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# An Economic Assessment of Smokefree Policies in Tennessee

A White Paper

*There is no safe level of  
secondhand smoke exposure as a  
brief exposure could have  
devastating health consequences  
-U.S. Surgeon General, 2006*

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## FORWARD

Smokefree Policies (SFPs) have proliferated across the United States (U.S.) and worldwide. Research evidence indicates that policies that make a venue 100% SFPs are the best approaches to protecting the public from exposure to secondhand smoke (SHS). SFPs are cost-effective, feasible, appropriate to implement, and supported by a majority of the U.S. population, including people who smoke. In 2007, Tennessee enacted and implemented the Nonsmoker Protection Act (NSPA) to protect nonsmokers from exposure to SHS. The NSPA created 100% smoke-free restaurants; however, it exempted several other types of venues, including age-restricted ones such as bars, and preempted tobacco regulation (which means local jurisdictions cannot pass regulations or policies regarding tobacco). Thus, the NSPA is not an equitable SFP because it overlooks vast segments of nonsmokers such as employees and patrons of bars, leaving them unprotected from SHS exposure and thwarted any local initiative to pursue 100% SFPs. While this predisposes these nonsmokers to the health dangers associated with SHS exposure, the NSPA as currently written undermines meeting significant health goals which align with the objectives of Healthy People 2030<sup>1</sup>. Healthy People 2030's key objectives include removing preemption from tobacco laws and passing 100% SFPs in all venues. Goals of the state public health strategic plans are also difficult to meet because of this legislation. In 2021, the United Health Foundation ranked Tennessee's smokefree legislation 42<sup>nd</sup> out of 50 states because this legislation fails to protect all Tennesseans.

Smokefree environments have not curtailed the growth of restaurant establishments in Tennessee (see section 2.0). While current regulations are not equitable nor effective in protection of everyone from SHS exposure, it is costing Tennessee taxpayers billions of dollars in lost productivity and healthcare expenditures.

It is recommended that the state amend the preemption of tobacco regulation so that local municipalities could pursue the adoption of 100% SFPs. Based upon Tennessee specific data, evidence from the literature about the economic effects of SFPs, and the national and international trends toward 100% SFPs, it is therefore recommended that the state amend the NSPA to include 100% SFPs for all public venues (including entertainment and sport venues), and bars. Additionally, amending the NSPA to remove preemption allows local jurisdictions to pursue 100% SFPs. Further, many states, including the neighbor states of Louisiana and Mississippi, have jettisoned preemption since the peak period of the 1990s. As such, as of September 2021, only 12 states, including Tennessee, have laws or court decisions in effect that explicitly preempt tobacco regulation.

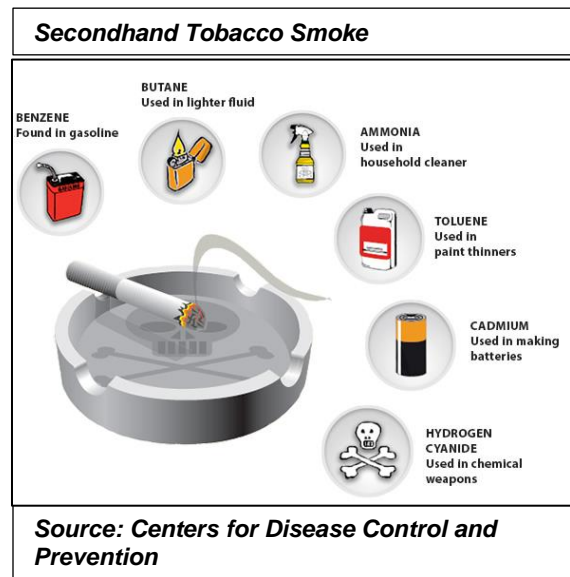
This White Paper aims to assess the economic effects of Tennessee's approach to SFPs specifically smokefree restaurant policies. This effort aims to determine the implications for venues exempted by the NSPA (see section 2).

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## EXECUTIVE SUMMARY

### The Problem

Tobacco use in Tennessee has consistently remained higher than the national average, accounting for 11,400 deaths and \$5.6 billion in economically attributable costs (healthcare costs and lost productivity) annually. In 2020, for example, 19.5% of adults in Tennessee were current smokers, compared to 15.5% nationwide, ranking 46<sup>th</sup> out of the 50 states.<sup>2,3</sup> This historically high prevalence of tobacco use in the state and ensuing exposure to secondhand tobacco smoke (SHS) culminated in the enactment and implementation of the Nonsmoker Protection Act (NSPA) in 2007. At the time the NSPA was enacted, the American Lung Association graded Tennessee with a “B+” in its 2008 report “State of Tobacco Control;” however, in the 2022 report, the American Lung Association graded Tennessee a “C” due to the exemptions of age-restricted venues like bars in the law.<sup>4</sup> The 2022 report also suggests that the Tennessee legislature should amend the NSPA to remove the preemption provision and restore local control to municipalities to adopt stronger smokefree laws. Tennessee is 1 of 10 “Most Challenged” states according to the United Health Foundation’s 2022 “America’s Health Rankings Annual Report” because among other issues, Tennessee was ranked 42<sup>nd</sup> out of 50 for non-smoking regulations.<sup>5</sup> This low ranking suggests there is a gap in regulations that protect all nonsmokers in the state.



The NSPA created regulation that resulted in smokefree restaurants; however, it simultaneously exempted some hospitality workplaces, including age-restricted venues such as bars, entertainment and sport venues. The NSPA also continued with the explicit preemption of tobacco regulation that was introduced by the 1994 Prevention of Youth Access to Tobacco Act to prohibit local jurisdictions from enacting local policies.<sup>6-9</sup> Thus, there is lack of equity in smokefree protections by the NSPA, and the ability of local jurisdictions to enact 100% smokefree policies (SFPs). Nonsmoking employees and patrons of the exempted venues across the state, including servers, bartenders, athletes and performing artists, make significant economic contributions to the state and local communities and have rights and liberties to smokefree air. They deserve to be protected from SHS. The health benefits of 100% SFPs are beyond dispute, concerns of the adverse economic effects of tobacco prevention and control policies, perpetuated by the tobacco industry, allied groups, and lobbyists,<sup>10,11</sup> served as the catalyst for this economic assessment of the effects of SFP in Tennessee.<sup>12,13</sup>

## The Evidence

This report analyzed the Tennessee data regarding the positive economic effects of a smokefree environment on restaurants, the only 100% smokefree hospitality venue covered by the NSPA, along with published scientific studies (see Section 2). The consensus in the literature is that 100% SFPs is the only means to ensure equal and equitable protection of all nonsmokers from the health hazards of SHS exposure.<sup>12–18</sup> The evidence indicates that SFPs:

- Provide protections from SHS exposure and health risks to nonsmokers;<sup>13,18–22</sup>
- Help individuals to quit or reduce smoking;<sup>12,23</sup>
- Do not adversely affect sales or employment in the hospitality, entertainment or sport industries, including bars, hotels and motels, and restaurants;<sup>24–26</sup>
- Have strong public support and compliance, including those in Tennessee.<sup>6,8,9,27–29</sup>

Additionally, the results of this economic assessment of the effects of SFPs in restaurant establishments, using Tennessee-specific data, revealed that SFPs do not adversely affect the growth of the industry. This aligns with studies from elsewhere in the U.S. and worldwide.<sup>17,25,26</sup> Specifically, it was found that during the 12-year period following the enactment of the NSPA, i.e. between 2008 and 2019<sup>i</sup>:

- Retail sales in Tennessee eating and drinking establishments increased by 62%.
- The number of restaurant establishments increased by 16%;
- Employment in the restaurant sector increased by 23%;
- While nominal payroll of restaurant establishments increased by 81%, that of real payroll increased by 52% after controlling for inflation;
- Except for the smallest and largest size categories, the number of restaurant establishments grew across all size categories; and
- The increase in the number of restaurant establishments, ensuing employment, and payroll occurred in the larger metropolitan areas of Chattanooga, Knoxville, Memphis, and Nashville

To be able to discuss the implications of these positive economic effects of SFPS in restaurant establishments in Tennessee for venues exempted by the NSPA such as bars, entertainment and sport venues, the quantitative analysis was supplemented by qualitative interviews with some establishments that voluntarily transitioned to 100% smokefree environment. The main reasons why these establishments transitioned, included:

- Increase new customer base to improve revenue;
- Respond to employees and customers complaints and reviews;
- Overall health concerns employees and consumers; and
- In response to the COVID-19 pandemic.

All respondents supported smokefree age-restricted venues in their local communities.

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<sup>i</sup> It should be noted that the economy entered into a recession in December 2007; although the recession officially lasted till June 2009, the effects of the recession were long-lived beyond 2009

This mixed methods approach revealed that those smokefree restaurants and age-restricted venues that voluntarily became smokefree experienced economic benefits. Interestingly, these establishments also support removing exemptions from the state SFP and giving local jurisdictions the ability to regulate age-restricted venues.

## Recommendations

Based upon this Tennessee-specific data, the reviewed scientific literature, and the general trend toward 100% SFPs nationally and internationally, we propose the following evidence-based policies for equal and equitable protection of all Tennesseans from SHS:

- Amend the NSPA to remove exemptions to achieve 100% SFPs that promote equal (everyone regardless of smoking status) and equitable (focus is on nonsmokers) protection of all against SHS exposure;
- Amend the NSPA to remove preemption provision(s), benchmarking the NSPA as the floor, not a ceiling, for the state. This means that local jurisdictions cannot remove current policies; only improve on them; and
- Enforce the SFPs, along with other evidence-based tobacco control policies to ensure compliance.

## Arguments in Support of Recommendation

These policies are not only consistent with best practices<sup>12,13,30</sup> but also aligns with the key objectives of Healthy People 2030<sup>31</sup> and the Tennessee state public health strategic plans.<sup>32</sup> Additionally, these proposals are based upon:

- Cost-effectiveness;
- Proven economic benefits;
- Improved population health benefits;
- Equal and equitable protected from the dangerous health effects of SHS exposure;
- Economic costs attributable to SHS exposure; and
- Higher demand for smokefree places, even among those exempted from the NSPA

## Counter Arguments

Because of the documented history of tobacco industry practices,<sup>10,11,33</sup> it is expected that the tobacco companies, allied front groups, and lobbyists will use several counter arguments to thwart any legislative action towards these recommendations, including but not limited to:

- The slippery slope of implications of policy change for other health-related issues;
- The alleged adverse economic effects of tobacco control policies such as SFPs;
- The overall declining trend of tobacco use prevalence;
- Potential weaker local SFPs by removing preemption;
- Voluntary actions by the private sector; and
- Majority of the state's population already covered by the NSPA.

## Conclusion

Evidence from Tennessee specific data indicates the creation of SFPs for restaurant establishments did not adversely affect the growth of the restaurant industry. In fact, the restaurant industry experienced significant growth after the implementation of SFPs. Further, scientific studies show that SFPs improve population health, and therefore have positive economic benefits. This evidence suggests that age-restricted venues, including bars, entertainment and sport venues and other workplaces exempted from the NSPA will also benefit from becoming smokefree. The persistently high prevalence of tobacco use in the state is untenable, costs billions of dollars to Tennessee taxpayers, and acts as a deterrent to economic development. Therefore, these policy recommendations proposed in this report are critically needed to improve population health, increase productivity and foster economic growth in the State.

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## ABBREVIATIONS AND ACRONYMS

ALA	American Lung Association
CACIA	Children's Act for Clean Indoor Air
CDC	Centers for Disease Control and Prevention
WHO FCTC	WHO Framework Convention on Tobacco Control
MSA	Master Settlement Agreement
NSPA	Nonsmoker Protection Act
PYATA	Prevention of Youth Access to Tobacco Act
SHS	Secondhand Tobacco Smoke
SFP	Smokefree Policy
TN	Tennessee
U.S.	United States
WHO	World Health Organization
NAICS	North American Industrial Classification System

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