

Iowans for Equal Rights

About Us

Iowans for Equal Rights is a nonprofit small business advocacy group. We are an independent advocacy group that is funded by member and public donations. Iowans for Equal Rights is not affiliated with any tobacco company, nor do we accept donations from Big Tobacco. We also do not receive any funding from pharmaceutical nicotine special-interests that often fund tobacco control advocates.

We believe that our purposes are communicated in the five points outlined below. Should you have questions about the below information please contact us for additional information or to share your thoughts. The five principal points of our policy position are as follows:

1. On June 30, 2008, the Des Moines Register published, **For Smokers It's Almost Lights Out**, by Jason Clayworth. Mr. Clayworth wrote in that article:

“The American Lung Association of Iowa, for example, is contemplating how to persuade lawmakers to expand the smoking ban to Iowa casinos, while a few thespians are also asking for exemptions in the name of artistic freedom.”

a.) The Register also reported in Mr. Clayworth's article:

“‘What we've seen in other states is that there are questions, and people get very emotional about this issue for a while. Then it all kind of calms down,’ said Kerry Wise, project manager for the American Lung Association of Iowa. ‘We expect that to happen here.’”

b.) When the ink was not even dry on smoking ban enforcement rules published by the Iowa Department of Public Health on June 27th tobacco control advocates were already looking to overturn existing exemptions in the current rules.

c.) While we understand some who prefer “Smoke Free” environments may applaud the American Lung Association's efforts to expand the smoking ban beyond what the legislature has approved, we also believe there are important rule-making procedure and other issues at stake. Principal among those issues are small business owner's right to manage their legitimate business affairs and how the exclusive, narrow remedy of total prohibition that tobacco control advocates promote adversely impacts small business owners, taxpayers and consumers.

c.) Advocacy to remove exemptions immediately after a smoking ban has passed is consistent with anti-tobacco actions in other states. For example:

i.) 2006 the Colorado legislature passed a statewide smoking ban that exempted casinos. During the 2007 session the legislature took that exemption away. Small, independent casino revenues in BlackHawk and Cripple Creek for the first quarter of 2008 were reportedly down about 40 percent compared to last year and the state gaming commission has provided tax relief. Colorado taxpayers took a double hit: first gambling revenues to cities, counties and the state declined with casino revenue declines, then taxpayers will need to pony up more money to offset new tax relief for casinos as well.

ii.) In 2005 Washington voters passed statewide smoking ban I-901, which included exemptions for private clubs. In 2006 the Washington Department of Health and county health departments began enforcing the smoking ban against VFW and American Legion Posts. A legal case about that currently awaits a state supreme court ruling. Washington taxpayers are funding the cost of that litigation and enforcement activities, both of which would not have been necessary if a ventilation and Indoor Air Quality standards approach had been taken by that state.

iii.) In 2006 Ohio voters passed Issue 5, which included explicit exemptions for private clubs and family owned businesses. The Ohio Department of Health immediately enforced the rules against private clubs and family owned businesses. An Ohio District Court upheld the American Cancer Society's claim that the exemptions did not exist, despite what the ballot measure said. A bill has been introduced in the Ohio Senate to restore the private club and family owned business exemptions. Ohio taxpayers now confront the cost of reduced alcoholic beverage sales state revenues and have also funded defense for several related lawsuits.

We believe that nothing short of a prohibition on tobacco use in any public place will be acceptable to tobacco control and that they will aggressively pursue that goal by any means possible. Experience in previous states shows us, however, that small business owners are forced to contend with unwarranted, intrusive remedial measures and taxpayers find themselves funding lost state revenues plus out-of-pocket costs to defend the intrusive measures. There is a better way, and Iowans for Equal Rights is committed to advocating a more constructive approach to tobacco regulation.

2. As we have confronted this very fluid, ever-changing scenario it has been necessary to evaluate our policy position on an ongoing basis. A principal concern of Iowans for Equal Rights is the now-clear pattern to immediately expand smoking bans beyond what the legislative bill authorized and to aggressively move against current exemptions.

a.) Iowans for Equal Rights is deeply concerned about the adverse economic impact that smoking bans have had in several states that have passed similar bans before Iowa.

b.) We believe that arguments for and against exemptions are, in and of themselves, an admission of adverse economic impact, which small business owners and taxpayers in Iowa now confront from this smoking ban. If the overall economic impact of total prohibitions for smoking in all public places was truly positive, as tobacco control falsely claims, there would be no need for a smoking ban because business owners would have already created “Smoke Free” environments, to enjoy the economic rewards they allegedly provide. Arguing against someone else’s exemption, to allegedly create a “Level Playing Field” is therefore an admission that smoking bans tilt the field the advantage of some groups and the disadvantage of others.

c.) Iowans for Equal Rights respects and supports the right of every business owner in Iowa to declare their facilities and business premises to be “Smoke Free,” if they choose to do so. No new law need be passed to confer that right to every small business owner because it already exists. At the same time, we also respect the right of small business owners to choose to accommodate patrons who smoke, and we advocate a regulatory approach that allows them to do so without material risk to the public’s or employee’s health.

d.) We believe that action must be taken to stop the spread of negative economic impact from smoking bans, to assure small business owners right to responsibly manage their premises, and to provide all patrons – smokers and nonsmokers alike – with a choice of hospitality and other venues.

e.) We support casinos in their efforts to stop the removal of their exemption for gaming floors.

f.) We oppose any efforts to remove current exemptions in the present rules for any other business such as farming, limousine services, and heavy equipment.

g.) We oppose the prohibition of smoking on outdoor patios for restaurants in the current rules.

3. It is also of deep concern to Iowans for Equal Rights that it appears the Iowa Department of Public Health has used its rulemaking powers to extend the smoking ban beyond what the legislature passed in house File 2212.

a.) The definition of “Entrance” on page 3:

“ . . . also includes the commonly understood points of entry and exit to and from an outdoor area such as a driveway, sidewalk, pathway, access road, gate, or dedicated point of entry.”

This definition can be worse than a distance specification for feet away from a door. It prospectively puts smoking at the end of driveways and off sidewalks outside a restaurant or bar.

b.) The definition of “Grounds of any public building” on page 3 includes:

“ . . . means an outdoor area of a public building that is used in connection with the building, including but not limited to, a sidewalk immediately adjacent to the building; a sitting or standing area immediately adjacent to the building; a patio; a deck; a curtilage or courtyard; . . . ”

This definition prospectively eliminates patio or outdoor smoking areas for bars and other places business, which we strongly oppose.

c.) We are also concerned that the distinction between facilities owned or operated by the state and privately owned businesses is virtually eliminated by the current rules. This allows state bureaucrats to micro-manage private business by fiat, as if private property and private business operations belong to the state.

4. We at Iowans for Equal Rights strongly support hospitality trade and other members of the small business community coming together to define smoking rules that can genuinely work for small business owners, patrons and employees.

a.) We support legislators who look to restore the Iowa Department of Public Health rules to what legislators intended.

b.) We support an approach which recognizes and addresses genuine Indoor Air Quality.

c.) We support developing rules that all small business owners can work with without seeking exemptions.

d.) We believe that these goals can be accomplished on behalf of hospitality, gaming trade and other small business owners.

5. Iowans for Equal Rights believes that responsible small business owners seek administrative remedies as available to them to resolve the above and additional issues presented by the Iowa Department of Public Health’s current smoking prohibition rules.

a.) We encourage all small business owners to comply with the current health department rules to the best of their knowledge and ability, regardless of how conflicting the current rules may be.

b.) We discourage open defiance of the current smoking ban enforcement rules because that behavior can be counter-productive. It allows advocates and state bureaucrats to divert public attention toward heavy-handed, “crack down,” enforcement and away from the highly important issues that need to be addressed about the current rules.

c.) We encourage and invite small business owner participation in legislative and state agency rulemaking processes.

d.) We believe that litigation concerning the Iowa smoking ban as included in House File 2212 and the Iowa Department of Health’s must be well-founded based on confirmed facts to the extent possible through good faith inquiry, and consider economic impact as well as Indoor Air Quality and other regulatory issues.

The directors of Iowans for Equal Rights have filed eight comments with the Iowa Department of Public Health concerning the current rules. Each comment concludes with several questions about the subject area addressed. We have done so to take action on our beliefs as expressed above. We invite Web site visitors to review the comments, by clicking on “Public Communications” on the Home Page. Those who do so will learn a considerable amount about tobacco control in Iowa and gain an appreciation for the many and diverse issues that remain to be addressed concerning the Iowa Department of Public Health’s smoking ban enforcement rules.

We invite the public and small business owners to follow our efforts through this Web site. We encourage public participation in our efforts. Please feel free to E-Mail us at info@iowansforequalrights.com. Finally, we would very much appreciate your financial support for our efforts. Please see the home page for a link to donation information.

Thanks for visiting our Web site and we appreciate your consideration of the viewpoints that we express!