

2007

Smoke Free Casinos? Don't Bet On It

Jeremy LaMarche

Follow this and additional works at: <http://lawcommons.luc.edu/lclr>



Part of the [Consumer Protection Law Commons](#)

Recommended Citation

Jeremy LaMarche *Smoke Free Casinos? Don't Bet On It*, 19 Loy. Consumer L. Rev. 311 (2007).

Available at: <http://lawcommons.luc.edu/lclr/vol19/iss3/7>

This Consumer News is brought to you for free and open access by LAW eCommons. It has been accepted for inclusion in Loyola Consumer Law Review by an authorized administrator of LAW eCommons. For more information, please contact law-library@luc.edu.

Smoke Free Casinos? Don't Bet On It.

Smoking bans in restaurants and bars are sweeping the nation, but New Jersey casinos are still fighting to allow smoking on casino floors. For a few months, it looked as if the City of Council of Atlantic City was going to pass an ordinance banning smoking in casinos entirely.²⁶ However, the City Council of Atlantic City settled on a city ordinance that only bans smoking on 75% of casino gambling floors.²⁷ The 75% ban is a small victory for the New Jersey casino industry, which estimates that smoking gamblers are half of their clientele.²⁸

Last year, the New Jersey Legislature passed a law banning smoking from most indoor public places within New Jersey.²⁹ However, legislators believed that they could not have garnered enough votes to pass the law had it included banning smoking from casinos.³⁰ Therefore, when the bill was passed, it contained an exemption for the state's casinos.³¹

Nevertheless, the City Council of Atlantic City began considering its own measure to ban smoking in casinos following the state issued exemption.³² The proposed ordinance was introduced unanimously by the City Council.³³ The City Council cited health concerns as the main factor contributing to its consideration of a possible ban.³⁴ However, outside pressures were also present.³⁵ Shortly after

²⁶ *Atlantic City Smoking Ban Moves Forward*, CBS News (Nov. 16, 2006) <http://www.cbsnews.com/stories/2006/11/16/ap/health/mainD8LEF4DO0.shtml>.

²⁷ *Atlantic City Smoking Ban Extends (Partly) to Casino Floors*, *supra* note 35.

²⁸ Mansnerus, Laura. *As Atlantic City Eyes Smoking Ban, Casinos Fear Losses*, The New York Times (Nov. 29, 2006) available at <http://query.nytimes.com/gst/fullpage.html?sec=health&res=9C04EEDB113EF93AA15752C1A9609C8B63&partner=rssnyt&emc=rss>.

²⁹ *Atlantic City Postpones Vote on Smoking Ban*, USA Today (Dec. 29, 2006) available at http://www.usatoday.com/travel/news/2006-12-29-atlantic-city-smoking-ban_x.htm?csp=34.

³⁰ *Id.*

³¹ *Id.*

³² *Atlantic City Casinos Face Smoking Ban Join Together* (Nov. 22, 2006) <http://www.jointogether.org/news/headlines/inthenews/2006/atlantic-city-casinos-face.html>.

³³ *Id.*

³⁴ *Id.* "People were giving their testimony about their lives and how their lives were impacted. Legislation at the state level takes a long time," said City Council-

the New Jersey legislature passed the smoking ban, restaurant owners sued the state challenging the law claiming it discriminates against their businesses.³⁶

Therefore, following the announcement of the proposed ordinance, public opinion seemed to be generally in favor of the idea of banning smoking in New Jersey casinos.³⁷ However, the idea was met with heavy opposition from the casino industry, specifically the Casino Association of New Jersey.³⁸ The Casino Association made a public statement claiming the measure was irresponsible and should be reconsidered.³⁹ The Casino Association, as well as the rest of the New Jersey casino industry, feared that banning smoking would hurt the casinos' bottom line.⁴⁰ The casino industry argued that 3,400 jobs and 20 percent of its revenues would be potentially lost if the city imposed the smoking ban.⁴¹

There is evidence to substantiate the casino industry's fears.⁴² The Canadian province of Ontario recently imposed a smoking ban in public places which included its popular casinos.⁴³ As a result, Canadian casinos that bordered the United States have suffered a revenue drop of more than 20 percent.⁴⁴ Following the implementation of the no smoking ban, the Casino Windsor laid off more than 300 employees.⁴⁵ Similarly, in 2002, Delaware instituted a smoking ban, which included all of its casinos.⁴⁶ Slot machine revenue dropped

man Bruce Ward. *Id.*

³⁵ *Casino Exemption Prompts N.J. Smoking Lawsuit Join Together* (April 20, 2006) <http://www.jointogether.org/news/headlines/inthenews/2006/casino-exemption-prompts-nj.html> (last visited 2/25/07).

³⁶ *Id.*

³⁷ Mansnerus, *supra* note 29.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ Nakashima, Ryan. *Panel: Smoking Ban Hurts Casino Revenue*, Int'l Bus. Times (Nov. 15, 2006) available at <http://www.ibtimes.com/articles/20061115/add-smoking-gambling.htm>.

⁴¹ Schlossberg, Dan. *Smokers Win Atlantic City Gamble*, Consumer Aff. (Jan. 30, 2007) www.consumeraffairs.com/news04/2007/01/atlantic_city_smoking.html.

⁴² Nakashima, *supra* note 41.

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

10% to 19% in Delaware after the ban was enacted.⁴⁷ After discovering that the City Council of Atlantic City was considering implementing a smoking ban in all casinos, Joseph Corbo Jr., President of the Casino Association, stated, “we could find ourselves in a much weaker competitive position in the very near future.”⁴⁸

Fortunately for Mr. Corbo, the City Council decided to only impose a ban on 75% of the casino floors, leaving a quarter of the floors as designated smoking areas. The smoking areas would be walled off from the floor to ceiling and separated from the non-smoking areas.⁴⁹ Additionally, a ventilation system will be installed into the casinos to help filter out the smoke.⁵⁰

Many critics argue that the City Council of Atlantic City did not go far enough and should have banned smoking in casinos entirely.⁵¹ Recently, yet another study was released concluding that passive smoke in the workplace can increase the risk of lung cancer.⁵² Leslie Stayner, a professor at the University of Illinois at Chicago, released research which found that individuals who were exposed to second hand smoke in the workplace were at a 24 percent higher risk of having lung cancer.⁵³ The health concern surrounding second hand smoke is the primary reason non-smoking opponents of the partial ban believe that the City Council of New Jersey did not go far enough.⁵⁴ Many experts believe that the separate designated smoking areas will not prevent smoke from seeping into the non-smoking areas within the casinos.⁵⁵ Furthermore, some argue that the ventilation systems that will be installed in the casinos will not be effective in filtering out smoke.⁵⁶ Regina Carlson, the Executive Director of the New Jersey Group Against Smoking Pollution, stated that the Atlantic City ordinance was “not an employee protection act” but rather

⁴⁷ Schlossberg, *supra* note 42.

⁴⁸ Mansnerus, *supra* note 29.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Study Confirms Passive Smoke Link To Cancer*, Consumer Aff. (February 2, 2007) http://www.consumeraffairs.com/news04/2007/02/passive_smoke.html.

⁵³ *Id.*

⁵⁴ Schlossberg, *supra* note 42.

⁵⁵ *Id.*

⁵⁶ *Id.*

“looks like a casino protection act.”⁵⁷

While the Atlantic City ordinance may not be as stringent as some opponents would like, the ordinance still bans smoking from 75 % of casinos. Whether this will be the beginning of a trend in casinos across the country is still left to be determined. Casinos in Las Vegas have yet to go smoke free despite the fact that Nevada has passed a statewide smoking ban in indoor public venues.⁵⁸ Smoke free advocates can only hope that the Atlantic City ordinance is the beginning of the end for smoke-filled casinos.

⁵⁷ *Atlantic City Smoking Ban Extends (Partly) to Casino Floors*, *supra* note 35..

⁵⁸ *Vegas Casinos, Others Ignoring Nevada Smoking Ban, Join Together* (Jan. 9, 2007) <http://www.jointogether.org/news/headlines/inthenews/2007/vegas-casinos-others.html>.