

MEMORANDUM

To: Los Angeles City Government
From: Jennifer Genereaux
Date: December 6, 2015
Re: Open Air Smoking in Los Angeles

POLICY QUESTION

What should be done to broaden the smoking ban in Los Angeles into open air spaces?

EXECUTIVE SUMMARY

Review of the apparent political, social and economic costs and benefits of the L.A. City Government proposed extension of its open-air smoking ban spaces resulted in a recommendation for no action. L.A. City Municipal Code 41.50 B 18 b. currently bans open air smoking only in outside dining areas. The city is considering expansion of this ban to include broader open-air spaces, yet no appreciable outcome could be found in this report. While implementation of an extension is likely to be highly efficient, with no apparent effect, any effort into policy expansion seems like an inefficient use of time. The disqualifying factor is that of L.A.s air pollution problem with non-tobacco smoke. When compared with the low rate of tobacco smokers in the city, the incredible rate of negative health effect felt by city residents due to smoke infers that non-tobacco smoke is significantly costing the L.A. economy. Therefore, policy focus on reduction of non-tobacco smoke is more likely than reduction of tobacco smoke to have a measurable impact on the population

Introduction

This report provides the Los Angeles (L.A.) City Government with preliminary recommendations regarding its proposed extension of the public smoking ban to include open air spaces, such as parks, beaches, commercial storefronts and other public spaces. Like many U.S. cities, current L.A. anti-smoking policy is a mixture of city, county and state level prohibitions and restrictions. Established in 1994, California Labor Code 6404.5 bans smoking primarily in and around enclosed public spaces and workplaces, such as outdoor dining spaces and within 20 feet of publicly owned buildings.¹ Additionally, the state restricts private workplaces from allowing smoking, with rules based on specific employer and employee criteria, and bans smoking in the presence of a minor (18 years or younger) in any enclosed public or private space.² In September 2009, L.A. County Board of Supervisors unanimously approved an ordinance banning smoking in public parks, which took effect the following month.³ In May 2011, City of L.A. passed Ordinance 181065 that extended the public smoking ban to include all outdoor dining areas.⁴ Together, these laws protect people within the city of L.A. from the harmful effects of secondhand smoke in nearly all inside public spaces and those adjoining or nearby outside spaces. At this time, while some L.A. county communities have imposed comprehensive local open space smoking bans extended to parks, beaches, and other public spaces, L.A. city's ban remains limited to outdoor dining.

Currently, there are no national restrictions of any kind for smoking in open air public spaces, and no state banned all areas. This has left local governments with the responsibility to enact outside smoking bans, which they have done fiercely over the past decade. While not as prevalent as inside smoking restrictions, a growing number of municipalities across the nation are adopting outside open air smoking bans. The American Nonsmokers' Rights Foundation reports as of 2 October 2015, the number of municipalities nationally mandating 100% smoke-free open air areas (not including those with designated

¹ LADPH, "Tobacco Control and Prevention Program [Web Site]," 2015.

² LADPH, "Tobacco Control and Prevention Program [Web Site]," 2015.

³ L.A. BOS. "Statement of Proceedings: Ordinance for Adoption (Item 31)." 2009.

⁴ L.A. Municipal Code, "City Ordinance Number 181165 (Rev. 2/21/06)," 2010.

smoking areas) is 251 for beaches, 1,155 for parks, 426 for public transit waiting stations, 75 for Zoos, and for 379 for outside dining and bar patios. Not surprisingly, municipalities located in California frequent these lists.

With the city of L.A., like their home state of California, having been a national anti-tobacco policy leader for more than two decades,⁵ proposed expansion to tobacco free public zones may come as no surprise to the second densest metropolitan area in the nation.⁶ In 2011, U.S. Center for Disease Control and Prevention (CDC) conducted a survey of almost 200 metropolitan areas nationally. Comparative results showed the city of L.A. to have the ninth lowest rate of smoking residents.⁷ Successful deterrence of tobacco use in L.A. is a testament to the social values embodied throughout the state. Home to the first city in the world to enact legal restrictions on smoking in public spaces (San Luis Obispo in 1990), California became the nation's first state to legislate public smoking restrictions in 1994, and then first to enact comprehensive smoke-free air laws in 1998.⁸ These laws, like many states now, primarily govern inside areas (see Figure 1). Smoking regulations specific to outside areas are a newer evolution. Regardless, the liberal history of L.A. and California in regards to anti-smoking policies suggest strong political, economic and social support from in and around L.A. for the city to broaden the scope of its public smoking ban for open spaces from only outside dining areas to include other public spaces, such as commercial building fronts, parks and beaches.

I. Roots of the Problem

Some research has identified tobacco as a catalyst in behavior linked to negative economic outcomes, causing the use of tobacco to be a concern for policy makers across the nation. To further examine these links, the L.A. County Department of Public Health (LADPH) convened a summit in March 2012 to discuss socioeconomic impacts of tobacco use among populations.⁹ More than 160 public and private partners attended LADPH's *Living Well: Strategies for Tobacco Free Recovery Summit*, where shared research and data identified an increase in mental disorders associated with increased tobacco use.¹⁰ One presentation showed an alarming cycle of increased tobacco prevalence among the mentally ill, such as those with psychological or physiological disorders, for whom tobacco use may impede with treatment. Mentally ill populations were cited as having increased vulnerability to tobacco dependence, and as more likely to fail cessation efforts. This population has increased vulnerability to tobacco dependence and a decreased likelihood of cessation, compounded with the physiological effects of tobacco use masking serious medical conditions and, in many cases, substituting treatment. The result for this group is further decreasing socioeconomic outcomes, such as increased chemical dependency, criminal activity and reduced unemployment.¹¹ The high correlation of these negative outcomes to populations with neurobiological, psychological or social disorders, who are also significantly more likely to experience these outcomes, both become and maintain addicted to tobacco. To counter these outcomes, LADPH has expressed heightened interest in increasing positive outcomes from smoking cessation efforts in the county, particularly in mentally ill populations, who have shown a strong correlation between tobacco use and negative economic outcomes.

Poor air quality has shown to cause serious public health concerns in L.A., with negative social, economic and political implications, for which the cause may be misperceived. National comparison has shown the L.A. population to have exceptionally prevalence of smokers, yet extremely high rates of smoking related illnesses and poor air quality. Therefore, it is likely that any smoke attributing to residents' poor health is not primarily related to tobacco use. The American Lung Associations (ALA) has named L.A. the single worst ozone polluting city nationally in 15 of 16 annual "State of the Air" reports.¹² While L.A. maintained this title in 2015, the report showed the city's recent 3-years ozone pollution

⁵ LADPH, "Cigarette Smoking in Los Angeles County: Local Data to Infor Tobacco Policy," 2010.

⁶ Census Bureau, "Growth in Urban Population Outpaces Rest of Nation," 2012.

⁷ Andy Kiersz, "Here Are The US Cities With The Most Smokers," 2014.

⁸ MMWR, "State Smoke-Free Laws for Worksites, Restaurants, and Bars," 2011.

⁹ LADPH, "Living Well: Strategies for Tobacco Free Recovery Summit," 2012.

¹⁰ LADPH, "Living Well: Strategies for Tobacco Free Recovery Summit," 2012

¹¹ Tony Klein, "Denormalizing Tobacco Use in Addiction Services" [Presentation], 2012.

¹² ALA, "State of the Air: 2015," 2015.

average dropped by roughly one-third of levels recorded 15 years ago.¹³ This slight positive improvement in L.A. air quality is not sufficient to cause notable improvement to resident health. Figure 2 provides a color-coded map of California counties by “State of the Air” pollution rating in 2015. Of the most polluted counties nationwide in 2015, L.A. ranked in the top 10 by rate of occurrences in Chronic Obstructive Pulmonary disease (COPD), Cardiovascular (CV) Disease, pediatric and adult asthma, and Diabetes.¹⁴ Besides being socially undesirable, the public health care costs of these diseases is economically undesirable, which is also politically undesirable. If L.A. desires to combat these health issues, measures to improve air quality with a focus on the greatest sources of air pollution are likely the most effective approach, yet may not be efficient in terms of feasibility.

II. Current Solution

The City of L.A. currently only prohibits public smoking at outdoor dining areas and adheres to County and State restrictions covering many other public areas. City policy has simply served to supplement policy imposed by these higher authorities. L.A. city would like to broaden their policy on open air smoking from prohibiting smoking in outdoor dining areas to other open spaces, such as in front of commercial buildings, parks and beaches. Currently, combined county and state anti-smoking policies provide smoking prohibitions and restrictions that are comprehensive enough to protect most inside public areas and some outside areas. L.A. city policy have appeared to be to act as an extension of county and state policies, supplementing existing rules by adding additional prohibitions where needed. After all, it is not necessary for L.A. city to create duplicate policy.

III. Policy Analysis Goals & Criteria

The goal of this policy analysis is to determine the most efficient plan to enact smoking bans in open air public spaces, with plan criteria focused on feasibility and implementability. Extension of L.A. city anti-smoking policy to ban smoking in outside, open air spaces will additionally supplement higher government policy, and the desired outcome is likely to enhance the quality of life for L.A. residents.

IV. Possible Solutions

Economic, social and political dynamics of the L.A. metropolitan area are too unique from other major metropolitan areas in the nation to allow comparing of anti-tobacco policies. L.A. is a national outlier in terms of tobacco normalization within the populous, which erodes the city for the ability to attain applicable lessons learned from other cities in and outside of the U.S. One

Option 1: Status Quo: Municipal Code 41.50 B 18 b

The City of L.A. adopted its first anti-smoking ordinance on 8 March 2011 (Municipal Code 41.50 B 18 b) prohibiting smoking in outside dining areas, with these areas required to have posted visible “No Smoking” signs.¹⁵ Other laws restricting outside smoking are from the county, which prohibits smoking in parks, and the state, which bans smoking in the area surrounding public buildings. Due to the high level of social acceptance of anti-smoking policy in L.A. city, there are no appreciable public costs associated with the implementation of these policies. Conversely, the city does appear to reap symbolic benefits of these policies, with the benefits of positive perception social and politically likely securing 100% feasibility for the city in keeping policy at the status quo. The general culture if L.A. city mimics that of the state of California in that its residents appear to welcome policies aimed at enhancing quality of life and public good, regardless of the cost to convenience or even individual rights. While the status quo is a secure policy option, it has no apparent effect on effectiveness and is not an efficient means of eliminating smoking in broader open air spaces.

¹³ ALA, “State of the Air: 2015,” 2015.

¹⁴ ALA, “State of the Air: 2015,” 2015.

¹⁵ LAFD, “Anti-Smoking Ordinance Enforcement, California Labor Code 6404.5,” 2015.

Option 2: Add areas to Municipal Code 41.50 B 18 b.

The provision of Municipal Code 41.50 B 18 b. restricting open air smoking could be expanded from the current limited scope of only outside dining areas to include one or more select other areas. While not as prevalent as inside smoking restrictions, a growing number of municipalities across the nation are adopting outside open air smoking bans. Policies vary widely, and include many mixtures of specifically prohibited areas, each with varying restrictions on places such as beaches, transit stations, zoos, parks, sports events, and open dining and patios. Following these trends, it is likely highly feasible for L.A. city to simply add another specific area to the law now, and then another later, so as not to overwhelm the public with too many restrictions at one time. Expansion of the ban to any new area would be beneficial, although the city could plan efficiently by starting with expansion of the ban to the most travelled public areas, where there is also likely to be the greatest effect.

Option 3: Revise Municipal Code 41.50 B 18 b.

Since the scope of Municipal Code 41.50 B 18 b is narrowed specifically on outside dining areas, it may be most efficient to revise the purpose of this law to broadly govern all public outside spaces. Then prohibitions, restrictions and exemptions by specific areas could be listed in more detail in another section of the law, such as in an appendix. Broad open-air smoking prohibition limited only by those directly specified areas is a highly effective approach as it ensures that no open-air space may be legally smoked in unless specifically identified as such in the law.

Increasingly over the past decade, smoke-free laws for public outside areas has been trending in and outside the U.S. from national to local levels of governance. Currently, the most comprehensive of these bans exists in Calabasas, California, which is believed to have the strictest outdoor ban in the U.S., and Macedonia, where smoking is banned at all open spaces. This approach risks appearing extreme as it is all inclusive of open air spaced, and it is likely feasible given the social and political culture in the region. Further, L.A. city can be reasonably assured of no political or legal interference from the state. California does not have any preemptive smoke-free air laws, leaving L.A. city to freely conceive its own.

V. Recommendation*

Expansion of the current smoking ban seems easy to implement, with no measurable effect to the public in the short and long-term, and further research into policy options to reduce non-tobacco smoke in L.A. city air is highly recommended. The findings in this report show that any option to expand City of L.A. public smoking ban for open air areas is likely to be highly feasible, with Option 2 to add specific areas being the most implementable. A plan could be made to add areas incrementally, expanding the scope of the policy slowly over time in order to both gauge public opinion and prepare public transition. Option 3 may be just as feasible as option 2 given the known social and political culture of the city and state. Regardless, extension of this policy is efficient and effective only to meet the criteria of reducing secondhand tobacco smoke, which is minimal in L.A. when compared to other cities. In fact, the low smoking rate together with the alarmingly high instance of 'smoking related' diseases suggest that L.A. has a serious problem with non-tobacco related smoke. If this is the case, and health is a concern of policy makers, then focus on tobacco use may be the least effective approach in any effort to reduce smoke in the open air.

*For a pictorial and graphical illustration of this recommendation, please see the following:

- Figure 4: Decision Tree
- Figure 5: Policy Matrix

REFERENCES

- American Lung Association (ALA). "State of the Air: 2015." Downloaded December 2015 from <http://www.stateoftheair.org/2015/states/california/>.
- Americans for Nonsmokers' Rights (ANR). "Smokefree Lists, Maps, and Data." Last updated 2 October 2015. Retrieved from <http://www.no-smoke.org/goingsmokefree.php?id=519#outdoor>.
- Kiersz, Andy. "Here Are The US Cities With The Most Smokers." In Business Insider. 28 October 2014. <http://www.businessinsider.com/smoking-rate-metro-area-map-2014-10>.
- Los Angeles County Department of Public Health (LADPH). *Tobacco Control and Prevention Program* [Web Site]. 2015. <http://www.publichealth.lacounty.gov/tob/index.htm>.
- LADPH. *Living Well: Strategies for Tobacco Free Recovery Summit*, convened 4-6 March, 2012.
 - **Klein, Tony**. "Denormalizing Tobacco Use in Addiction Services" [Presentation]. Presented at *Living Well: Strategies for Tobacco Free Recovery Summit*, convened by LADPH: 4-6 March, 2012.
- LADPH, Office of Health Assessment and Epidemiology. "Cigarette Smoking in Los Angeles County: Local Data to Infor Tobacco Policy." A Cities and Communities Health Report, June 2010. Retrieved December 2015 from http://www.publichealth.lacounty.gov/ha/reports/habriefs/2007/Cigarette_Smoking_Cities_finalS.pdf.
- Los Angeles Fire Department (LAFD). "Anti-Smoking Ordinance Enforcement, California Labor Code 6404.5." Retrieved December 2015 from <http://www.lafd.org/smoking-ordinance>.
- Morbidity and Mortality Weekly Report (MMWR). "State Smoke-Free Laws for Worksites, Restaurants, and Bars -- United States, 2000-2010." Published by *Centers for Disease Control and Prevention* (CDC). 22 April 2011. <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6015a2.htm>.
- Los Angeles County Board Of Supervisors (L.A. BOS). "Statement of Proceedings: Ordinance for Adoption (Item 31)." 22 September 2009. Retrieved December 2015 from <http://portal.lacounty.gov/wps/portal/sop/>.
- Los Angeles Municipal Code. "City Ordinance Number 181165 (Rev. 2/21/06)." Council File Number 08-1544. Effective Date: 8 March 2010. Downloaded December 2016 from http://clkrep.lacity.org/onlinedocs/2008/08-1544_ord_181065.pdf.
- Ong, Dr. Michael. "California Cities Top List of Most Polluted Areas in American Lung Association Report." In *California Pan-Ethnic Health Network (CPEHN)*. Published by *American Lung Association in California*: 18 May 2015. <http://cpehn.org/blog/201505/california-cities-top-list-most-polluted-areas-american-lung-association-report>.
- U.S. Census Bureau. "Growth in Urban Population Outpaces Rest of Nation, Census Bureau Reports." Released 26 March 2012. Retrieved December 2015 from https://www.census.gov/newsroom/releases/archives/2010_census/cb12-50.html.

EXHIBITS

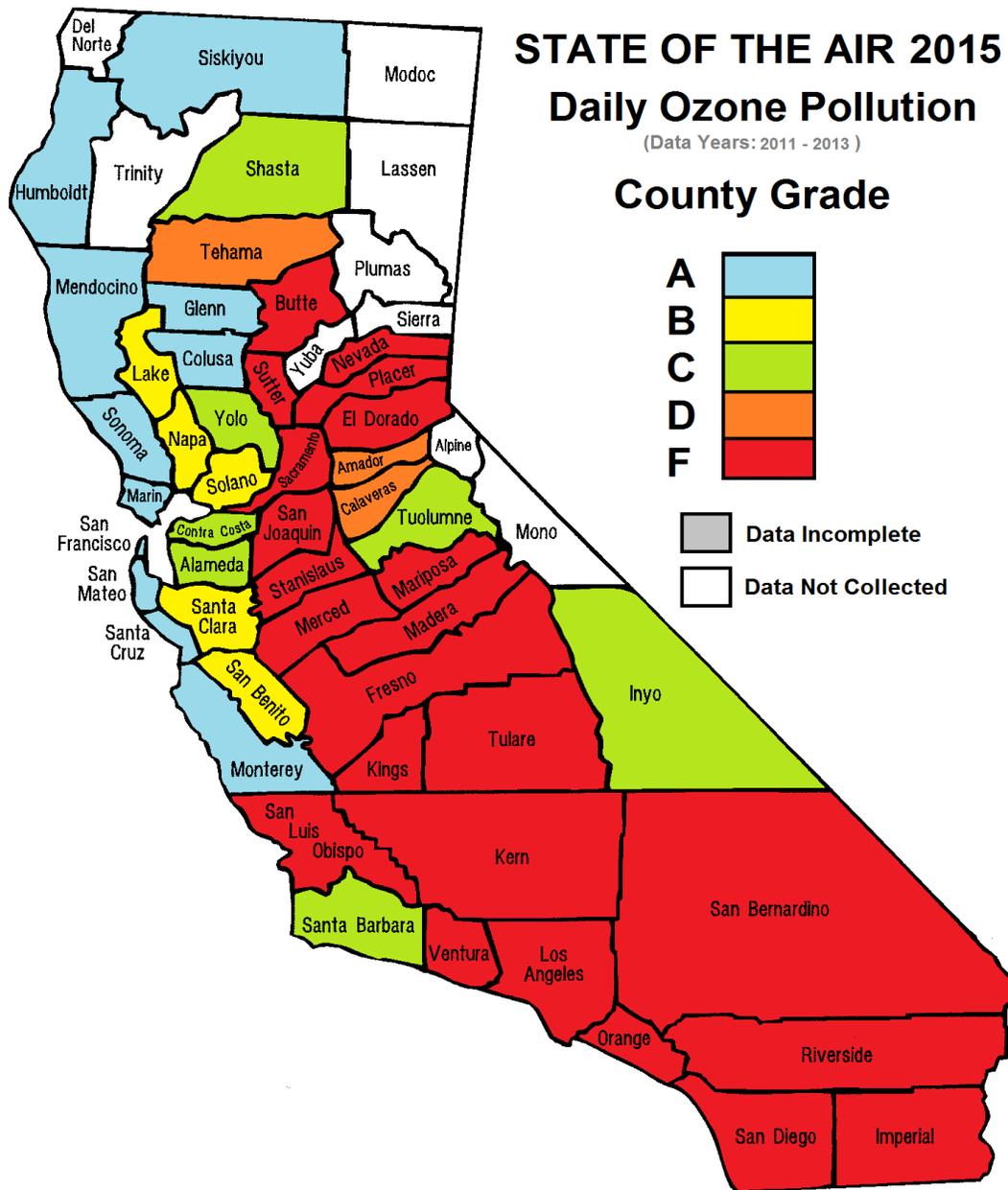
Figure 1: Smoking Bans with Exemptions by U.S. State and Territory*

*This chart was created by the author of this report, Jennifer Genereaux, using data provided by Wikipedia.com.

U.S. National State & Territory Smoking Bans for Enclosed Public Spaces					
KEY	No Ban		Banned		Exempt
					
	Tobaccoists	Cigar Bars	Private Clubs/Bars	Casinos	Small Workplaces
United States					
Alabama					
Alaska					
American Samoa					
Arizona					
Arkansas					
California					
Colorado					
Connecticut					
Delaware					
District of Columbia					
Florida					
Georgia					
Guam					
Hawaii					
Idaho					
Illinois					
Indiana					
Iowa					
Kansas					
Kentucky					
Louisiana					
Maine					
Maryland					
Massachusetts					
Michigan					
Minnesota					
Mississippi					
Missouri					
Montana					
Nebraska					
Nevada					
New Hampshire					
New Jersey					
New Mexico					
New York					
North Carolina					
North Dakota					
N. Mariana Islands					
Ohio					
Oklahoma					
Oregon					
Pennsylvania					
Puerto Rico					
Rhode Island					
South Carolina					
South Dakota					
Tennessee					
Texas					
U.S. Virgin Islands					
Utah					
Vermont					
Virginia					
Washington					
West Virginia					
Wisconsin					
Wyoming					

Figure 2: Map of Particle Pollution in California by Locality.

Map created May 2015 by California Pan-Ethnic Health Network (CPEHN)¹⁶ based on data collected by American Lung Association (ALA)¹⁷.



¹⁶ Dr. Michael Ong, "California Cities Top List of Most Polluted Areas," 2015.

¹⁷ ALA, "State of the Air: 2015," 2015.

Figure 3: Illustration of State Preemptions for Localities¹⁸

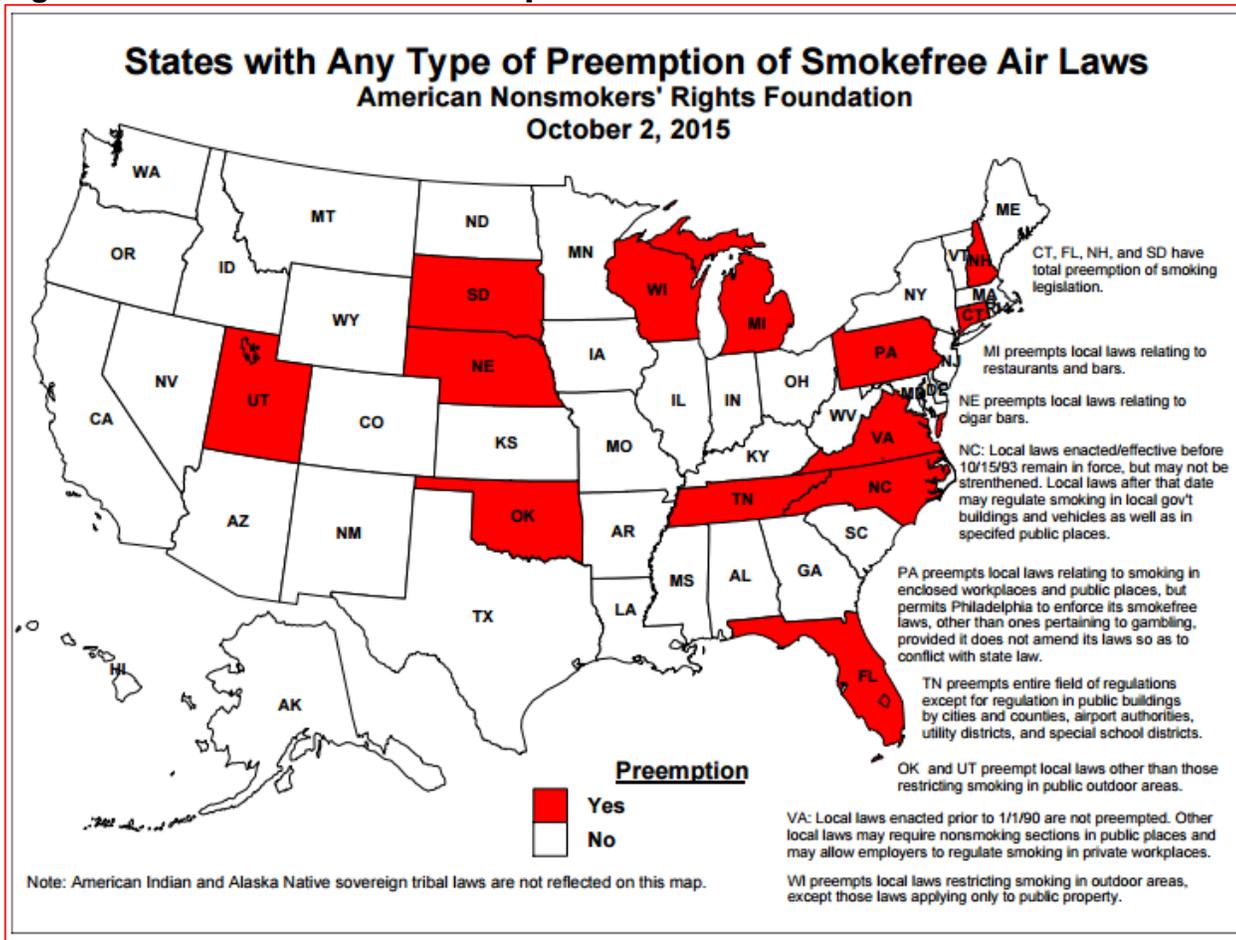
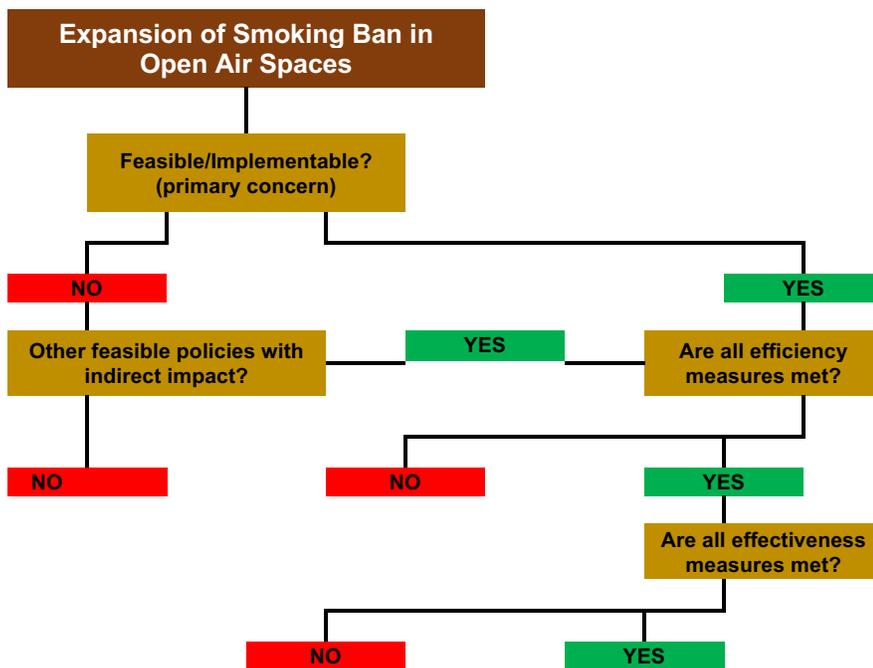


Figure 4: Decision Tree



¹⁸ ANR, "Smokefree Lists, Maps, and Data," 2015.

Figure 5: Policy Matrix

		Evaluation Criteria (Scale: Low-Mid-High)		
		Efficiency	Effectiveness	Feasibility
Possible Solutions	Option 1: Status Quo	<p>Social: High</p> <ul style="list-style-type: none"> Expected among the population <p>Economic: Low</p> <ul style="list-style-type: none"> Only an aesthetic impact 	<p>Political: Low</p> <ul style="list-style-type: none"> Does not meet desired outcome to reduce smoke in open air spaces <p>Social: Mid</p> <ul style="list-style-type: none"> Low smoking rates suggest public smoking bans may have some peer-based effect on promoting the cessation 	<p>Political: High</p> <ul style="list-style-type: none"> Legality is already established <p>Social: High</p> <ul style="list-style-type: none"> Already Accepted <p>Economic: High</p> <ul style="list-style-type: none"> Funding already established
	Option 2: Add areas to Municipal Code 41.50 B 18 b.	<p>Social: High</p> <ul style="list-style-type: none"> Expected among the population <p>Economic: Low</p> <ul style="list-style-type: none"> No likely effect on health costs 	<p>Economic: Low</p> <ul style="list-style-type: none"> Low smoking rates with high instance of smoke related illness suggests any health costs with smoke are related to non-tobacco smoke 	<p>Political: High</p> <ul style="list-style-type: none"> Culturally acceptable <p>Social: High</p> <ul style="list-style-type: none"> Culturally acceptable <p>Economic: Low</p>
	Option 3: Revise Municipal Code 41.50 B 18 b.	<p>Political: High</p> <ul style="list-style-type: none"> No direct public cost and only apparent public benefit is to positive city image, as health benefits nulled when aligned with effects of other smoke <p>Social: High</p> <p>Economic: Low</p> <ul style="list-style-type: none"> No likely effect on health costs 	<p>Political: Med</p> <ul style="list-style-type: none"> L.A Government may appear positively trendsetting <p>Economic: Low</p> <ul style="list-style-type: none"> No apparent measureable reduction in air quality 	<p>Political: Med</p> <ul style="list-style-type: none"> Culturally acceptable <p>Social: Med</p> <ul style="list-style-type: none"> Culturally acceptable