My co-worker smokes. What policies protect me from thirdhand smoke in the workplace?

Federal laws protect non-smokers from secondhand smoke exposure on airplanes and in federal buildings, but there is no federal law that prohibits smoking in the workplace. Workplace smoking bans are the result of state and local laws and an employer’s decisions. State laws range from complete workplace bans to no workplace restrictions at all. Employers may adopt policies that are stricter than their state laws, and generally these policies are upheld in court. Unfortunately, while prohibiting or restricting smoking at the workplace offers protection from secondhand smoke, it does little to protect against thirdhand smoke exposure.

In California and 27 other states in the US, employers may not discriminate based on legal activities that take place outside of the workplace, for example, smoking. In these states, an employer cannot refuse to hire someone simply because they are a smoker, unless being a non-smoker is a requirement of the job (for example, a clean air advocacy group could choose to hire only non-smokers). Even in states where employers can refuse to hire smokers, there very few employers that actually do. Large hospital systems are one notable exception, as about 20% of hospitals nationwide refuse to hire smokers. U-Haul is the newest large employer to refuse to hire smokers: their new hiring policy requires all new employees be non-smokers/non-users of nicotine products goes in to effect in February. Alaska Air is another large company that has followed this practice since 1985. Such policies protect all workers from thirdhand smoke exposure.

Regardless of the policies, non-smoking employees who have a health concern can ask their employer for accommodations to prevent harm from tobacco smoke exposure. Accommodations include separating smokers and non-smokers into different areas and improving ventilation systems. Like prohibitions from smoking in the workplace, these legal protections have been developed to protect against secondhand smoke exposure, and may not offer much protection from thirdhand smoke exposure.

In the absence of legal protections against thirdhand smoke exposure, you will need to educate co-workers and supervisors about the nature of thirdhand smoke pollutants, exposure, and exposure-related risks and request an expansion of existing policies that protect against secondhand smoke exposure. This is particularly important if you have a precondition that puts you at greater risk, such as asthma or if you are pregnant. Because there is “strength in numbers” we suggest you reach out to colleagues at your workplace and organizations such as your local American Lung Association, American Cancer Society, and contact us at contact@thirdhandsmoke.org. In California, your local Tobacco Control Coalition and your local Health Department are also important resources for you.

Sources:

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