




R-24

Date: November 3, 2009

To: Honorable Mayor and Members of the City Council

From: Council Member Tonia Reyes Uranga, Seventh District 

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

The City Council approved a motion on Tuesday, December 2, 2008 to:

Recommendation to request City Attorney to draft an ordinance amending Chapter 8.68 of the Long Beach Municipal Code to provide an exemption for "private smokers lounge" or cigar bars.

The City Staff and the City Attorney's office have been diligently working on suggested language for the ordinance and providing direction pursuant to City Council direction. I would like request that this matter be referred to the Economic Development and Finance committee for review and to make recommendations for City Council consideration.

Recommended Action: Refer the matter of drafting an ordinance amending Chapter 8.68 to provide an exemption for "private smokers lounge" or cigar bars to the Economic Development and Finance Committee for discussion and formulating a recommendation to the City Council.

Attachment: City Council Agenda Letter (Item R-25) Dated December 3, 2008.



~~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**

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.