

WORLD WIDE EXPERIENCE ON FINES FOR BREAKING THE LAW on bans of smoking in public places

According to the Status Report on Article 8 of the FCTC published by the global smoke free partnership ,in the past two years, the countries that have implemented comprehensive smokefree laws have more than doubled . Millions and millions of people worldwide are protected from second hand smoke as a result of smoke free laws. The report states that overall more than 60 countries worldwide have adopted strong national or local policies. Latin American is leading this progress, recent countries that have become smoke-free are Columbia, Guatemala, Paraguay, Peru, and Honduras. Other examples of countries with comprehensive smoke free laws are : Barbados(2010), Greece (2010), Solomon Islands (2010), Syria (2010), Trinidad and Tobago (2010), Turkey (2008), UK (20017), New Zealand 2004), UAE (2010), Finland (2009), Mauritius (2009), Iran (2007), Kenya (2007), Italy(2005), Sweden (2005), Qatar (2009), and many more.

Enforcement is a key challenge: THE SOLUTION is thus imposing Penalties and Fines

Legislation should incorporate a range of penalties, which should increase for repeat violations, including:

- fines;
- business or operating licensure sanction, especially for flagrant or repeated violations;
- criminal penalties, if appropriate in the jurisdiction; and
- public notification of violations, with the associated costs levied against the violator(s)

Examples of penalties from around the World

ARAB COUNTRIES

Egypt

The 2007 Law, Art. 2 (which adds Art. 6 Bis (3) to the 1981 Law) imposes a general duty upon managers of smoke free places to prevent smoking. Failure to comply is punishable by a fine between 1,000 and 20,000 pounds. Neither the law nor the bylaw states the specific steps a manager must take. The 1994 Law imposes a fine between 1,000 and 20,000 pounds upon managers of smoking-restricted establishments for failure to prevent smoking in smoke free areas. The law aligns with FCTC Art. 8 and the FCTC Art. 8 Guidelines in that it imposes a duty to prevent smoking. However, to improve enforceability, the law or bylaws should state the specific steps a manager should take, such as warning, discontinuing service (if applicable), and calling authorities, as recommended by the FCTC Art. 8 Guidelines.

EUROPE

Greece

Whoever is caught smoking or using tobacco products in a venue is fined 50-500 Euro depending on the number of times they are fined. The venue owner is fined 500-10,000 Euro when they break the law. The first time they are fined 500 and each time they are fined the penalty increases. The 4th time they are caught their license is taken from them for 10 days, while the 5th time they are caught to

break the law the license is permanently taken from them

Scotland

Under the Smoking, Health and Social Care (Scotland) Act 2005, a person managing or having control of a no-smoking premises that knowingly permits a person to smoke there commits an offence. The 2006 Regulations, Section 4, provide that a violation of this duty is subject to a fine of £200, or £150 if the fine is paid within 15 days. The legislation aligns with FCTC Art. 8 and the FCTC Art. 8 Guidelines with respect to penalties for a violation of the duty to enforce.

Spain

The law implies a duty to take steps to require a person to stop smoking because the law imposes a fine for allowing smoking in places where it is banned. Violations are considered a “serious breach” and subject to a fine from 601 to 10,000 Euros.

England

There is a duty on any person who controls or is concerned in the management of smoke free premises to cause a person smoking there to stop smoking. A person guilty of an offence under this section is liable on summary conviction to a fine. The maximum fine for such violation is £2,500.

THE UNITED STATES OF AMERICA- Examples from two states

State of Massachusetts: Gives a warning then \$300 fine then \$1000 and then revocation of license for three months.

State of Texas

- A. A person who smokes in an area where smoking is prohibited by the provisions of this Article shall be guilty of an infraction, punishable by a fine not exceeding fifty dollars (\$50).
- B. A person who owns, manages, operates, or otherwise controls a public place or place of employment and who fails to comply with the provisions of this Article shall be guilty of an infraction, punishable by:
 1. A fine not exceeding one hundred dollars (\$100) for a first violation.
 2. A fine not exceeding two hundred dollars (\$200) for a second violation within one (1) year.
 3. A fine not exceeding five hundred dollars (\$500) for each additional violation within one (1) year.

- C. In addition to the fines established by this Section, violation of this Article by a person who owns, manages, operates, or otherwise controls a public place or place of employment may result in the suspension or revocation of any permit or license issued to the person for the premises on which the violation occurred.

ASIA

India

A. Duties: The law generally requires that “[t]he owner, proprietor, manager, supervisor or in charge of the affairs of a public places shall ensure that . . . no person smokes in the public place (under his jurisdiction implied).” Further, the law provides that “if the owner, proprietor, manager, supervisor or authorized officer of a public place fails to act on reports of such violation, the owner, proprietor, manager, supervisor or authorized officer shall be liable to pay fine equivalent to the number of individual offenses.” The law, however, does not explicitly establish the steps to be taken to ensure that no smoking occurs in public places. B. Sanctions: The law provides for fines on the business owners/employers/supervisors for allowing smoking in public places if the business owners/employers/supervisors fail to act on reports of smoking violations. The fine is the equivalent to the number of individual offenses.

LATIN AMERICA

Uruguay

The law requires business owners or supervisors to “take all measures necessary for effective . . . compliance” with the law. Penalties for violating this provision include warnings, fines ranging from 10,000 to 100,000 UI (Indexed Units), and temporary closure, depending upon the severity of the offense. Where it is established that a violation of Art. 4 has occurred, the Ministry of Public Health may close the establishment for up to five consecutive days. In the event of a recurring violation, the Ministry may close the establishment for up to 30 days. Aggravating circumstances include the accumulation of two or more breaches.

Mexico

Fine from 1,000 up to 4,000 times the minimum general daily salary prevailing in the particular economic area for non-compliance with Art. 27 (setting up smoking areas) and Art. 28 (enforcement of smoke free areas by the person responsible for the 100% tobacco smoke free area), doubling for repeat violations. In addition, other available administrative sanctions include: warning; fine; temporary or definitive, and partial or total closure of the establishment; and detention for up to thirty-six hours.

SOURCE: Tobacco Control Policies worldwide- <http://www.tobaccocontrollaws.org>

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