



# INITIATIVE MEASURE 901

PROPOSED TO THE PEOPLE

## *Official Ballot Title:*

Initiative Measure No. 901 concerns amending the Clean Indoor Air Act by expanding smoking prohibitions.

This measure would prohibit smoking in buildings and vehicles open to the public and places of employment, including areas within 25 feet of doorways and ventilation openings unless a lesser distance is approved.

Should this measure be enacted into law?

Yes [ ] No [ ]

**Note:** The Official Ballot Title and Explanatory Statement were written by the Attorney General as required by law. The Fiscal Impact Statement was written by the Office of Financial Management. For more in-depth Office of Fiscal Management analysis, visit [www.ofm.wa.gov/initiatives/default.htm](http://www.ofm.wa.gov/initiatives/default.htm). The complete text of Initiative Measure 901 begins on page 29.



## *Fiscal Impact Statement*

### **Summary of Fiscal Impact**

Initiative 901 would have no significant fiscal impact on state or local governments. Local government law enforcement and health agencies, which would be charged with implementing and enforcing the Initiative's smoking prohibitions, would carry out enforcement of the Initiative within their normal duties, without the need for new resources.

### **Assumptions for Analysis of I-901**

The Initiative could result in an overall increase in the number of infractions issued by local law enforcement. However, the Initiative provides no specific provisions for expenditure or enforcement levels. The enforcement level assumed in this analysis is determined by local police, health and judicial jurisdictions operating within existing resources.

Based on the Pierce County Health Department's experience with county law similar to I-901 in which no additional costs for enforcement were incurred the Initiative will result in no significant additional costs to state or local health agencies.





# INITIATIVE MEASURE 901

## *Explanatory Statement*

### **The law as it presently exists:**

Smoking is regulated by the Washington Clean Indoor Air Act (Chapter 70.160 RCW). No person may smoke in a public place, as defined by the Act, except in designated smoking areas. The term “public place” is defined as a portion of a building or vehicle used by and open to the public, regardless of whether the space is publicly or privately owned, and regardless of whether a fee is charged for admission. The following are specifically included in the term “public place”: elevators, public buses and trains, museums, concert halls, theaters, auditoriums, exhibition halls, indoor sports arenas, hospitals, nursing homes, health care facilities or clinics, enclosed shopping centers, retail stores and service establishments, financial institutions, educational facilities, ticket areas, public hearing facilities, the state legislative chambers and adjacent hallways, public restrooms, libraries, restaurants, waiting areas, lobbies, and reception areas. A public place does not include a private residence.

The owner or lessee of a public place may designate a smoking area within that space (except not in elevators, streetcars, public areas of retail stores and lobbies of financial institutions, office reception and waiting areas of state or local government buildings, museums, public meetings or hearings, classrooms, lecture halls, or the seating areas and aisles of concert halls, theaters, auditoriums, exhibition halls, and indoor sports arenas). No public place may be designated as a smoking area in its entirety except a bar, tavern, bowling alley, tobacco shop, or restaurant.

Owners or lessees of public places are required to post conspicuous signs showing where smoking is prohibited. Any person intentionally violating the law by smoking in a public place not designated as a smoking area, or by removing, defacing, or destroying a “no smoking” sign, is subject to a civil fine of up to \$100.00. Infractions of this law are issued in the same manner as traffic infractions. Local fire districts have authority to enforce the law concerning the duties of owners or persons in control to prohibit smoking in public places, except that health districts enforce the law as to restaurants.

### **The effect of the proposed measure, if it becomes law:**

Initiative Measure No. 901 would amend the Clean Indoor Air Act in several ways. The term “public place” would be expanded to include a reasonable distance around each public facility, presumptively defined as 25 feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited. The term “public place” would include private residences used to provide licensed child care, foster care, adult care, or similar social services. The term would also be expanded to include the following additional types of facilities: schools, bars, taverns, bowling alleys, skating rinks, casinos, reception areas, and at least 75% of the sleeping quarters within a hotel or motel and rented to guests.

Smoking would also be prohibited in “places of employment,” defined to include any area controlled by an employer which employees are required to pass through, such as: entrances and exits to places of employment; a reasonable distance (presumptively 25 feet) from entrances, exits, windows that open, and ventilation intakes; work areas; restrooms; conference and classrooms; break rooms and cafeterias; and other common areas. The requirement to post “no smoking” signs in public places would also be extended to places of employment.

The current laws allowing owners or lessees to designate smoking areas within public places would be repealed.

Owners or lessees of places covered by the Act are required to prohibit smoking in public places and post appropriate signs prohibiting smoking. A person passing by or through a public place while on a public sidewalk or public right of way would not be defined as intentionally violating the Act. The Act’s enforcement system would remain the same, except that local health departments (instead of fire departments) would be given responsibility for enforcement concerning the duties of owners or lessees to prohibit smoking in public places and post appropriate signs, including enforcement related to places of employment.



## ***Statement For Initiative Measure 901***

### **I-901 WILL PROTECT OUR FAMILIES FROM DANGEROUS SECONDHAND SMOKE**

I-901 protects families, children, seniors and workers from secondhand smoke, which is responsible for more than 38,000 deaths annually. By decreasing exposure to secondhand smoke, I-901 will save lives. Secondhand smoke has been linked to cancer, lung disease, heart disease, and other serious illnesses in non-smokers. That's why the American Cancer Society, the American Lung Association of Washington, and the American Heart Association urge you to vote *yes!* on I-901. Because children and seniors are especially vulnerable to the effects of secondhand smoke, which can cause asthma, pneumonia and bronchitis, the AARP and Washington nurses strongly support I-901.

### **EVERYONE HAS THE RIGHT TO BREATHE CLEAN AIR**

I-901 protects everyone's right to breathe clean air where we work, eat and socialize. It's impossible to make secondhand smoke stay in the smoking section. Washington's families and children shouldn't be forced to inhale toxic chemicals and smell like smoke just to visit a favorite restaurant or see live music. I-901 will allow asthmatic people to attend events without worrying about secondhand smoke triggering their asthma, and allows non-smokers to sit outside a restaurant without being subjected to cigarette smoke. No one should have to walk through a cloud of toxic smoke to get inside a building.

### **I-901 IS A FAIR AND COMMON SENSE APPROACH**

Washington has already passed a law protecting people in most workplaces from secondhand smoke, but 225,000 workers in restaurants, skating rinks, bars, and bowling alleys are currently unprotected. They deserve the same protections as everyone else. I-901 is a fair and common sense approach that protects all of us from dangerous secondhand smoke.

**VOTE YES! ON I-901 OFFICE 206.522.2233  
WWW.HEALTHYINDOORAIRWA.ORG**

### ***Rebuttal of Statement Against***

Everyone has the right to breathe clean indoor air. Why should anyone be forced to breathe toxic secondhand smoke at work? Why should families or children be forced to breathe poisons when they go out to eat or listen to music? Secondhand smoke kills thousands every year. That's why the American Cancer Society says, "I-901 will save lives. It's a common sense health safety measure that protects families, children, seniors and workers." *Yes on I-901.*

#### ***Voters' Pamphlet Argument Prepared by:***

DENNIS BIGGS, M.D., Board Member, American Cancer Society; MARINA COFER WILDSMITH, CEO, American Lung Association of Washington; SCOTT SCHERER, Board President, American Heart Association; LINDA HANSON, President, Washington State Parent Teacher Association (PTA); KELLY FOX, President, Washington State Council of Fire Fighters; ED SINGLER, State President, AARP Washington.

## ***Statement Against Initiative Measure 901***

I-901 is fatally flawed with extreme policies that will not do what sponsors promise.

I-901 is not a statewide smoking ban, as all tribal facilities and land are exempt resulting in a severe shift of entertainment dollars away from taxpaying non-tribal facilities to tribal facilities.

A 25-foot smoke-free radius around *all* entrances, windows and vents will be enforced on *all non-tribal businesses*, buildings and passers-by. Ashtrays, matchbooks, etc. bring fines. I-901 grants extreme powers to local health departments against private citizens, workers, and property owners.

Shouldn't private property owners have the right to determine whether smoking should be allowed or should the state take that right away from only one class of owners?

I-901 won't protect all workers, nor replace state or federal worker protection laws. I-901's science is defective and not recognized as valid by state and national scientists or officials responsible for workplace safety.

In 1985 Washington led the nation by banning smoking in most public places, allowing business owners to designate smoking areas for customers. Today, 75% of Washington's restaurants are smoke-free.

This extreme ban was tried in Pierce County in 2004. Visit [www.noon901.org](http://www.noon901.org) and listen to people from Pierce County whose jobs were lost, businesses closed, charitable bingo facilities bankrupted and Veterans Posts and other private organizations whose contributions to their communities decreased.

I-901 won't mean smokers will quit; they will be more than welcomed at exempt tribal facilities.

I-901 is too *extreme* and won't work *vote no.*

For more information, visit [www.noon901.org](http://www.noon901.org) .

### ***Rebuttal of Statement For***

I-901 ignores everyone's property rights and your freedom of choice. I-901 makes smoking illegal even if the property owner wishes to allow it. I-901 is just too extreme. I-901 is bad policy. It is not a statewide ban. I-901 will cause many workers to lose their jobs and force many businesses and charities to close. I-901 will not protect all workers. Current law already works. Most designated smoking areas already do not allow children.

#### ***Voters' Pamphlet Argument Prepared by:***

ALAN McWAIN, Spar Restaurant; JIM STEVENSON, Lincoln Bowl; DAVE WILKINSON, Skyway Park Bowl; STEVE KIRBY, State Representative; RICHARD CURTIS, State Representative; VITO CHIECHI, No Committee Initiative 901.





provided for in chapter 44.28 RCW as well as performance audits and program evaluations. To this end the joint committee may in its discretion examine the books, accounts, and other records of any agency, official, or employee.

(b) Give information to the legislature or any legislative committee whenever required upon any subject relating to the performance and management of state agencies.

(c) Make a report to the legislature which shall include at least the following:

(i) Determinations as to the extent to which agencies in making expenditures have complied with the will of the legislature and in this connection, may take exception to specific expenditures or financial practices of any agencies; and

(ii) Such plans as it deems expedient for the support of the state's credit, for lessening expenditures, for promoting frugality and economy in agency affairs, and generally for an improved level of fiscal management.

#### CONSTRUCTION CLAUSE

NEW SECTION. Sec. 7. The provisions of this act are to be liberally construed to effectuate the intent, policies, and purposes of this act.

#### SEVERABILITY CLAUSE

NEW SECTION. Sec. 8. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

#### MISCELLANEOUS

NEW SECTION. Sec. 9. Part headings used in this act are not part of the law.

#### EFFECTIVE DATE

NEW SECTION. Sec. 10. This act shall be called the Performance Audits of Government Act and takes effect December 8, 2005.



AN ACT Relating to the prohibition of smoking in public places and places of employment; amending RCW 70.160.020, 70.160.030, 70.160.050, and 70.160.070; adding new sections to chapter 70.160 RCW; creating a new section; and repealing RCW 70.160.010, 70.160.040, and 70.160.900.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

NEW SECTION. Sec. 1. A new section is added to chapter 70.160 RCW to read as follows:

INTENT AND FINDINGS. The people of the state of Washington recognize that exposure to second-hand smoke is known to cause cancer in humans. Second-hand smoke is a known cause of other diseases including pneumonia, asthma, bronchitis, and heart disease. Citizens are often exposed to second-hand smoke in the workplace, and are likely to develop chronic, potentially fatal diseases as a result of such exposure. In order to protect the health and welfare of all citizens, including workers in their places of employment, it is necessary to prohibit smoking in public places and workplaces.

Sec. 2. RCW 70.160.020 and 1985 c 236 s 2 are each amended to read as follows:

As used in this chapter, the following terms have the meanings indicated unless the context clearly indicates otherwise.

(1) "Smoke" or "smoking" means the carrying or smoking of any kind of lighted pipe, cigar, cigarette, or any other lighted smoking equipment.

(2) "Public place" means that portion of any building or vehicle used by and open to the public, regardless of whether the building or vehicle is owned in whole or in part by private persons or entities, the state of Washington, or other public entity, and regardless of whether a fee is charged for admission, and includes a presumptively reasonable minimum distance, as set forth in section 6 of this act, of twenty-five feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited. A public place does not include a private residence unless the private residence is used to provide licensed child care, foster care, adult care, or other similar social service care on the premises.

Public places include, but are not limited to: Schools, elevators, public conveyances or transportation facilities, museums, concert halls, theaters, auditoriums, exhibition halls, indoor sports arenas, hospitals, nursing homes, health care facilities or clinics, enclosed shopping centers, retail stores, retail service establishments, financial institutions, educational facilities, ticket areas, public hearing facilities, state legislative chambers and immediately adjacent





hallways, public restrooms, libraries, restaurants, waiting areas, lobbies, ~~((and reception areas)) bars, taverns, bowling alleys, skating rinks, casinos, reception areas, and no less than seventy-five percent of the sleeping quarters within a hotel or motel that are rented to guests.~~ A public place does not include a private residence. This chapter is not intended to restrict smoking in private facilities which are occasionally open to the public except upon the occasions when the facility is open to the public.

(3) ~~((“Restaurant” means any building, structure, or area used, maintained, or advertised as, or held out to the public to be, an enclosure where meals are made available to be consumed on the premises, for consideration of payment:))~~ “Place of employment” means any area under the control of a public or private employer which employees are required to pass through during the course of employment, including, but not limited to: Entrances and exits to the places of employment, and including a presumptively reasonable minimum distance, as set forth in section 6 of this act, of twenty-five feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited; work areas; restrooms; conference and classrooms; break rooms and cafeterias; and other common areas. A private residence or home-based business, unless used to provide licensed child care, foster care, adult care, or other similar social service care on the premises, is not a place of employment.

**Sec. 3.** RCW 70.160.030 and 1985 c 236 s 3 are each amended to read as follows:

No person may smoke in a public place ~~((except in designated smoking areas))~~ or in any place of employment.

**Sec. 4.** RCW 70.160.050 and 1985 c 236 s 5 are each amended to read as follows:

Owners, or in the case of a leased or rented space the lessee or other person in charge, of a place regulated under this chapter shall ~~((make every reasonable effort to))~~ prohibit smoking in public places ~~((by posting))~~ and places of employment and shall post signs prohibiting ~~((or permitting))~~ smoking as appropriate under this chapter. Signs shall be posted conspicuously at each building entrance. In the case of retail stores and retail service establishments, signs shall be posted conspicuously at each entrance and in prominent locations throughout the place. ~~((The boundary between a nonsmoking area and a smoking permitted area shall be clearly designated so that persons may differentiate between the two areas:))~~

**Sec. 5.** RCW 70.160.070 and 1985 c 236 s 7 are each amended to read as follows:

(1) Any person intentionally violating this chapter by smoking in a public place ~~((not designated as a smoking~~

~~area)) or place of employment, or any person removing, defacing, or destroying a sign required by this chapter, is subject to a civil fine of up to one hundred dollars. Any person passing by or through a public place while on a public sidewalk or public right of way has not intentionally violated this chapter. Local law enforcement agencies shall enforce this section by issuing a notice of infraction to be assessed in the same manner as traffic infractions. The provisions contained in chapter 46.63 RCW for the disposition of traffic infractions apply to the disposition of infractions for violation of this subsection except as follows:~~

(a) The provisions in chapter 46.63 RCW relating to the provision of records to the department of licensing in accordance with RCW 46.20.270 are not applicable to this chapter; and

(b) The provisions in chapter 46.63 RCW relating to the imposition of sanctions against a person's driver's license or vehicle license are not applicable to this chapter.

The form for the notice of infraction for a violation of this subsection shall be prescribed by rule of the supreme court.

(2) When violations of RCW ~~((70.160.040 or))~~ 70.160.050 occur, a warning shall first be given to the owner or other person in charge. Any subsequent violation is subject to a civil fine of up to one hundred dollars. Each day upon which a violation occurs or is permitted to continue constitutes a separate violation.

(3) Local ~~((fire))~~ health departments ~~((or fire districts))~~ shall enforce RCW ~~((70.160.040 or))~~ 70.160.050 regarding the duties of owners or persons in control of public places ~~((, and local health departments shall enforce RCW 70.160.040 or 70.160.050 regarding the duties of owners of restaurants))~~ and places of employment by either of the following actions:

(a) Serving notice requiring the correction of any violation; or

(b) Calling upon the city or town attorney or county prosecutor or local health department attorney to maintain an action for an injunction to enforce RCW ~~((70.160.040 and))~~ 70.160.050, to correct a violation, and to assess and recover a civil penalty for the violation.

**NEW SECTION. Sec. 6.** A new section is added to chapter 70.160 RCW to read as follows:

**PRESUMPTIVELY REASONABLE DISTANCE.** Smoking is prohibited within a presumptively reasonable minimum distance of twenty-five feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited so as to ensure that tobacco smoke does not enter the area through entrances, exits, open windows, or other means. Owners, operators, managers, employers, or other persons who own or control a public place or place of employment may seek to rebut the presumption that twenty-five feet is a reasonable minimum distance by making application to the director of the local health department or district in which the public place or place of employment is located. The presumption will be rebutted if the applicant can show by clear and convincing evidence that, given the unique circumstances presented by the



*Complete Text of*



**INITIATIVE MEASURE NO. 901**

*(continued)*

location of entrances, exits, windows that open, ventilation intakes, or other factors, smoke will not infiltrate or reach the entrances, exits, open windows, or ventilation intakes or enter into such public place or place of employment and, therefore, the public health and safety will be adequately protected by a lesser distance.

**NEW SECTION. Sec. 7.** The following acts or parts of acts are each repealed:

- (1) RCW 70.160.010 (Legislative intent) and 1985 c 236 s 1;
- (2) RCW 70.160.040 (Designation of smoking areas in public places—Exceptions—Restaurant smoking areas—Entire facility or area may be designated as nonsmoking) and 1985 c 236 s 4; and
- (3) RCW 70.160.900 (Short title—1985 c 236) and 1985 c 236 s 10.

**NEW SECTION. Sec. 8.** CAPTIONS NOT LAW. Captions used in this act are not any part of the law.

*Complete Text of*



**INITIATIVE MEASURE NO. 912**

AN ACT Relating to reducing the motor vehicle fuel tax rate; amending RCW 82.36.025 and 46.68.090; and creating new sections.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

**POLICIES AND PURPOSES**

**NEW SECTION. Sec. 1.** In 2002 voters overwhelmingly rejected a nine cent per gallon increase to the motor vehicle fuel tax rate. Since that time, politicians have voted to increase the motor vehicle fuel tax rate by fourteen and one-half cents per gallon. This measure would repeal the most recent increase to the motor vehicle fuel tax rate of nine and one-half cents.

**REPEALING THE 9 AND ONE-HALF CENT INCREASE IN THE MOTOR VEHICLE FUEL TAX RATE**

**Sec. 2.** RCW 82.36.025 and 2005 c ... (ESSB 6103) s 101 are each amended to read as follows:

- (1) A motor vehicle fuel tax rate of twenty-three cents per gallon applies to the sale, distribution, or use of motor vehicle fuel.

(2) Beginning July 1, 2003, an additional and cumulative motor vehicle fuel tax rate of five cents per gallon applies to the sale, distribution, or use of motor vehicle fuel. This subsection (2) expires when the bonds issued for transportation 2003 projects are retired.

~~((3) Beginning July 1, 2005, an additional and cumulative motor vehicle fuel tax rate of three cents per gallon applies to the sale, distribution, or use of motor vehicle fuel.~~

~~(4) Beginning July 1, 2006, an additional and cumulative motor vehicle fuel tax rate of three cents per gallon applies to the sale, distribution, or use of motor vehicle fuel.~~

~~(5) Beginning July 1, 2007, an additional and cumulative motor vehicle fuel tax rate of two cents per gallon applies to the sale, distribution, or use of motor vehicle fuel.~~

~~(6) Beginning July 1, 2008, an additional and cumulative motor vehicle fuel tax rate of one and one half cents per gallon applies to the sale, distribution, or use of motor vehicle fuel.))~~

**Sec. 3.** RCW 46.68.090 and 2005 c ... (ESSB 6103) s 103 are each amended to read as follows:

(1) All moneys that have accrued or may accrue to the motor vehicle fund from the motor vehicle fuel tax and special fuel tax shall be first expended for purposes enumerated in (a) and (b) of this subsection. The remaining net tax amount shall be distributed monthly by the state treasurer in accordance with subsections (2) through (7) of this section.

(a) For payment of refunds of motor vehicle fuel tax and special fuel tax that has been paid and is refundable as provided by law;

(b) For payment of amounts to be expended pursuant to appropriations for the administrative expenses of the offices of state treasurer, state auditor, and the department of licensing of the state of Washington in the administration of the motor vehicle fuel tax and the special fuel tax, which sums shall be distributed monthly.

(2) All of the remaining net tax amount collected under RCW 82.36.025(1) and 82.38.030(1) shall be distributed as set forth in (a) through (j) of this section.

(a) For distribution to the motor vehicle fund an amount equal to 44.387 percent to be expended for highway purposes of the state as defined in RCW 46.68.130;

(b) For distribution to the special category C account, hereby created in the motor vehicle fund, an amount equal to 3.2609 percent to be expended for special category C projects. Special category C projects are category C projects that, due to high cost only, will require bond financing to complete construction.

The following criteria, listed in order of priority, shall be used in determining which special category C projects have the highest priority:

- (i) Accident experience;
- (ii) Fatal accident experience;
- (iii) Capacity to move people and goods safely and at reasonable speeds without undue congestion; and
- (iv) Continuity of development of the highway transportation network.

Moneys deposited in the special category C account in the