



August 9, 2005

SUMMARY OF INITIATIVE 901 TO THE PEOPLE
Concerns amending the Clean Indoor Air Act
by expanding smoking prohibitions

*This information has been prepared in response to specific questions about the provisions and effects of Initiative 901 and is provided for legislative purposes only; it is **not** provided as an expression for or against the ballot measure. Please remember that it is inappropriate to use public resources to support or oppose a ballot measure. Please refer to pages 22-25 of the 2004-05 Legislative Ethics Manual or contact Senate Counsel for further guidance on when and how comment on ballot measures is appropriate.*

BRIEF SUMMARY

Initiative 901 proposes a statewide ban on smoking in public places or places of employment. The definition of public place is expanded to include bars, taverns, bowling alleys, schools, skating rinks, casinos, reception areas, and private residences or home-based businesses used to provide licensed child care, foster care, adult care, or other similar social service care on the premises. Additionally, at least seventy-five percent of the sleeping quarters within a hotel or motel that are rented to guests must remain smoke free.

Initiative 901 prohibits smoking within a presumptively reasonable minimum distance of twenty-five feet from entrances, exits, windows that open, and ventilation intakes that serve a public place or place of employment. This presumption may be rebutted by applying to the director of the local health department or district in which a public place or place of employment is located. The applicant must show by clear and convincing evidence that, given unique circumstances, the public health and safety will be adequately protected by a lesser distance.

BACKGROUND

The Washington Clean Indoor Air Act (Act), originally enacted in 1985, prohibits smoking in a public place, except within designated smoking areas. "Public place" is that portion of any building or vehicle used by or open to the public, regardless of who owns it and whether or not a fee is charged for entry. Under current law, the owner of the designated smoking area in a public place must use existing physical barriers and ventilation systems to minimize smoke entering any non-smoking areas that are located in the same premises. Currently, bars, restaurants, taverns, bowling alleys, and tobacco shops may be designated smoking areas in their entirety. A person who intentionally violates the Act by smoking in a public place is subject to a \$100 fine.

The Washington Industrial Safety and Health Act (WISHA) regulates tobacco smoke in office settings. Under WISHA regulations, smoking is prohibited in all office work sites except in specifically designated smoking rooms. Company cafeterias, meeting rooms, and other ancillary office work sites must be smoke free.

SUMMARY OF INITIATIVE 901

No person may smoke in a public place or in any place of employment. I-901 expands the current definition of public place to include bars, taverns, bowling alleys, skating rinks, casinos, schools, reception areas, and at least seventy-five percent of the sleeping quarters within a hotel or motel that are rented to guests. The definition of public place also includes a private residence or home-based business when that residence or business is used to provide licensed child care, foster care, adult care, or other similar social service care on the premises. Designated smoking areas in public places or places of employment will no longer exist.

Smoking is not allowed within a “presumptively reasonable minimum distance” from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited. I-901 defines a “presumptively reasonable distance” as twenty-five feet. However, the initiative provides that any person who is smoking while just passing by or through a public place while on a public sidewalk or public right of way does not intentionally violate the prohibition.

I-901 directs local health departments to enforce the prohibitions. Currently, local fire departments have enforcement authority.

Any person who owns or controls a public place or place of employment, may seek to rebut the presumption that twenty-five feet is a reasonable minimum distance by applying to the director of the local health department or health district. The standard that must be met to rebut the presumption is clear and convincing evidence.

Anyone seeking to rebut the distance presumption must prove that given the unique circumstances presented by the location of entrances, exits, windows that open, ventilation intakes, or other factors, smoke will not infiltrate or reach or enter into such public place or place of employment and, therefore, the public health and safety of the occupants will be protected by a lesser distance. The initiative does not establish an absolute minimum distance.

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