



Office of The Attorney General
State of Connecticut

*TESTIMONY OF
ATTORNEY GENERAL RICHARD BLUMENTHAL
BEFORE THE PUBLIC HEALTH COMMITTEE
FEBRUARY 27, 2009*

I appreciate the opportunity to support legislation to prohibit smoking in casinos. House Bill 5608, An Act Concerning the Issuance of Liquor Permits to Casinos that Permit Smoking in the Casino supports the concept of banning smoking in the casinos but fails to establish a clear goal of eliminating smoking completely.

I urge the committee to favorably consider the attached amendment to House Bill 5608 which institutes a complete smoking ban in phases over a three year period. Very importantly, my proposal exempts federally recognized Tribes that enact a similar law through their Tribal statutes. This amendment would provide protection for employees and patrons from the dangerous effects of second-hand smoke.

My amendment achieves the goal of smoke-free casinos while respecting Tribal sovereignty by exempting Tribes that enact their own laws or enter into a compact with the state of Connecticut.

The dangers of second hand smoke are well known and well-proven. Second-hand smoke kills. It causes all the fatal and intensely painful, costly diseases as smoking itself, because it contains potentially lethal doses of the same toxic and cancer-causing substances. Five years ago, Connecticut prohibited smoking in most places open to the public as well as most work areas. This law has spared millions from undesired and dangerous exposure to this public health menace.

I have been a strong and consistent advocate of banning smoking in all public places. My involvement in this cause began more than a decade ago. I have been proud to help lead national efforts, including our landmark state legal battle, against Big Tobacco. Connecticut has banned smoking in state-run and privately operated gambling facilities such as the OTB parlors. Casinos too should be smoke-free -- to protect patrons and workers.

I am proud to continue this historic public health battle in supporting the anti-smoking fight advanced by the attached amendment.

As a matter of policy, I believe all public places should be smoke-free. As a matter of law, I must recognize that public places on reservations belonging to federally recognized tribes have a different status under federal law and principles of tribal sovereignty.

Casinos on reservation lands have a different legal status because tribal ownership raises significant and serious issues of sovereignty, with potentially broad and sweeping consequences beyond the issue of smoking. These principles of sovereignty in no way bar the state from prohibiting smoking because the Tribes have already agreed -- as a condition in the Compacts between the Tribes and the state of Connecticut -- to adopt public health standards at least as rigorous as the State's public health laws.

State legislation is only one means of achieving the goal of smoke-free casinos. Tribal law is another, perhaps preferable means. The Mohegan Tribe has recognized the harmful effects of second-hand smoke by broadening the areas that are smoke-free. The proposed amendment establishes a similar standard for the casinos to meet by October 1, 2009 while exempting from the statute any Tribe that adopts a Tribal law at least as protective from second hand smoke as the standards set out in the amendment.

Another means -- perhaps one that could achieve the goal more swiftly and certainly with less cost and acrimony -- is an agreement between the state and Tribes setting a timeline for prohibiting smoking. Such an agreement would be incorporated in the Compact between the state and the Tribes, after approval by the legislature and Tribal councils. Such agreements are hardly unprecedented. The state and the Tribes have entered into a number of agreements including the Compact under which the casinos operate, and the slot machine agreement.

My discussions with Tribal leaders indicate that they share my concern for the health of their employees and the general public. I understand their concerns about the legal and sovereignty issues raised by this legislation but I am also encouraged by their desire to address this serious public health concern.

There is a growing trend in many states to prohibit smoking in commercial gambling facilities and in non-Tribal casinos. Many states -- including Colorado, Illinois, Maryland, Minnesota, Montana, Nebraska and Washington -- now prohibit smoking in non-Tribal casinos. Massachusetts has stated that no smoking will be allowed in any Tribal casinos authorized in that state. At least three Tribes have voluntarily prohibited smoking in their casinos. In addition, Puerto Rico, Ontario, Quebec, the United Kingdom, France and Ireland all prohibit smoking in their casinos.

Finally, prohibiting employee exposure to second-hand smoke may well be in the Tribe's best financial interest. Employee sickness and absenteeism decline when workers are spared the effects of second-hand smoking. Restaurant, bowling alley and bar owners initially resisted smoking bans, but many have found that their business actually increased after going smoke-free, as customers welcomed and supported the healthier environment.

I urge the committee to take a strong position in favor of the proposed amendment.

**OFFICE OF THE ATTORNEY GENERAL
2009 GENERAL ASSEMBLY SESSION
PUBLIC HEALTH COMMITTEE**

TITLE: An Act Concerning Smoking in Casinos

SUMMARY: This proposal requires any holder of a casino liquor permit to prohibit smoking in all non-gaming areas of the permitted premises and to phase in a complete ban in the gaming areas as follows:

by October 1, 2009, no smoking in a contiguous area of not less than 20% of the gaming area;
by October 1, 2010, no smoking in a contiguous area of not less than 50% of the gaming area; and
by October 1, 2011, no smoking in any gaming area.

In addition, employees who are pregnant or have respiratory or cardiac health problems shall have the right to be transferred from a smoking gaming area to a similar position in a non-smoking area and employees who request a transfer from a smoking gaming area shall have priority over new employees for a similar position in a no smoking gaming area. During the phase in period, there shall be no detectable level of nicotine in the non-smoking areas.

This proposal shall not apply to any federally recognized Indian Tribe that enters into an agreement with the state or that enacts tribal legislation that meets or exceeds the standards established in this proposal.

TEXT:

Sec. 1. (NEW) (Effective October 1, 2009): (a) A permittee of a liquor permit issued pursuant to section 30-37k shall not allow smoking in the permitted premises as follows: (1) on or after October 1, 2009, all areas of the permitted premises where gaming does not take place, including all entrances, common walkways, restrooms, and one contiguous section, adjacent to the non-smoking area, of not less than twenty per cent of the square footage of the area where gaming takes place which shall include not less than twenty per cent of the area where slots are located and not less than twenty per cent of the area where staffed gaming takes place; (2) on or after October 1, 2010, all areas of the permitted premises where gaming does not take place, including all entrances,

common walkways, restrooms, and one contiguous section, adjacent to the non-smoking area, of not less than fifty per cent of the square footage of the area where gaming takes place; and (3) on or after October 1, 2011, in all areas of the permitted premises.

(b) On or after October 1, 2009, a permittee shall allow any employee working in a smoking area who is pregnant or who has a physician attestation documenting a respiratory or cardiac condition that is exacerbated by exposure to smoke to be transferred to a similar employment position in a non-smoking area. Such permittee shall provide to any employee requesting a transfer from a position in a smoking area priority in the filling of any vacancy of a similar position in a non-smoking area.

(c) On and after October 1, 2010, all areas designated as non-smoking areas shall maintain air qualities at all times and in all parts of the area air quality which contains no detectible nicotine levels.

(d) The provisions of this act shall not apply to any federally recognized Indian Tribe: (1) that enters into an agreement with the state approved pursuant to section 3-6c of the general statutes; or (2) that enacts tribal legislation, that provides no smoking areas and employee protections at least as protective as contained in this act.