

A Companion Discussion Tool for *Determining Your Dealbreakers*

Everyone deserves the right to breathe smokefree air. The purpose of passing a smokefree law is to fully protect employees, residents, and visitors from exposure to dangerous secondhand smoke in workplaces and public places. When drafting and debating the language of a proposed law, keep this purpose in mind. The only way to ensure everyone is protected no matter where they work is by implementing laws that are strong, simple, and fair and that apply to 100% of indoor workplaces including bars, restaurants, and casinos. Your lawmakers may attempt to weaken the bill or members of your coalition may seek compromise to advance the process. Pay close attention to the text of any proposed amendments to prevent unwanted changes that defeat the purpose of fully eliminating secondhand smoke exposure. The tobacco industry has a long history of introducing exemptions to smokefree laws that create unnecessary loopholes and leave workers and patrons exposed. When exemptions are added, it can take anywhere from 10-22 years to close these loopholes.

Compromise may be necessary, but do you know where you will draw the line? Is everyone in agreement that you will actively oppose a piece of legislation once it is no longer strong? Time after time, coalitions splinter at the eleventh hour because members disagree about where to draw the line. Some members feel they want to “settle” for something now, while others refuse to compromise health and would rather walk away from a bad piece of legislation and return at a later date. This tool is designed to accompany ANR’s “Determining Your Dealbreakers” document, and we hope it will help you and your coalition walk through the discussion on your dealbreakers in order to make sure everyone is on the same page about adopting a law that will effectively protect health.

KEY PRINCIPLES (from the Determining Your Dealbreakers document):

- **Discuss potential amendments and determine where you will stand. Document your decisions in writing.** It is essential to sit down with your partners at the initial stages of your campaign to discuss *all* potential amendments and exemptions and, as a group, determine where you will draw the line.
- **Introduce strong language.** The goal is to fully protect all workers and the public. Therefore, it is ideal to introduce language that will provide complete smokefree protection to *all* workers and the public without exception. The science on the dangers of secondhand smoke is no longer up for debate. Everyone deserves smokefree air where they work, live, learn, and play. Aerosol from electronic smoking devices (ESDs) and marijuana secondhand smoke should also be included in strong language. Strong language such as that included in ANR’s Model Smokefree WRBG law has been proved time and again to withstand legal challenges by tobacco industry and opponents.

- **Be prepared to walk away.** Never support a law that includes exemptions or loopholes that make it more difficult to strengthen the law in the future. For example, if a law includes a provision allowing ventilated smoking rooms, it will become extremely difficult to remove that provision and pass an effective law later. **It is always better to walk away from a bad law than to be stuck with it and, therefore, be prevented from passing an effective law later. Compromising to exclude certain workers like gaming workers does not provide health equity for all. In such cases, nothing is better than something.** **Remember:** Be true to your core mission and goal to protect the health of all workers and the general public.

Now let's get to work!

STEP ONE:

Read “Determining Your Dealbreakers” and the **“Fundamentals of Clean Indoor Air”**. Become familiar with potential provisions and amendments that may be added to poison good smokefree legislation. These documents can be found on ANR's website or by calling us at 510-841-3032.

STEP TWO:

Before you embark on a smokefree campaign, sit down with your coalition partners and discuss your dealbreakers. Be sure that all the decision makers for each partner group are present. Lock yourselves in a room for a few hours or a day if necessary. Initially, reach for the optimum in protections for each provision, such as 100% of all hotel/motel rooms. Nationwide, support for smokefree air is stronger than ever before, so include everything you want protected in the language for your strong law.

Pick a facilitator, and discuss each dealbreaker one by one with your group. Think of all possible scenarios unique to your city or state and discuss them all. What if they offer support for a smokefree law, but only if you agree to preempt any local activity on outdoor air? What if the law would make nearly every workplace smokefree, but had an exemption for truck stops? (Both of these scenarios HAVE happened in other states)

STEP THREE:

Communicate your coalition's dealbreakers with your legislative champions and campaign chairpersons including the reasoning behind these exemptions. They need to know which exemptions are acceptable to the coalition and which ones are not. Your champions should also be made aware of tobacco industry tactics to weaken smokefree laws.

STEP FOUR:

No campaign is perfect, so be sure to have a process in place to **quickly communicate** with each other should issues arise with your selected dealbreakers. It will also be important to talk early in the process about how to **apply pressure** on certain lawmakers should the need arise.

- **When you are finished, SIGN THIS DOCUMENT.** Each member involved in the discussion and decision-making process should sign the final copy of the completed checklist below.

THE RULES:

- **Do not share this document outside this group, not even with your bill sponsor. This document is CONFIDENTIAL.** No one should leave with a copy. Give your copy to one person and he or she will be the keeper of the “dealbreakers” if you need to review your decisions. If this document gets in opposition hands, it may seriously damage your campaign.
- **Have a process to discuss key policy points with your legislative champions.** Ultimately, we want the strongest bill possible and while there may ultimately be room to compromise, this is a sensitive conversation that needs to be discussed carefully with your bill sponsors.
- **Stick Together.** Once you leave the room, stick to your plan. As the campaign continues, some of you may grow tired and frustrated and just “want to pass something”. But remember, history shows it takes far longer to go back and fix the loopholes in weak smokefree laws, than it will to walk away with nothing and start over next legislative session. Use your energy to build up your power and fight another day for the strong law you **will** be proud of achieving.
- **Revisit your Document.** Public policy change takes time! We recommend checking in on your dealbreakers regularly, at least annually until you reach your goal.

<p>If this provision is added to the legislation, will you “still support” or “actively oppose” the legislation?</p>	<p>Not A Dealbreaker: <i>It is not critical to our organization for this to be included in the ordinance. If it is left out, we will still be supportive.</i></p>	<p>Actively Oppose: <i>If this is not included or is weakened from how it is listed here, our organization will not support the ordinance.</i> (i.e.: kill the bill)</p>	<p>Open to Negotiation: <i>Our organization sees some room for negotiation in how this is included in the ordinance.</i></p>	<p>Notes</p>
<p>Ventilation systems and/or Smoking Rooms</p>		X		
<p>Hardship Provisions</p>		X		
<p>Signage or “Red Light/Green Light” Provisions</p>		X		
<p>Any language that would preempt local control or ability to strengthen laws locally.</p>		X		
<p>Grandfather Provisions</p>		X		
<p>Consent Provisions (consent of employee)</p>		X		
<p>Hours Provisions (only smokefree at certain times)</p>		X		
<p>Licensing Fees</p>		X		
<p>Minors Only Provisions (only smokefree if no minors)</p>		X		
<p>Opt-Out Provisions for cities and communities, special districts</p>		X		
<p>Tax Incentives (for going smokefree)</p>		X		

Small Workplace Exemptions		X		
Private Club (or “Membership Association”) Exemption		X		
Bowling Alley Exemption		X		
Gaming/Casino Exemption (state-regulated gaming)		X		
Bar Exemption		X		
Long Phase-in Provisions (over 90 days)		X		
Trigger Scheme (only implement law once other cities do)		X		
Electronic Smoking Device (ESD) Exposure Exemption		X		
Marijuana Secondhand Smoke Exposure Exemption		X		
Cigar Bars Exemption				
Tobacco Retail Stores Exemption (unless stand-alone buildings)				
Hookah Exemption				
ESD Retail Stores Exemption (unless stand-alone buildings)				

Marijuana Retail Stores Exemption (unless stand-alone buildings)				
Truck Stops Exemption				
Percentage of Hotels and Motel Rooms Exempted				
Outdoor workplaces				
Outdoor patios at bars and restaurants				
Distance to Doorway (What distance?)				
Outdoor smoking/gaming patios at casinos (no workers, strong definition of enclosed areas, etc.)				
Company vehicles				
Outdoor districts, squares, and historic areas				
Airports				
Other:				

* Brainstorm with your coalition about other potential exemptions that may come up. Determine where you will stand on each provision and put it in writing. Other provisions to discuss include outdoor patios, truck stops, tobacco retailers, cigar bars, trigger clauses and more. Contact ANR at 510-841-3032 for more information.

Signatures of coalition members: Once completed, be sure everyone signs below

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Americans for Nonsmokers' Rights strongly recommends that you make every effort to keep the language 100% strong, and refuse any and all attempts to weaken the law. These provisions and amendments weaken the law at the expense of public health. We have come too far in the smokefree movement to concede health protections.

Certain rules always apply when others are asking you to "negotiate":

- 1) Never accept anything that will prevent future progress,
- 2) Be sure you have strong public support before pushing for legislation - "Educate before you Legislate",
- 3) Be sure you have the political power to kill a bill once it becomes too weak.

And remember, it is better to walk away with nothing than to accept a bad bill.