
Addressing ICAA exemptions through local ordinances

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HPCDP Grantee and Contractor Meeting 2011



OREGON PUBLIC HEALTH DIVISION
Health Promotion and Chronic Disease Prevention

Session overview

- Indoor Clean Air Act exemptions
- The smoke shop and hookah problem
- Local policy options
- Lessons from the field - local action for clean indoor air
- Sharing of plans and needs

Oregon's Indoor Clean Air Act

- Enacted by the Legislature in 2007; effective Jan. 1, 2009
- “An employer shall provide a place of employment that is free of tobacco smoke for all employees.”



Smokefree workplaces and public places

- Bars and taverns, including bar areas of restaurants
- Bowling centers
- Bingo halls
- Private and fraternal organizations
- Employee break rooms
- Restaurants
- Private offices and commercial office buildings
- Retail and wholesale establishments
- Manufacturing plants and mills
- Truck stops
- Child and adult day-care
- Assisted living facilities
- Movies theaters and indoor entertainment venues
- Hotels and motels (Exception: up to 25% of guest rooms may be designated as smoking rooms by the owner or entity in charge)
- Work vehicles that are not operated exclusively by one employee

Exceptions to the law

- Certified smoke shops
- Certified cigar bars
- Hotel or motel rooms that are designated as smoking allowed (may not exceed 25% of sleeping rooms)
- Smoking of non-commercial tobacco for American Indian ceremonial purposes

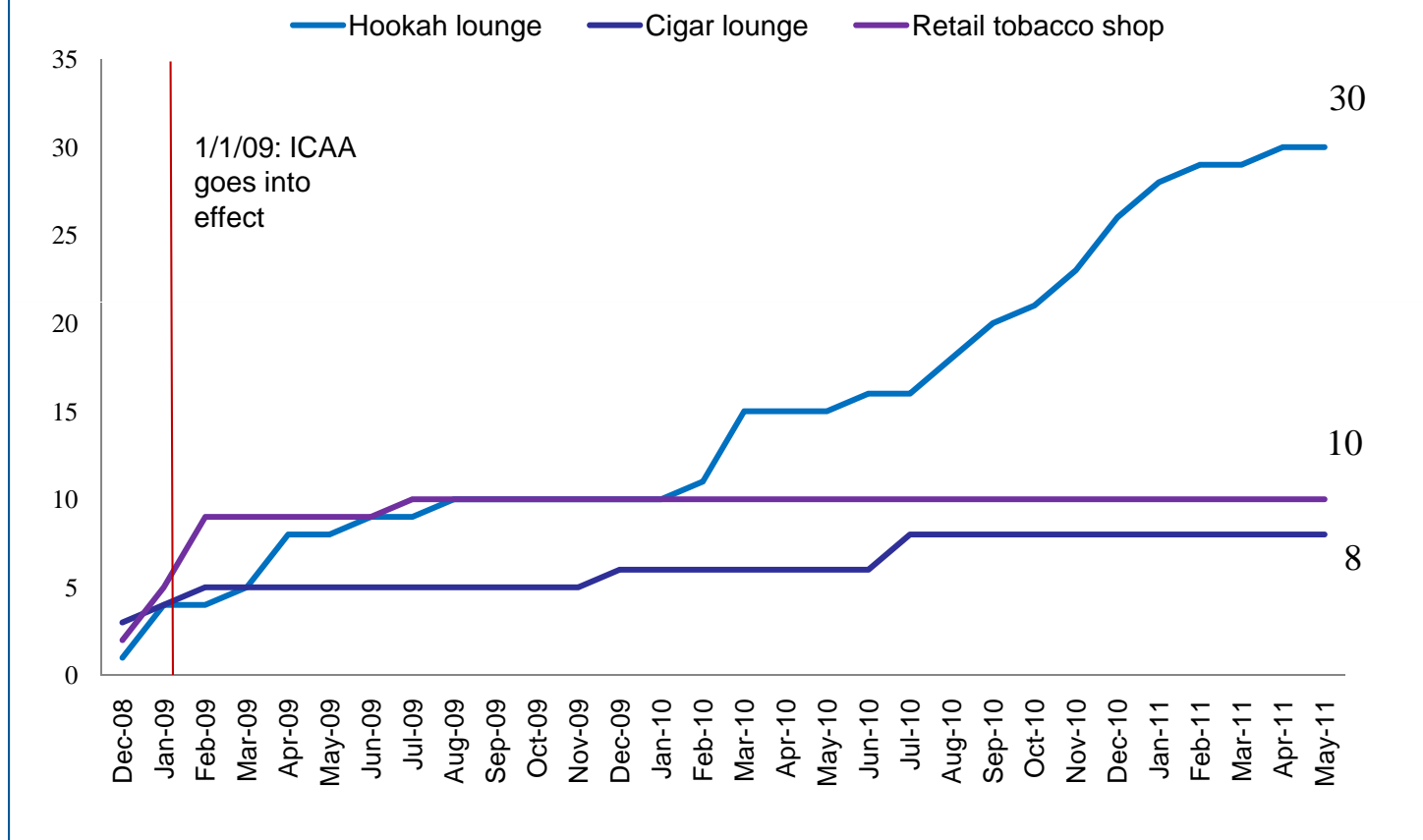
Other areas not covered by the ICAA

- Structures that do not meet the definition of “enclosed area”
- Any unenclosed area more than 10 feet from an entrance, exit, window that opens, air intake, or accessibility ramp leading to an enclosed structure.

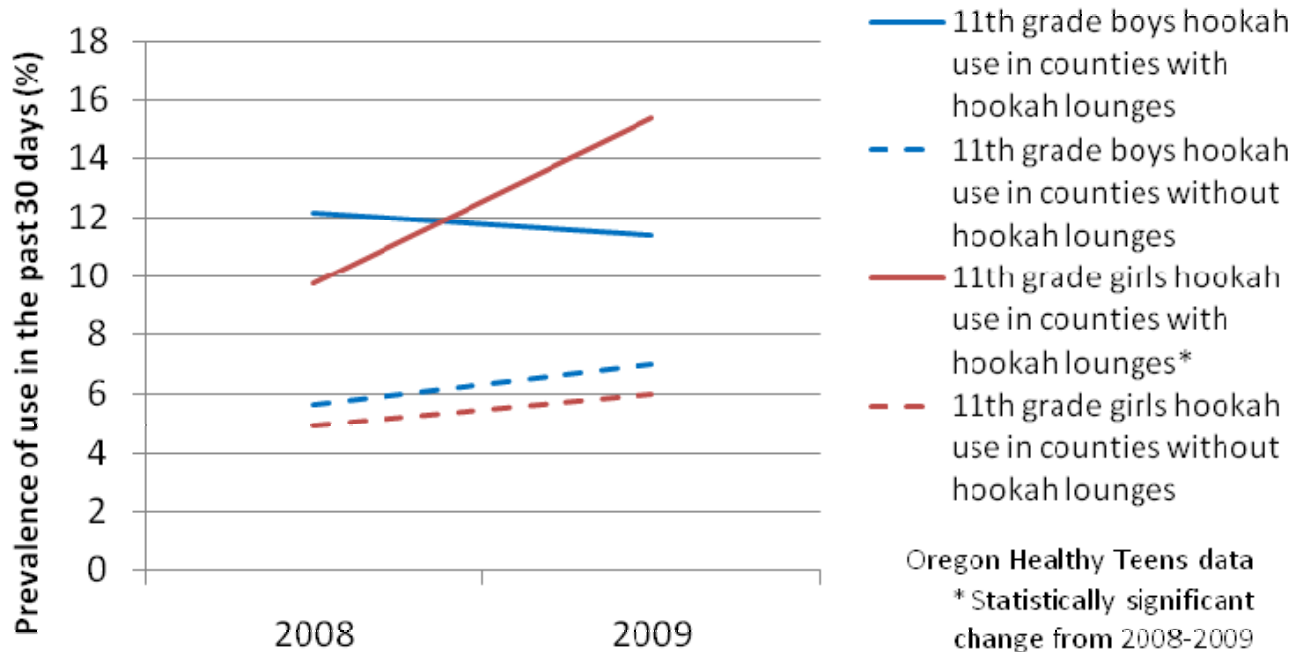
ICAA smoke shop exemption

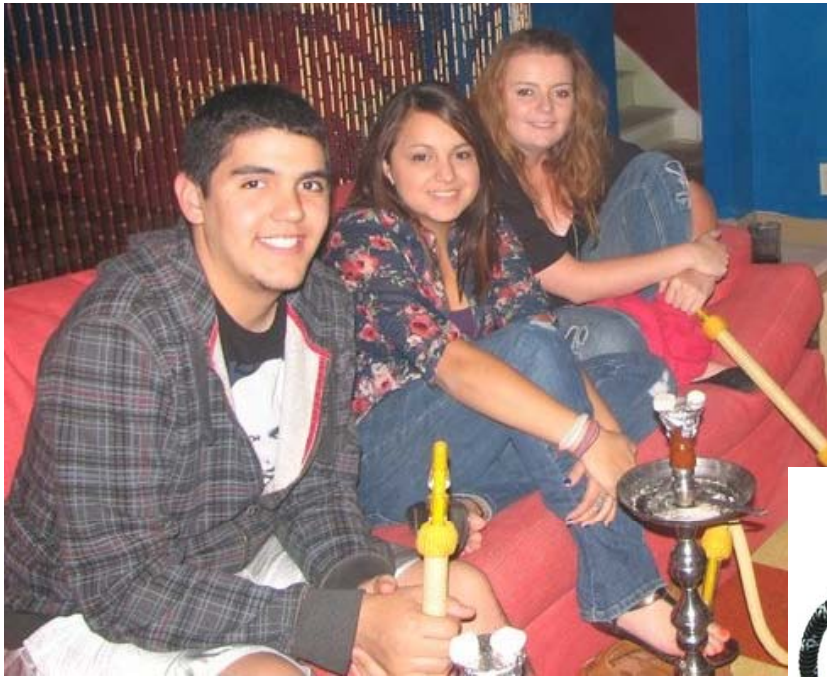
- **Smoke shop certification requirements (2007 legislation)**
 - At least 75 percent of gross revenues from sale of tobacco products and smoking instruments
 - Prohibits persons under 18 years of age
 - No video lottery games, social gaming or betting
 - No on-premises consumption of alcoholic beverages
 - Is a stand-alone business
 - Applies to OHA and receives certification before allowing smoking on the premises
- **Legislative intent:** To enable retail tobacco stores to allow customers to sample products

Cumulative smoke shop applications December 2008 - May 2011



Hookah use among 11th grade boys and girls in Oregon, comparing counties with and without hookah lounges





Oregon
Health
Authority

Peak PM_{2.5} in smoking lounges

EPA Air Quality Index	Business Type
Hazardous ≥ 251	Hookah Lounge
Very Unhealthy 151-250	Hookah Lounge
	Hookah Lounge
	Hookah Lounge
	Hookah Lounge
	Cigar Lounge
	Hookah Lounge
Unhealthy 66-150	Hookah Lounge
	Hookah Lounge
	Hookah Lounge
	Hookah Lounge
	Cigar Lounge
Sensitive Groups 41-65	Cigar Lounge
Moderate 16-40	Cigar Lounge
	Cigar Lounge
Good ≤ 15	Cigar Lounge
	Cigar Lounge

Media clip – hookah lounge



2011 legislation: HB 2726

- HB 2726 introduced to tighten the loophole in the smoke shop exemption:
 - 4-seat max capacity
 - Smoking for sampling purposes only
- Opposed by hookah lounges
- Negotiations and amendments
 - grandfather in existing hookah lounges
 - removal of stand-alone property requirement for some smoke shops (with ventilation system as alternative)

Local implications of HB 2726

- Grandfathered certified smoke shops may continue to operate with a smoking lounge environment
- Grandfathered smoke shops may relocate and grow in size
- Some establishments will allow smoking in malls
- New smoke shops may open with smoking allowed indoors anywhere in the state

Handout: ICAA Exemptions Comparison

Rolling back smokefree air laws

- Private clubs exemptions
 - Removing stand-alone requirement
 - Ventilation alternatives
-
- **Comprehensive local ordinances provide protection against weakening of state law.**

Opportunities for local action

- Local ordinance adoption preceded strong state law
- Preemption adopted in 2001
- Preemption removed in 2007
- County TPEP grantees – leading the way for local action



Local regulation of smoking

- A local government may enact local laws that are more restrictive than state law, regulating smoking
 - in ICAA-exempt workplaces (smoke shops, cigar bars, hotels/motels)
 - on government-owned properties
 - in areas not covered by state law (e.g. outdoor dining areas)
 - products not addressed in the ICAA (e.g. e-cigarettes or herbal shisha)
- Policies may be adopted by local government entities including cities and counties
 - County authority may be limited to unincorporated areas

What types of policies might a local government adopt for stronger smokefree air laws?

Potential local strategies include...

- Comprehensive local clean indoor air ordinance (no exemptions)
- Tobacco retail licensing
- Tobacco flavor sales ban



Grantee presentations

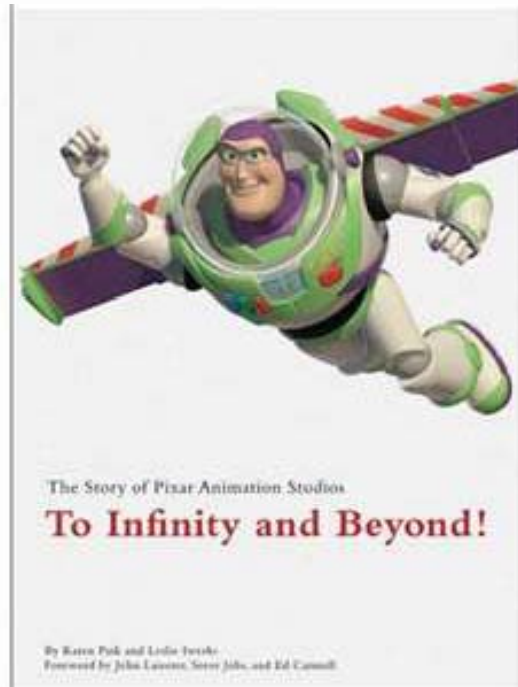
Lane County TPEP – Wednesday 7/28

Benton County TPEP – Thursday 7/29

Presentation slides will be posted to the meeting website.

Plans for local action

- What are county TPEP programs planning for FY 2011-2012 and beyond to address ICAA exemptions?



Questions: Carousel Walk

- Group 1: What barriers do you foresee towards local policy adoption?
- Group 2: What information would you need in order to move forward with local policy work to close ICAA loopholes?
- Group 3: What types of resources would you like developed to support this work?



Next steps

- Tobacco Retail Licensure/ ICAA exemptions workgroup – open to all TPEP grantees
- Development of technical assistance resources
- Contact your HPCDP liaison with questions, consultation, or to discuss adding this to your workplan if not already included
- Please refer any inquiries from potential smoke shop applicants to Andrew Epstein at HPCDP.

Resources

- **Tobacco Control Network** – recordings and materials from webinars and teleconferences related to smokefree air policy <http://www.ttac.org/tcn/materials/>
- **Americans for Nonsmokers' Right** – Information and resources for campaigns to enact local smokefree indoor air laws <http://no-smoke.org/goingsmokefree.php?id=110>
- **Campaign for Tobacco-Free Kids** – Fact sheets and resources related to smokefree laws http://www.tobaccofreekids.org/what_we_do/state_local/smoke_free_laws/

Questions?



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