

SMOKE-FREE TRIBAL CASINOS

Talking Points & Policy Considerations





Introduction

Tribal Nations have sovereign authority to enact policies to protect their community members from the harms of secondhand exposure to commercial tobacco smoke. While many states have passed these policies, not all Tribal Nations have done so as of yet. Because many Tribal casinos have closed due to the COVID-19 pandemic, Tribal Nations across the country have been demonstrating the leadership to prioritize the health of employees, patrons, and community members by reopening Tribal casinos as smoke-free facilities. We recognize the importance of tobacco as medicine for Indigenous peoples. This document refers to commercial tobacco usage and not the traditional or sacred use of tobacco.

Benefits of Smoke-Free Casinos

The adverse health effects of secondhand smoke are well documented.¹ Smoking is still allowed in many casinos, and the health considerations in these settings are no less concerning.² Advocates such as Nathan Moose, *Oglala Lakota*, who never smoked but ultimately died from health complications related to working in a smoky casino,³ have spoken specifically about the dangers of secondhand smoke in casinos.

Tribal casinos such as the Ho-Chunk Gaming Madison, WI, have already made the transition to smoke-free.⁴ This move will benefit the health of customers, employees, and community members.⁵ Ho-Chunk Gaming Madison Management reported that although revenues dropped initially after the switch to smoke-free air, the casino recovered financially and ultimately did better business because most customers preferred smoke-free air.⁶ This is consistent with studies showing that casinos will not lose business if they make the transition to smoke-free air.⁷



Talking Points

Reopening the casino smoke-free maximizes and preserves the investment made to clean and sanitize during the COVID-19 pandemic. This cleanliness can be promoted to new patrons.

- There is no safe level of exposure to secondhand smoke.⁸

A smoke-free casino is financially beneficial.

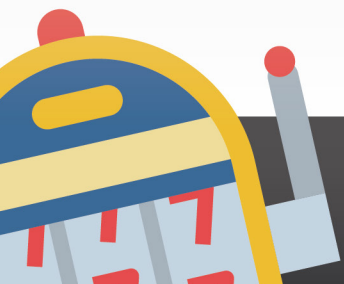
- Offering a smoke-free casino results in employees with higher work productivity using fewer sick days and can lower health insurance premiums. The American Cancer Society reported that employees who smoke have an average insurance payment for health care of \$1,145, while nonsmoking employees average \$762.⁹
- Fewer resources will need to be dedicated to maintenance from second and thirdhand smoke; for example, the U.S. Environmental Protection Agency (EPA) estimated that smoke-free restaurants can expect to save about \$190 per 1,000 square feet each year in lower cleaning and maintenance costs.¹⁰
- In some cases, smoke-free workplaces have the potential to reduce both fire and liability insurances.¹¹

Reopening the casino smoke-free maximizes and preserves the investment made to clean and sanitize during the COVID-19 pandemic which can be used to promote to new patrons.

- Due to COVID-19, employees and patrons will expect clean and safe indoor environments to work and play in and will seek opportunities that do not jeopardize their health.
- Casino marketing departments can use reopening smoke-free as leverage to appeal to new and existing patrons who prefer a smoke-free environment.

Patrons prefer a smoke-free casino.

- In 2018, the majority (86.3%) of American adults were not current smokers.¹²
- One study examined attitudes toward smoke-free casino policies among US adults and found that overall, 75% of US adults favored smoke-free casino policies.¹³



Laying the Groundwork

As with any policy change campaign, community engagement is essential. Creating a smoke-free policy for a Tribal casino is a big change and the policy will be more successful if stakeholders such as casino management, elected Tribal leaders, elders, and public health advocates are engaged early on.¹⁴

Policy Considerations

Any policy should reflect the values of its community. Depending on the level of formality of a policy, it might include several elements such as findings, purpose, definitions, prohibitions, exceptions, enforcement, implementation, and evaluation. Sample policies can be helpful as templates,¹⁵ but they cannot take into account the unique characteristics of each community. This is particularly true in the context of Tribal policies, given the wide variety of cultural practices in Native communities. In the context of smoke-free Tribal casinos, there are several policy components that merit specific consideration:

Traditional Tobacco: Many Tribal communities have a rich history of sacred tobacco use which does not carry the same risk of death and disease as commercial tobacco.¹⁶ Consequently, policies should be drafted so as not to restrict the use of sacred tobacco. Prior to drafting policy language, it is important to determine whether and how sacred tobacco is defined and used in the community. Consulting with elders and ceremonial leaders should be part of this process.

E-Cigarettes: Emerging science shows that the aerosol emitted by electronic cigarettes is not harmless.¹⁷ Further, there is no known sacred use of e-cigarettes. As a result, many smoke-free policies restrict the use of e-cigarettes in the same way that the use of conventional combustible commercial tobacco is restricted.¹⁸ The e-cigarette marketplace is constantly evolving, so it is important to define e-cigarettes broadly to ensure that novel products are included in any policy to restrict e-cigarette use.

Outdoor Areas: Smoke-free policies have conventionally taken the form of clean indoor air laws; however, emerging studies show that secondhand smoke also poses dangers in outdoor environments.¹⁹ Consequently, policy makers and advocates should consider whether they want a smoke-free policy to include outdoor areas under their control and, if so, which outdoor areas. A comprehensive casino policy would prohibit smoking in all outdoor areas under casino management. Some policies allow smoking to occur in outdoor designated smoking areas (DSAs). Any provision to allow smoking in a DSA should be narrowly drawn to protect the public from secondhand smoke to the maximum possible extent.



Policy Duration: Some casinos have reopened as smoke-free, but only on a temporary basis. Adopting a permanent smoke-free policy is a stronger public health measure that has the benefit of setting clear expectations for staff and customers.

Technical Assistance providers such as the Public Health Law Center, American Indian Cancer Foundation, and American Nonsmokers' Rights Foundation can be consulted when crafting a policy. Contact information can be found here:

AMERICAN INDIAN CANCER FOUNDATION (AICAF)
www.AmericanIndianCancer.org
Prevention@Aicaf.org

AMERICAN NONSMOKER'S RIGHTS FOUNDATION (ANRF)
www.No-Smoke.org
www.SmokeFreeCasinos.org

PUBLIC HEALTH LAW CENTER
www.PublicHealthLawCenter.org
PublicHealthLaw@MitchellHamline.edu

1 See, e.g., 2006 Surgeon General Report

2 See, e.g., Centers for Disease Control and Prevention, Secondhand Smoke and Casino Dealers, <https://blogs.cdc.gov/niosh-science-blog/2009/06/16/smoke/>; American Nonsmokers' Rights Foundation, Health Benefits of Tribal Casinos Going Smokefree, <https://no-smoke.org/health-benefits-tribal-casinos-going-smokefree/>; American Cancer Society Cancer Action Network, The Risks of Secondhand Smoke in Casinos, <https://www.fightcancer.org/policy-resources/risks-secondhand-smoke-casinos>.

3 See American Nonsmokers' Rights Foundation, We remember a wonderful man: Nathan Moose, Oglala Sioux, 1958-2013, <https://no-smoke.org/nathan-moose-ogla-lasioux-1958-2013/>

4 See American Nonsmokers' Rights Foundation, From Smoke-Filled to Smokefree: One Tribal Casino's Journey for Health, <https://no-smoke.org/smoke-filled-smokefree-one-tribal-casinos-journey-health/>

5 L;kj;l

6 Id.

7 Gambling with Our Health: Smoke-Free Policy Would Not Reduce Tribal Casino Patronage, Isaiah "Shaneequa" Brokenleg, MPH, Am J Prev Med. 2014 Sep; 47(3): 290-299, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4699561/>; Timberlake et al, Tribal casinos in California: the last vestige of indoor smoking, BMC Public Health 2012, 12:144, http://keepitsacred.itcmi.org/wp-content/uploads/2015/0/bmc_pub_health_timberlake.pdf.

8 See, U.S. Surgeon Generals Report, 2010

9 See, American Nonsmokers' Rights Foundation, Smoke Free Casino Model Policy and Implementation Toolkit

10 See, The cost of smoking to business. American Cancer Society. Retrieved from www.cancer.org/docroot/NWS/content/NWS_2_1x_The_Cost_of_Smoking_to_Business.asp;

11 See, Health Now! and the business community, from www.healthnowma.org; American Nonsmokers' Rights Foundation, Smoke Free Casino Model Policy and Implementation Toolkit

12 See, Centers for Disease Control and Prevention, Office of Smoking and Health, Data and Statistics; Creamer MR, Wang TW, Babb S, et al. Tobacco Product Use and Cessation Indicators Among Adults – United States, 2018. Morbidity and Mortality Weekly Report 2019;68(45):1013-1019

13 Tynan MA, Wang TW, Marynak KL, Lemos P, Babb SD. Attitudes Toward Smoke-Free Casino Policies Among US Adults, 2017. Public Health Rep. 2019;134(3):234-240. doi:10.1177/0033354919834581

14 See, e.g., National Native Network webinar "Strategies to Reopen Tribal Casinos 100% Smoke-Free," May 15, 2020, <https://youtu.be/ypKmgRKAdD0>; The Canli Coalition,

Tribal Tobacco Advocacy Toolkit, <https://www.findyourpowersd.com/toolkit/>; Public Health Law Center, Drafting Tribal Public Health Laws and Policies, <https://publichealthlawcenter.org/sites/default/files/resources/fs.tribal.health.policies.July2015.pdf>.
15 See, e.g., National Congress of American Indians Resolution #SPO-16-046; "Supporting Policies to Reduce Commercial Tobacco Use, Secondhand Smoke Exposure and Tobacco-Related Disease among American Indians and Alaska Natives"
16 See National Native Network, "Traditional Tobacco," <https://keepitsacred.itcmi.org/tobacco-and-tradition/traditional-tobacco-use/>.
17 See, e.g., U.S. Surgeon General, "E-Cigarettes," <https://e-cigarettes.surgeongeneral.gov/>
18 See, e.g., Public Health Law Center, U.S. E-Cigarette Regulations – 50 State Review, <https://publichealthlawcenter.org/resources/us-e-cigarette-regulations-50-state-review>.
19 See, e.g., Public Health Law Center, "Outdoors," <https://publichealthlawcenter.org/topics/commercial-tobacco-control/smoke-free-tobacco-free-places/outdoors>.

Notes



