

# Non-Smokers' Rights Association Smoking and Health Action Foundation

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## Smoke-free Casinos and Bingos

There has been a rapid expansion of legalized gambling in Canada in the last decade. Saskatchewan alone, with a population of just over one million, will soon have no less than 8 casinos.

All Canadian provinces and territories have passed legislation that prohibits smoking in public places, including casinos and bingos. Most jurisdictions have comprehensive smoke-free workplace legislation too. Except for the non-public portions of some workplaces in Saskatchewan and Newfoundland and Labrador, employees and patrons of all non-Aboriginal gaming facilities in Canada are protected from exposure to second-hand smoke (SHS). This is a very good thing, as studies have shown that levels of SHS measured in casinos are often much higher than those

measured in other hospitality venues.<sup>1,2</sup>



However, some First Nations band councils have passed bylaws to allow smoking in casinos and bingos located on First Nations land. Because native reservations are under federal jurisdiction, some native leaders say that

<sup>1</sup> Siegel M, Skeer M. Exposure to secondhand smoke and excess lung cancer mortality risk among workers in the "5 B's": bars, bowling alleys, billiard halls, betting establishments, and bingo parlours. *Tobacco Control* 2003;12:333-338.

<sup>2</sup> Trout D, Decker J, Mueller C et al. Exposure of casino employees to environmental tobacco smoke. *Journal of Occupational and Environmental Medicine* 1998;40: 270-276.

provincial smoking bans don't apply to them. Although there are often jurisdictional disagreements about legislation and reserves, from a legal/constitutional perspective there is no doubt that provincial smoking bans apply on reserves, as do many other provincial laws.<sup>3</sup> Section 81(a) of the *Indian Act* states that band councils may make bylaws "to provide for the health of residents on the reserve..." A bylaw that exposes residents to more, not less SHS, fails to achieve this objective. Rob Cunningham, senior policy analyst and legal counsel for the Canadian Cancer Society, asserts that smoking should not be turned into a sovereignty issue. "If it is a question of sovereignty, then a First Nation can adopt a

<sup>3</sup> Cunningham R. Canadian Cancer Society. As quoted in *Commercial tobacco and aboriginal communities*. NSRA unpublished draft, 2007.

*law that is 100% smoke-free... We should not be going backwards by allowing smoking in the face of valid provincial legislation.*<sup>4</sup>

The health of employees is compromised in facilities that permit smoking, even in separately enclosed and ventilated smoking rooms. In 2005 the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE), an organization that sets ventilation standards that are recognized worldwide, issued a position statement on SHS. It asserted that the only means of effectively eliminating the health risk associated with indoor exposure is to ban smoking entirely. Despite the current evidence, some band councils are still opting for designated smoking rooms.

The presence of smoking and non-smoking casinos and bingos in the same vicinity also creates an uneven playing field for non-Aboriginal businesses.<sup>5</sup>

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<sup>4</sup> CBC News. *New Sask. Casino should be smoke-free, Canadian Cancer Society says*. Feb. 7, 2007.

<sup>5</sup> Non-Smokers' Rights Association. *Commercial tobacco and aboriginal*

This point was made in 2006 when a non-native motel owner successfully challenged Manitoba's smoke-free law that exempts First Nations reserves. The motel owner claimed it was discriminatory and violated his right to equality under the *Canadian Charter of Rights and Freedoms*. The judge agreed and the province was subsequently ordered to enforce its smoke-free legislation on native land. It has stated it will do so by tying casino license renewals to compliance with the legislation. The government has also appealed the decision and is waiting for a judgment.

Fortunately, some band councils recognize the importance of a smoke-free environment and have passed their own bylaws. For example, all three native-run casinos in Ontario are 100% smoke-free. The health benefits of a smoke-free work environment are well established. However, a recent Canadian study found that workplace smoking bans not only reduce exposure to SHS, but also lead to fewer cigarettes smoked, less relapse among

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*communities*. Unpublished draft, 2007.

former smokers, and an increased propensity for smokers to make their homes smoke-free.<sup>6</sup> This is extremely important from a child health perspective, as their main source of exposure to SHS is the home.<sup>7</sup>

The smoking rate among First Nations living on reserves is 56%, roughly three times greater than the national average.<sup>8</sup> This is truly a health catastrophe. However, there is no reason to believe that many of the same policy measures enacted to control tobacco in mainstream Canadian communities, such as smoke-free workplaces and public places, can't also be applied on reserves with great success.<sup>9</sup> Canada's First Nations have a right to health and a right to first-class lungs.

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<sup>6</sup> Shields M. Smoking bans: Influence on smoking prevalence. Statistics Canada *Health Reports* 2007;18:9-22.

<sup>7</sup> U.S. Surgeon General. *The health consequences of involuntary exposure to tobacco smoke* 2006.

<sup>8</sup> Environics Research Group Limited. 2004 baseline study among First Nations on-reserve and Inuit in the north.

<sup>9</sup> Non-Smokers' Rights Association. *Commercial tobacco and aboriginal communities*. Unpublished draft, 2007.