not be less than 60 cm/30cm.
- Owners/managers of hotels/restaurants having seating capacity of 30 people or more and managers at airports shall ensure that smoking and non – smoking area should be physically segregated.
- No ashtrays, matches, lighters or other things to facilitate smoking should be provided in any public place.
- The owner, proprietor, manager, supervisor or in-charge of the affairs of a public places shall notify and display prominently the name of the person to whom a complaint may be made if violation occurs.
- If the owner, proprietor, manager, supervisor or in charge of the affairs of a public places fails to act on a report of such violation then he/she will be liable to pay fine equivalent to the number of individual offences.^{ix}

What is the Penalty for violations?

A fine up to Rs.200/- for offences relating to smoking in public places can be imposed by any officer as authorized by the central/state government.

What are the Smoke-free rules in the milieu of WHO Framework Convention on Tobacco Control (FCTC)?

- Article 8 in the WHO FCTC mandates smoke-free laws in order to protect non-smokers from exposure to tobacco smoke.
- Parties recognize that scientific evidence has unequivocally established that exposure to tobacco smoke causes death, disease and disability.
- Each Party shall adopt and implement in areas of existing national jurisdiction as determined by national law and actively promote at other jurisdictional levels the adoption and implementation of effective legislative, executive, administrative and/or other measures, providing for protection from exposure to tobacco smoke in indoor workplaces, public transport, indoor public places and, as appropriate, other public places.



Do Smoke free regulations harm the economy?

- Despite the tobacco industry's misleading predictions, numerous independent studies have shown that smoke-free laws do not have a negative economic impact particularly on the hospitality or tourism industries. In fact, in several jurisdictions, including New York City, smoke-free laws have been followed by increased profits for the hospitality industry.^x
- A comprehensive review of all available studies concluded that: "All of the best designed studies report no impact or a positive impact of smoke-free restaurant and bar laws on sales or employment. Policymakers can act to protect workers and patrons from the toxins in secondhand smoke, and thus, reject industry claims that there will be an adverse economic impact."

Do businesses have a right to allow smoking?

- No. The safety of workers and the public is not a matter of choice for business owners. Businesses cannot choose to opt out of food hygiene standards, or other health and safety requirements for workers and the public. What is good for health is always good for business.

Are smoke free laws popular? Do they enjoy high compliance?

- A survey commissioned by Voluntary Health Association of India, Delhi, and Healis Sekhsaria Institute for Public Health, Mumbai, conducted by Synovate's Global Omnibus, in four metropolitan cities of India revealed that there is a near universal support for the new smoke free regulations that prohibit smoking inside all public places and workplaces in India.
- All over the world, smoke free laws are being enforced easily and winning popular support. They register high compliance. In New Zealand, support for smoke free bars, pubs, and nightclubs rose from 61% of adults in 2004 to 81% in 2006. In Ireland, the smoke free law was supported by 93% of the population in 2005, compared with 67% immediately before the law was introduced.^{xi}

Is smoke free a successful global practice?

- Smoke-free laws have been successfully implemented in several countries around the world, which include Scotland, France, Ireland, Sweden, UK, Uruguay, Italy, South Africa, Thailand, Australia, Hong Kong, Iran, New Zealand and Norway. It is based on the rational concept of protecting the health of those who smoke as well as those who do not smoke.

Key Messages and Policy Recommendations

- Second-hand smoke (SHS) is a hazardous mixture which contains over 4000 chemicals such as cadmium, lead, arsenic, benzene, carbon monoxide, out of which over 50 are carcinogenic for humans. It is a major public health threat, and the only effective way to protect the public is to eliminate secondhand smoke from all workplaces and public places.
- More smoke free public and workplaces should be created across the country as mandated under Section 4 of COTPA.



- Smoke-free laws do not have a negative economic impact particularly on the hospitality or tourism industries. There is rising evidence across the world to prove that smoke-free laws have been followed by increased profits for the hospitality industry.
- Enforcement officials need to be oriented and sensitized on the benefits of smoke free and COTPA rules to strengthen enforcement. There is a need for clear guidelines on penalty process, recording and reporting violations, monitoring the level of compliance and results of implementation. There should be raids and crack downs on pubs and hookah bars violating the law.
- Key stakeholders as well as the general public should be made aware of the public health significance of the smoke-free law. A task force in partnership with government- civil society-media can help in public education, increase outreach, monitor compliance and address gaps in implementation.

ⁱ WHO 2007, Protection from Exposure to Secondhand Tobacco Smoke, Policy Recommendations

ⁱⁱ Health Harms from Secondhand Smoke. A Factsheet from the Campaign for Tobacco-Free Kids. Available online at: <http://tobaccofreekids.org/research/factsheets/pdf/0103.pdf>

ⁱⁱⁱ The World Health Organization, 2003. WHO Framework Convention on Tobacco Control. Available online at: <http://www.who.int/tobacco/fctc/text/final/en/>

^{iv} World Health Organization, International Agency for Research on Cancer. Tobacco Smoke and Voluntary Smoking. Monograph Series, Volume 83. Available online at: <http://monographs.iarc.fr/ENG/Monographs/vol83/volume83.pdf>

^v The Constitution of India

^{vi} The Cigarette and other Tobacco Products (Prohibition of Advertisement and regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 and Related Rules and Regulations ; Ministry of Health and family Welfare, Government of India

^{vii} The Gazette of India, Ministry of Health and Family Welfare Notification (G.S.R. 137), February 25, 2004, Government of India

^{viii} The Gazette of India, Ministry of Health and Family Welfare Notification (G.S.R. 417-E), May 30, 2008, Government of India

^{ix} The Gazette of India, Ministry of Health and Family Welfare Notification (G.S.R. 417-E), May 30, 2008, Government of India

^x New York State Department of Health (2006). The Health and Economic Impact of New York's Clean Indoor Air Act, July 2006. New York State Department of Health, Available online at: http://www.health.state.ny.us/prevention/tobacco_control/docs/ciaa_impact_report.pdf

