

ANTI-DISCRIMINATORY EMPLOYMENT PROPOSALS

ALABAMA

STATE ACTION: 1989 - * **DEFEATED** - Would restrict smoking in workplaces with more than 20 employees and other public places -- Would require nonsmoking areas to be designated -- Would also prohibit "discrimination practiced by government or private employer in employment...based on whether a prospective or current employee is a smoker or nonsmoker"

ARKANSAS

STATE ACTION: 1989 - **APPROVED** - Resolution directs House Speaker to appoint citizen committee to study potential public smoking policy concerns in the state, including smoker/nonsmoker discrimination
1989 - **DEFEATED** - Would prohibit discrimination based on employee's smoking or nonsmoking preference -- Would provide for legal or equitable relief to employee who is discriminated against

CALIFORNIA

STATE ACTION: 1989 - **PENDING** - A2288 - Would amend state Fair Employment and Housing Act to make it an unlawful practice to discriminate against an employee or applicant "because of the person's assertion of the right to smoke or the right to a smoke-free workplace"

DELAWARE

STATE ACTION: 1989 - * **APPROVED** - Executive Order requires state government agency heads to restrict smoking -- Prohibits smoking in common-use areas; allows smoking areas to be designated in cafeterias and employee lounges; state government vehicles to be designated smoking or nonsmoking in proportion to employee preference but, if used to transport clients or general public, must be designated nonsmoking -- Also requires phasing-out of sale of tobacco products on state property by 1/1/90 -- Prohibits discrimination against state employees or applicants as a result of smoking habits, so long as they comply with smoking restrictions
1989 - **CARRYOVER TO 1990** - S67 and S95 (Both bills technically carryover to 1990 but in practice, were replaced by S210) - Would restrict smoking in public office buildings owned/leased by state; person in charge would be responsible for designating smoking areas -- Would also prohibit hiring discrimination based on employee's smoking or nonsmoking preference -- Would preempt regulations by all government subdivisions, boards and commissions that are more stringent than state law
1989- **CARRYOVER TO 1990** - S210 - Would prohibit discrimination against smokers by an employer

* Smoking restriction bills which also protect smokers against employment discrimination

ILLINOIS

- STATE ACTION: 1989 - * **CARRYOVER TO 1990** - H378 - Would require designation of smoking and nonsmoking areas in workplaces and places designed to accommodate more than 10 members of the public at a time -- Would prohibit discrimination in employment on the grounds that an individual is a smoker -- Would preempt all local regulation of smoking
- 1989 - **CARRYOVER TO 1990** -- H1695 -- Would require smoking areas to be designated in workplace and places open to the public -- Would prohibit discrimination against anyone who exercises rights under this act -- Would prohibit local governments from adopting restriction ordinances after 5/31/89
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MARYLAND

- STATE ACTION: 1989 - **DEFEATED** - 2 Bills - Would make it unlawful employment practice to discriminate against individuals because of smoking/nonsmoking preferences -- Would prohibit requiring an employee to abstain from use of tobacco products outside the course of employment, so long as the employee complies with applicable laws or workplace smoking policy -- Would allow aggrieved employee or applicant to seek injunctive or other relief, including monetary damages.
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MISSISSIPPI

- STATE ACTION: 1989 - **DEFEATED** - Resolution would urge public agencies of the state to comply with workplace laws and policies and to treat employees fairly and reasonably with respect to physical disabilities or non-work related activities
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MISSOURI

- STATE ACTION: 1989 - **DEFEATED** - Would prohibit discrimination in employment based on employee smoking preference -- Would prohibit rules requiring employee or applicant to abstain from use of tobacco products outside the course of employment, as long as person complies with laws or workplace smoking policy
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OREGON

- STATE ACTION: 1987 - **DEFEATED** - Would prohibit employer testing of employees for tobacco use
- 1989 - **DEFEATED** - Would prohibit employer testing of employees for tobacco use
- 1989 - **APPROVED** - Would ban the use of genetic screening or brainwave testing as a condition of employment -- Also prohibits employers from requiring employees to refrain from smoking off-the-job except when restriction relates to a bona fide occupation requirement or if prohibited by collective bargaining agreement
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* Smoking restriction bills which also protect smokers against employment discrimination

TENNESSEE

APPROVED

DEFEATED

1989 Knoxville Overturned
 off-duty smoking
 ban of police &
 firefighters

VIRGINIA

STATE ACTION: 1989 - **APPROVED** - Prohibits governments from requiring an applicant or employee "to abstain from smoking or using tobacco products outside the course of his employment." -- Exempts firefighters and police officers

WASHINGTON

STATE ACTION: 1987 - **DEFEATED** - Would make it an unfair labor practice to terminate employment for personal habits of employee that bear no reasonable relationship to performance of duties
 1989 - * **CARRYOVER TO 1990** - S5189 - Would restrict smoking in state office buildings -- Would also provide that smokers not be discriminated against in hiring and prohibits retaliation against any employee exercising rights under this act

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* **Smoking restriction bills which also protect smokers against employment discrimination**

DISCRIMINATORY EMPLOYMENT PROPOSALS

ARIZONA

| | | | | | |
|---|---------|-----------------|--|--|-----------------|
| | | <u>APPROVED</u> | | | <u>DEFEATED</u> |
| ? | Phoenix | Firefighters | | | --- |

CALIFORNIA

STATE ACTION: 1985 - **DEFEATED** - Would allow employers to require tests and examine prospective employees regarding legal activities only if information is reasonable and relevant to employment

| <u>APPROVED</u> | | | <u>DEFEATED</u> | | |
|-----------------|--------------|--|-----------------|------------------------|---------------------------|
| 1983 | San Mateo | Firefighters | 1985 | Eureka | Firefighters |
| 1984 | Manteca | Firefighters Police | 1988 | Sunnyvale | City government |
| 1985 | Downey | Firefighters | 1988 | Contra Costa County | Firefighters; Sheriffs |
| 1985 | Monrovia | Firefighters | | | |
| 1985 | Orange | Police | | | |
| 1986 | Brea | Firefighters | | | |
| 1986 | Kern Co. | Firefighters | | | |
| 1986 | Laguna Beach | Firefighters Police | | | |
| 1986 | S. Pasadena | City jobs preference for nonsmokers | | | |
| 1987 | Montebello | Firefighters | | | |
| 1987 | Watsonville | Firefighters | | | |
| 1988 | Ventura Co. | Sheriff's deputies, sergeants, and district attorney | | | |

COLORADO

| <u>APPROVED</u> | | | <u>DEFEATED</u> | | |
|-----------------|----------------------|-----------------|-----------------|---------|--------------|
| 1986 | Bancroft District | Firefighters | 1986 | Greeley | Firefighters |
| 1988 | Denver | Firefighters | | | |
| 1988 | Boulder Co. | Sheriff's Dept. | | | |
| 1989 | Denver | Police | | | |

CONNECTICUT

STATE ACTION: 1989 - **DEFEATED** - Would authorize local governments to require public safety employees to meet certain minimum physical standards in order to maintain eligibility for special heart and hypertension benefits (standards include nonsmoking)
1989 - **DEFEATED** - Would authorize local governments to require police officers and firefighters to meet certain minimum physical standards in order to maintain eligibility for special heart and hypertension benefits (standards include nonsmoking)
1989 - **DEFEATED** - Would require newly-hired police officers and firefighters to be nonsmokers as permanent condition of employment

| | | <u>APPROVED</u> | | | <u>DEFEATED</u> |
|---|-------------|-----------------|------|---------|-----------------|
| ? | Branford | Firefighters | 1984 | Meriden | Firefighters |
| ? | Glastonbury | Police | | | |
| ? | Manchester | Police | | | |
| ? | Middletown | Firefighters | | | |
| | | Police | | | |
| ? | New Britain | Police | | | |
| ? | Vernon | Police | | | |
| ? | West Haven | Police | | | |
| ? | Westport | Firefighters | | | |
| | | Police | | | |

FLORIDA

STATE ACTION: 1985 - **DEFEATED** - 2 bills - Would presume that death or disability in firefighters due to cancer would have been contracted in line of duty unless evidence showed contrary. Second bill stated law enforcement officers might be ineligible for insurance benefits for heart disease as a work-related disability if shown to have risk factors predisposing individual to heart disease
1988 - **DEFEATED** - Would require new firefighters to certify under oath that they have not used tobacco products for at least one year prior to employment
1989 - **APPROVED** - H1456 - Would require firefighters to be nonusers of tobacco products for at least one year prior to application (Companion bill S476 was substituted for H1456)

| | | <u>APPROVED</u> | | | <u>DEFEATED</u> |
|------|-------------|-----------------|------|---------------|-----------------|
| 1985 | Tallahassee | Police | 1983 | Tampa | Firefighters |
| 1987 | Hialeah | Firefighters | 1984 | Hialeah | Police |
| | | | | Gardens | |
| | | | 1985 | Palm Beach Co | Firefighters |
| | | | 1986 | Clearwater | Firefighters |

GEORGIA

| | | <u>APPROVED</u> | | | <u>DEFEATED</u> |
|--|--|-----------------|------|----------|------------------------------|
| | | --- | 1988 | Marietta | Board of Education employees |

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ILLINOIS

? Skokie APPROVED Firefighters
Police DEFEATED

IOWA

APPROVED 1983 Iowa City Firefighters
--- Police
1988 Clinton City employees
DEFEATED

KANSAS

STATE ACTION: 1989 - **DEFEATED** - Would amend police and firemen's retirement system to provide that disability benefits would not be allowed for "any death or disability caused, in whole or in part, by the member's use of tobacco or tobacco products or alcohol or illegal use of any drug or drugs"

1984 Wichita APPROVED Firefighters
1986 Lawrence Firefighters
1987 Douglas Co. Employees hired by
sheriff's dept.
and ambulance
service DEFEATED

MAINE

STATE ACTION: 1985 - **DEFEATED** - Would create presumption that firefighters suffering from cancer contracted it in line of duty and are eligible for workers' compensation unless disease was "occasioned by the willful intention of the employee to injure himself or another"

1983 Rockland APPROVED Firefighters
1985 Brunswick Firefighters DEFEATED

MARYLAND

1988 Montgomery Co APPROVED Firefighters and
rescue workers DEFEATED

MASSACHUSETTS

STATE ACTION: 1986 - **DEFEATED** - Would prohibit hiring of smokers as firefighters, police officers or other public safety personnel
1987 - **APPROVED** - Requires all public safety personnel hired after 1/1/88 to be nonsmokers

1985 Holden APPROVED Police DEFEATED

MINNESOTA

1987 Duluth APPROVED Firefighters 1986 Hennepin Co. DEFEATED County employees

NORTH DAKOTA

STATE ACTION: 1986 - **APPROVED** - Governor's executive order approved Department of Health hiring policy giving preference to nonsmokers for department jobs

APPROVED 1986 Bismarck DEFEATED City hiring preference to nonsmokers

OHIO

1983 Shaker Heights APPROVED Firefighters 1984 Streetsboro DEFEATED Police
1984 Lakewood Firefighters 1986 Bowling Green DEFEATED City employees
Police

OKLAHOMA

1984 Oklahoma City APPROVED First-year Firefighters DEFEATED
1985 Tulsa Firefighters

OREGON

1983 Salem APPROVED Firefighters DEFEATED
1986 Portland Firefighters
1987 Corvalis Police

PENNSYLVANIA

APPROVED

1988

Chambersburg

Firefighters
Police

DEFEATED

RHODE ISLAND

APPROVED

1986

Narragansett

Firefighters

DEFEATED

SOUTH DAKOTA

APPROVED

1985

Aberdeen

Firefighters

DEFEATED

TENNESSEE

APPROVED

1988

Bartlett

City employees

DEFEATED

VIRGINIA

APPROVED

1977

Alexandria

Police

1980

Alexandria

Firefighters

1984

Fairfax Co.

Firefighters
Police and
Sheriff's
Deputies

1988

Newport News

Firefighters
Police

DEFEATED

1985

Virginia
Beach

Firefighters
Police

WASHINGTON

APPROVED

1988

Walla Walla

Preference to
nonsmokers for
city employment

DEFEATED

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WISCONSIN

| <u>APPROVED</u> | | | | | <u>DEFEATED</u> | |
|-----------------|------------|--------------|------|-------------|---|--|
| 1985 | Janesville | Firefighters | 1986 | Fitchburg | Firefighters | |
| 1987 | Brookfield | Firefighters | | | Police | |
| 1988 | Waukesha | Firefighters | 1987 | Orfordville | Future city employees-- excluded board members | |

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