Your Rights: Smoking at Work

There’s two ways of looking at individual “rights” and smoking in the workplace. On one hand, non-smokers may feel they have a right to a smoke-free workplace. On the other hand, smokers may feel they have their own right to smoke. So which is it? For the most part, non-smokers win out.

In response to various studies and the increased publicity (mostly negative) that smoking and second hand smoke have received in recent years, many states have passed laws limiting or eliminating smoking in the workplace. But it may come as no surprise that these laws vary widely in how, and where, they apply to smokers. For example, some states impose outright bans on smoking at work, while others restrict smoking to certain areas in the workplace or a certain distance from work.

Such laws and regulations have not gone without challenge in court, but the bottom line is that, for the most part, restrictions on smoking in the workplace have been upheld by courts over claims that they infringe on individual liberties. The few exceptions are where rules prohibiting smoking stretch too far beyond the boundaries of the workplace and into an employee’s private life. But for some employees, such as firefighters and peace officers, even highly-restrictive prohibitions or outright bans on smoking may be found to be legitimate.
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