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RESOLUTION NO. 2011-15

**A RESOLUTION OF THE ALBANY CITY COUNCIL SUPPORTING
100% SMOKE-FREE INDOOR WORKPLACES IN CALIFORNIA**

WHEREAS, secondhand smoke is toxic, as evidenced by the following:

- Secondhand smoke contains over 4,000 substances, including at least 250 chemicals known to be toxic or to cause cancer, including formaldehyde, benzene, vinyl chloride, ammonia and hydrogen cyanide; and
- The United States Environmental Protection Agency has classified secondhand smoke as a Group A Carcinogen and therefore concludes that secondhand smoke is a serious health hazard; and
- The California Air Resources Board has categorized secondhand smoke as a toxic air contaminant, in the same category as diesel exhaust; and
- The California Office of Environmental Health Hazard Assessment has included secondhand smoke on the Proposition 65 list of chemicals known to the State of California to cause cancer, birth defects, and other reproductive harm; and
- The U.S. Surgeon General has concluded that there is no risk-free level of exposure of secondhand smoke; and

WHEREAS, exposure to secondhand smoke causes death and disease, as evidenced by the following:

- Secondhand smoke has been proven to cause cancer, heart disease, respiratory disease and asthma in both smokers and nonsmokers; and
- Over 4,000 nonsmokers in California die annually from diseases caused by secondhand smoke exposure; and
- Secondhand smoke exposure causes children to suffer from lower respiratory tract infections, such as pneumonia and bronchitis; it also increases the risk of acute chronic middle ear infection in children; and
- Secondhand smoke exposure adversely affects fetal growth with elevated risk of low birth weight and increased risk of Sudden Infant Death Syndrome (SIDS) in infants of mothers who smoke; and

- 1
- The Institute of Medicine report *Secondhand Smoke Exposure and Cardiovascular Effects: Making Sense of the Evidence* presents scientific evidence that smoke-free laws prevent heart attacks and save lives. The report's evidence is consistent with other studies that have found a casual relationship between secondhand smoke exposure and acute coronary events, including heart attacks; and

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6 **WHEREAS**, California worksites and public places are locations where

7 children, members of the community and employees are exposed to secondhand

8 smoke; and certain groups are reporting higher levels of exposure at indoor

9 workplaces, as evidenced by the following:

- 10
- California is not considered a 100 percent smoke-free state by the nation's leading public health agency, the Centers for Disease Control and Prevention (CDC). Twenty-four other states and the District of Columbia are currently considered to have 100 percent smoke-free indoor workplaces-leaving California far behind; and
 - California passed the nation's first comprehensive smoke-free workplace law in 1994. Although the law protects a majority of California's workers, exemptions were left in that did not protect everyone; and
 - Certain groups of Californians continue to be exposed to higher levels of secondhand smoke in the workplace, including low income workers; young adults and Hispanics; and

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19 **WHEREAS**, exposure to secondhand smoke imposes great social and

20 economic costs, as evidenced by the following:

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- Nationally, the total for direct medical care costs associated with secondhand smoke is estimated to be \$5 billion each year and another \$5 billion each year for indirect costs; and
 - Smoke-free policies do not have a negative economic impact on businesses; and
 - Smoke-free air policies protect the public from exposure to secondhand smoke, and help smokers reduce the number of cigarettes consumed or quit entirely; and

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27 **WHEREAS**, the only way to protect people from breathing secondhand

28 smoke inside is to require all workplaces and public places be smoke-free. Other

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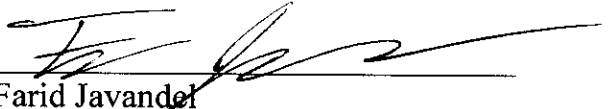
1 approaches, such as smoking rooms or air ventilation systems do not provide
2 protection from the toxic effects of secondhand smoke; and

3 **WHEREAS**, 100% smoke-free policies would help protect the health of
4 all Californians; and

5 **WHEREAS**, it is the responsibility of the government to protect the public
6 health and welfare of their citizens.

7 **WHEREAS**, SB 575 would expand the prohibition on smoking in the workplace
8 by eliminating many existing exemptions, and as amended April 6, 2011 passed the
9 Senate Labor and Industrial Relations Committee on a 5-2 vote April 13, 2011 and is
scheduled for a vote in the Senate Appropriations Committee May 2, 2011.

10 **NOW, THEREFORE, BE IT RESOLVED** that the Albany City Council
11 endorses a legislative effort to eliminate secondhand smoke exposure at all
12 California indoor worksites and efforts towards making California 100% smoke-
free.

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15 Farid Javandel
16 Mayor
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SB 575 (DeSaulnier) – Closing the Loopholes in California's Smoke-free Workplace Law

This bill, which we are co-sponsoring with the American Lung Association and the American Heart Association, would eliminate loopholes in California's smoke-free workplace law. Though groundbreaking when it was passed, our state's smoke-free workplace law has been eclipsed by the states that have followed us. Twenty-four states have been designated by the Centers for Disease Control and Prevention (CDC) as 100% smoke-free. California is not one of those states. Additionally, some of the exemptions in our law have allowed for the growing trend of hookah bars that allow indoor smoking. This bill would help us get the CDC's 100% smoke-free designation, would stop hookah bars from skirting the law, and will protect workers.

Specifically, this bill would delete the following exemptions in the state's smokefree workplace law:

- Areas of the lobby in hotel/motel
- Meeting and banquet rooms in hotel/motel
- Retail or wholesale tobacco shops
- Warehouses
- Gaming Clubs*
- Bars and Taverns*
- Breakrooms
- Employers with a total of five or fewer employees
- Owner-operated businesses
- Smoking rooms in nursing homes

It would also strengthen remaining exemptions by:

- Increasing the required number of smokefree hotel rooms from 35 percent to 80 percent
- Eliminating the ability of family child care homes to allow smoking indoors when children are present

We have also created a website, <http://closeloopholes.com/>, to help drive information sharing about the bill.

The Government Relations Office is currently reviewing the 2416 other bills that have been introduced this year to identify those on which the Division should engage.

* Current law establishes that smoking is prohibited in these establishments unless regulations are established that would protect patrons and workers from secondhand smoke. The specified regulations have not been adopted so smoking is prohibited. The deletion of these exemptions is simply clean-up.

THE FACTS

We all have to make a living. Breathing secondhand smoke shouldn't be a condition of employment.

Did You Know Not All California Workplaces Are Smoke-Free?

- When California's Smoke-Free Workplace law (Labor Code Section 6404.5) became effective in 1995, it was a landmark piece of legislation. No other state had a similar law for eight years. However, we can no longer claim that California is a national leader in protecting workers from secondhand smoke exposure on the job because:
 - California is not considered a 100% smoke-free state by the nation's leading public health agency, the Centers for Disease Control and Prevention (CDC). Twenty-four other states and the District of Columbia are considered to have 100% smoke-free indoor workplaces – leaving California far behind.¹
 - Exemptions and loopholes in California law mean that employees and patrons of certain businesses continue to be exposed to the toxic effects of secondhand smoke, even indoors. In fact, 1 in 7 California workers (13.5%) report being exposed to secondhand smoke in the workplace.²

- **The only way to protect people** from breathing secondhand smoke inside is to require all workplaces and public places to be smoke-free. Other approaches, such as smoking rooms or air ventilation systems, do not eliminate exposure to secondhand smoke.^{3,4}

Shouldn't ALL California Workers Breathe Smoke-Free Air?

- **Yes.** More than 90% of Californians approve of a law to protect workers from secondhand smoke exposure in the workplace.⁵
- Yet certain groups of Californians continue to have a higher risk of exposure to secondhand smoke. Unequal worker protection places young adults, Hispanics and low-income workers at higher risk of harm from secondhand smoke. Workers reporting the highest exposure to secondhand smoke include:

- Low-income workers:
 - 22.7% of those with a \$10,001 to \$20,000 annual household income; and
 - 16.6% of those with a \$20,001 to \$30,000 annual household income.
- 25.5% of young adults (ages 18-24).
- 19.2% of Hispanics.

- Because of gaps in California's Smoke-Free Workplace law, workers in the hospitality, service, and blue-collar employment sectors are most likely to be unprotected.

How Dangerous is Secondhand Smoke?

- Secondhand smoke contains at least 250 chemicals known to be toxic and/or cause cancer, including formaldehyde, benzene, vinyl chloride, arsenic, ammonia, and hydrogen cyanide.⁷

“Reducing health disparities is both a public health priority and a community responsibility. All California workers deserve equal protection from secondhand smoke to prevent the serious health risks such exposure is known to cause. Exposure to secondhand smoke should not be a condition of employment.”

- The U.S. Environmental Protection Agency classifies secondhand smoke as a Class “A” human carcinogen (cancer-causing agent), the same class as asbestos.⁸ The National Institute for Occupational Safety and Health has concluded that secondhand smoke in the workplace is an occupational carcinogen.⁹
- The California Air Resources Board has declared secondhand smoke to be a toxic air contaminant, in the same category as diesel exhaust.¹⁰

- The U.S. Surgeon General has concluded that there is no risk-free level of exposure to secondhand smoke, ventilation cannot eliminate exposure of nonsmokers to secondhand smoke, and establishing smoke-free environments is the only proven way to prevent exposure.¹¹

California's
Winning
Battle
Finish the Fight
Against Tobacco

California Department of Public Health
California Tobacco Control Program
P.O. Box 997177, MS2186
Sacramento, CA 95899-7377
www: www.cdph.ca.gov/programs/tobacco



- Secondhand smoke exposure causes disease and premature death in nonsmokers, including:
 - Lung cancer
 - Heart disease
 - Respiratory diseases
- Nonsmokers who are frequently exposed to high levels of secondhand smoke increase their risk of developing heart disease by 25-30%, and lung cancer by 20-30%.¹²

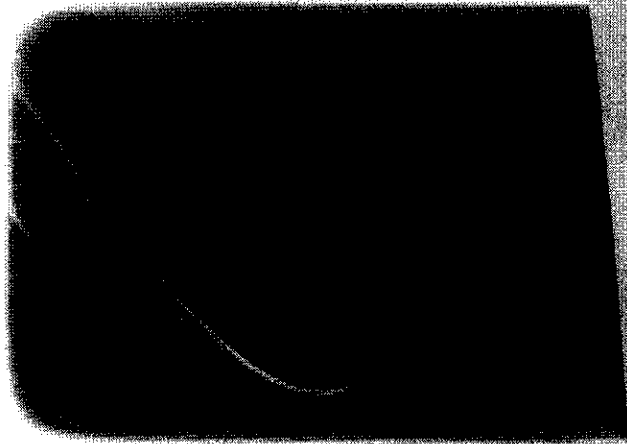
What are the Costs and Benefits of Being Smoke-Free?

- Nationally, the annual direct medical care costs associated with secondhand smoke exposure is estimated to be \$5 billion and another \$5 billion for indirect costs.¹³

- Smoke-free laws have been found to reduce the rate of heart attacks in communities by an average of 17% after one year and 26% after three years.¹⁴
- Smoke-free laws also promote smoking cessation; they increase quit attempts by smokers and decrease cigarette consumption.¹⁵
- Research shows that smoke-free policies and regulations do not have a negative impact on business revenues.¹⁶ Establishing smoke-free workplaces is the simplest and most cost effective way to improve employee and employer health.¹⁷

- Centers for Disease Control and Prevention. *Press Release, New CDC Report Says Increased Efforts, High-Impact Strategies Needed to Reduce Smoking and Save Lives*. April 23, 2010. Available at: <http://www.cdc.gov/media/pressrel/2010/r100423.htm>
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- Scollo M, Lal A, Hyland A, Glantz S. Review of the quality of studies on the economic effects of smoke-free policies on the hospitality industry. *Tobacco Control* 12 (1): 13-20, 2003. Available at: http://www.tobaccofreeair.org/METC_Smoke-FreeAirMaterials/SelectReferences/Economic_Impact_of_Smokefree%20Regs/Scollo%20Tob%20Control%202003.pdf
- Americans for Nonsmokers Rights. *Economic Impact of Smoke-free Ordinances: Overview*. 2006. Available at: <http://no-smoke.org/document.php?id=219>

10 REASONS WHY CALIFORNIA NEEDS TO CLOSE THE EXEMPTIONS AND LOOPHOLES IN THE STATE'S SMOKE-FREE WORKPLACE LAW



1. California Has Fallen Behind.

Once the nation's leader in protecting workers from the toxic effects of secondhand smoke, California has fallen behind the national standard set by the Centers for Disease Control and Prevention (CDC). California is not considered a 100% smoke-free state by the CDC. Meanwhile, 24 other states and the District of Columbia provide greater secondhand smoke protection in the workplace than California.

2. Too Many California Workers Are Still Exposed to Secondhand Smoke.

Secondhand smoke contains toxic, cancer-causing chemicals. Repeated exposure can kill you even if you don't smoke. Yet California's Smoke-Free Workplace law (Labor Code Section 6404.5) currently ALLOWS smoking under certain conditions in hotel lobbies, hotel/motel guest rooms, banquet facilities, small businesses, break rooms, owner-operated businesses, tobacco shops and private smokers' lounges, warehouses, company vehicles, long-term health care facilities, volunteer-operated facilities, theatrical productions and medical research or treatment sites. These exemptions and loopholes mean that employees and patrons of certain businesses continue to be exposed to the harmful effects of secondhand smoke.

3. A Smoke-Free Workplace Is the Only Way to Ensure Workers Are Protected From Secondhand Smoke.

The U.S. Surgeon General has found that other approaches, such as smoking rooms or air ventilation systems, do not eliminate exposure to secondhand smoke. The only way to protect people from breathing secondhand smoke indoors is to require all workplaces and public places to be smoke-free.

4. Exposure to Secondhand Smoke Should Not Be A Condition of Employment.

It is not fair that workers reporting secondhand smoke exposure are highly represented among the hospitality, service and blue-collar employment sectors — the same sectors most directly impacted by the gaps in California's smoke-free workplace law. Workers should not have to jeopardize their health in order to make a living.

5. California's Law Does Not Provide All Workers with Equal Protection.

California's Smoke-Free Workplace law provides inadequate and unequal secondhand smoke protection for certain groups, particularly low-income workers making less than \$30,000 per year, young adults (ages 18-24) and Hispanics. As a result, these Californians face an unfair health burden of disease and premature death from lung cancer, heart disease and serious respiratory diseases, such as asthma and bronchitis. Reducing health disparities is both a public health priority and a community responsibility. All California workers deserve equal protection from secondhand smoke exposure under California law.

6. There Is A Huge Economic Burden Associated with Secondhand Smoke.

Nationally, the annual direct medical care costs associated with secondhand smoke exposure are estimated to be \$5 billion each year, plus another \$5 billion for indirect costs.

California's
Winable
Future
Join the Fight
Against Tobacco

California Department of Public Health
California Tobacco Control Program
P.O. Box 997377, MS7206
Sacramento, CA 95899-7377
www.cdph.ca.gov/programs/tobacco



7. Smoke-Free Workplace Laws Are Good for Business.

Research shows that smoke-free policies and regulations do not have a negative impact on business revenues. Establishing smoke-free workplaces is the simplest and most cost effective way to improve employee and employer health.

8. Smoke-Free Workplaces Create Healthier People.

Strong smoke-free workplace laws not only protect workers and the public from secondhand smoke, they have also been found to reduce the rate of heart attacks by an average of 17% after one year and 26% after three years. They also help smokers quit by decreasing cigarette consumption and increasing rates of quit attempts. Creating smoke-free workplaces will protect all groups of workers and create an environment that increases smokers' chances of successfully quitting.

9. Californians Support Smoke-Free Workplace Laws.

More than 90% of Californians approve of a law to protect workers from secondhand smoke exposure in the workplace.

10. California CAN Win This Battle.

Assembly Bill 1467 (DeSaulnier, 2007) would have removed some of the exemptions in Labor Code Section 6404.5 and increased protection from secondhand smoke for California workers. The legislation had no opposition from business groups including the tobacco industry — yet was vetoed by the Governor.

Isn't it time to protect ALL California workers from secondhand smoke?

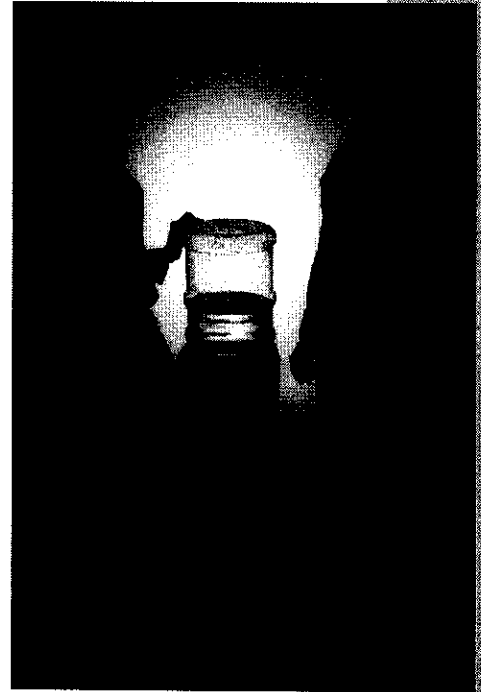
1. Centers for Disease Control and Prevention. *Press Release, New CDC Report Says Increased Efforts, High-Impact Strategies Needed to Reduce Smoking and Save Lives*. April 23, 2010. Available at: <http://www.cdc.gov/media/pressrel/2010/r100423.htm>
2. U.S. Department of Health and Human Services, Office of the Surgeon General. *The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General*. 2006. Available at: http://www.cdc.gov/tobacco/data_statistics/sgr/2006/index.htm
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NO EASY OUT

Why Ventilation Is Not Enough

Secondhand Smoke is Toxic and Causes Cancer.

- Secondhand smoke is a mixture of over 4,000 chemicals, and it contaminates indoor and outdoor air.^{1,2}
- At least 250 of the chemicals in secondhand smoke are toxic or cause cancer, including formaldehyde, benzene, vinyl chloride, arsenic, ammonia and hydrogen cyanide.³
- Secondhand smoke exposure can cause harmful health effects, including:
 - Heart disease
 - Heart attacks
 - Lung cancer
 - Lower respiratory illnesses in children
 - Middle ear disease in children
 - Asthma and chronic respiratory problems in children
 - Low birth weight
 - Sudden infant death syndrome (SIDS).⁴
- The U.S. Surgeon General has declared that there is no risk-free level of secondhand smoke exposure.⁵



Ventilation Systems do NOT Provide Protection from the Toxic Effects of Secondhand Smoke.

- The U.S. Surgeon General's analysis of heating, ventilating and air-conditioning (HVAC) systems found that most systems typically remove large particles, but not the smaller particles or gases in secondhand smoke. HVAC systems alone cannot protect against exposure to secondhand smoke. In fact, the operation of **these systems can actually distribute toxic secondhand smoke throughout a building.** The report concludes that:

Establishing smoke-free workplaces is the only effective way to ensure that secondhand smoke exposure does not occur in the workplace.⁶

- Studies have also shown that high-tech displacement ventilation systems* that attempt to remove cigarette smoke from the air in restaurants and bars do not protect all workers and patrons from secondhand smoke exposure. These researchers conclude that smoking bans remain the only viable option to protect the health of non-smokers and hospitality workers.
- The American Society of Heating, Refrigerating and Air-Conditioning Engineers, the national body that sets standards for indoor air quality, also affirms:

[No] engineering approaches, including current and advanced dilution ventilation, "air curtains" † or air cleaning technologies, have been demonstrated or should be relied upon to control health risks from (secondhand smoke) exposure in spaces where smoking occurs. ...The only means of eliminating health risks associated with indoor exposure is to ban all smoking activity.⁸*

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California's Smoke-Free Workplace Law Is Misleading About Ventilation.

- Two of the exemptions in California's Smoke-Free Workplace law (Labor Code Section 6404.5) permit smoking inside employee breakrooms and workplaces with five or fewer employees **if there is compliance with State or Federal ventilation standards**, among other requirements. However, no ventilation standards for removing secondhand smoke have been adopted by California's Occupational Safety and Health Standards Board or the federal Environmental Protection Agency.
- Unfortunately, enforcement agencies may not be aware that no standards exist. Therefore, **these exemptions should never be used to allow smoking in indoor workplaces.**

The evidence is clear that ventilation systems do NOT offer adequate protection from the dangers of exposure to secondhand smoke. All California workers deserve equal protection from secondhand smoke to prevent the serious health risks such exposure is known to cause. Exposure to secondhand smoke should not be a condition of employment.

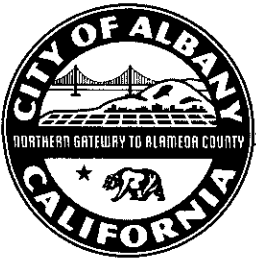
Glossary:

* Displacement Ventilation: Cooler air is introduced at or near floor level to displace the warmer room air up towards the ceiling. This air is then drawn out by an exhaust fan.

† Dilution Ventilation: Air is supplied to a room through vents, resulting in almost complete mixing of the air before it is extracted again

‡ Air Curtain Ventilation: Air is blown in a specific direction at a specific speed, so that a kind of air screen is created.

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City of Albany

1000 San Pablo Avenue • Albany, California 94706
(510) 528-5710 • www.albanyca.org

RESOLUTION NO. 2011-15

PASSED AND APPROVED BY THE COUNCIL OF THE CITY OF ALBANY,

this 2nd day of May, 2011, by the following votes:

AYES: Council Members Javandel, Atkinson, Lieber, Thomsen & Wile

NOES: None

ABSENT: None

WITNESS MY HAND AND THE SEAL OF THE CITY OF ALBANY, this

3rd Day of May, 2011.

Eileen Harrington
DEPUTY CITY CLERK

The City of Albany is dedicated to maintaining its small town ambience, responding to the needs of a diverse community, and providing a safe, healthy and sustainable environment.



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