

## **IMPLEMENTING THE WASHINGTON STATE SMOKING BAN**

**By Karen Sutherland**

Initiative 901 prohibiting smoking in public places and places of employment went into effect on December 8, 2005. It modifies portions of RCW Ch. 70.160, which previously limited smoking in certain public places. The highlights of the new law are that smoking is now prohibited in all workplaces (areas employees are required to pass through during the course of employment, except for private residences and certain home-based businesses) and in public places. The definition of “public places” where smoking was banned in the old law has been amended by I-901 to add schools, bars, taverns, bowling alleys, skating rinks, casinos, and no less than 75% of the sleeping quarters within a hotel or motel that are rented to guests. In other words, smoking is still banned in the public places where it was previously banned (such as elevators, shopping centers, retail stores, financial institutions, etc.) but it is now banned in other public places too.

Smoking is also prohibited within a “presumptively reasonable” minimum distance of 25 feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited.

The burden on the owner, lessee or other person in charge of a public place or workplace to prohibit smoking has also increased. Before, the statute simply required that a “reasonable effort” to prevent smoking be made by posting a sign. Now, owners, lessees, or other persons in charge of workplaces and public places “shall prohibit smoking in public places and places of employment and shall post signs prohibiting smoking as appropriate under this chapter.”

Any person intentionally violating the law by smoking in a public place or a place of employment is subject to a fine of up to \$100. Any person passing by or through a public place while on a public sidewalk or public right of way has not “intentionally” violated the law. Local law enforcement agencies enforce the ban against smokers; local health departments enforce the duties of owners or persons in control of public places and places of employment. The initiative also spells out the penalties and how enforcement will take place.

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*This brief article is a broad summary only. It lacks specificity about the law and about the effects of different fact patterns, and thus shall not be applied without consulting an attorney. It also focuses on Washington State law and federal law, and the laws of other jurisdictions may vary materially. The information set forth in this article is a broad and general overview of complex topics, and is not legal advice. It also does not take into account any changes to the law or in interpretations of the law that may have occurred since it was written. For more information, contact Karen Sutherland at [ksutherland@omwlaw.com](mailto:ksutherland@omwlaw.com)*