



**R-25**

**Date:** December 2, 2008

**To:** Honorable Mayor and Members of the City Council

**From:** Council Member Dee Andrews, Sixth District *DA*  
Council Member Tonia Reyes Uranga, Seventh District *TRU*  
Council Member Val Lerch, Ninth District *Val*

**Subject:** **Business Exemption Permitted Under California Labor Code 6404.5**

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The California State Legislature enacted Labor Code 6404.5 to regulate smoking in the workplace as a matter of statewide interest to eliminate the need of local governments to enact workplace-smoking restrictions within their respective jurisdictions. It was the intent of the Legislature to eliminate the confusion and hardship that can result from enactment or enforcement of disparate local workplace smoking restrictions.

It was also the intent of the Legislature that any area not defined as a "place of employment" in which the smoking of tobacco products is not regulated by the State Labor Code shall be subject to local regulation of smoking of tobacco products. The City of Long Beach enacted a ban on smoking in enclosed places that includes area permitted under the California Labor Code. The State legislation permits smoking in "private smokers' lounge" or also known as cigar lounges.

§ 6404.5 (d) For purposes of this section, "place of employment" does not include any of the following:

(4) Retail or wholesale tobacco shops and private smokers' lounges. For purposes of this paragraph:

(A) "Private smokers' lounge" means any enclosed area in or attached to a retail or wholesale tobacco shop that is dedicated to the use of tobacco products, including, but not limited to, cigars and pipes.

(B) "Retail or wholesale tobacco shop" means any business establishment the main purpose of which is the sale of tobacco products, including, but not limited to, cigars, pipe tobacco, and smoking accessories.

We believe that it would be appropriate for the City of Long Beach to align its smoking ordinance with the State Labor Code by enacting an exemption as provided under Labor Code 6404.5 (d) 4A and 4B to permit smoking in cigar bars.

**Recommended Action:** Request the City Attorney to draft an ordinance amending Chapter 8.68 to provide an exemption for "private smokers lounge" or cigar bars.