

APPLICATION FOR INITIATIVE OR REFERENDUM PETITION SERIAL NUMBER

Secretary of State
1700 W. Washington, 7th Floor
Phoenix, AZ 85007

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SECRETARY
2005

The undersigned intends to circulate and file an **INITIATIVE** or a **REFERENDUM** (circle the appropriate word) petition and hereby makes application for the issuance of an official serial number to be printed in the lower right-hand corner of each side of each signature sheet of such petition. Pursuant to Arizona Revised Statutes § 19-111, attached hereto is the full text, in no less than eight point type, of the **(MEASURE)** or **CONSTITUTIONAL AMENDMENT** (circle appropriate word) intended to be **INITIATED** or **REFERRED** (circle appropriate word) at the next general election.

SUMMARY: A description of no more than one hundred words of the principal provisions of the proposed law, constitutional amendment or measure that will appear in no less than eight point type on the face of each petition signature sheet to be circulated.

The Smoke-Free Arizona Act protects the right of Arizonans to breathe clean indoor air by prohibiting smoking in enclosed public places and places of employment. Breathing second hand smoke harms children, seniors and people with existing health problems the most. Enforcement by the Arizona Department of Health Services will be paid for by a tax on cigarettes of one tenth of one cent per cigarette. Limited exceptions are provided such as private residences, retail tobacco stores, and outdoor patios. No smoking signs will be posted in all areas where smoking is prohibited.


Signature of Applicant
BILL PFEIFER
Printed Name of Applicant
102 W. McDowell Rd
Address

PHOENIX AZ 85003
City State Zip
602-258-7505
Telephone Number

SMOKE-FREE ARIZONA
Name of Organization (if any)
2929 SOUTH 48TH STREET
Address
TEMPE AZ 85282
City State Zip
602-414-5339
Telephone Number
BILL PFEIFER, CHAIRMAN
Name of Officer and Title
102 W. McDowell Rd
Address

Date of Application	Aug 31, 2005
Signatures Required	122, 612
Deadline for Filing	July 6, 2006
Serial Number Issued	I-05-2006
FOR OFFICE USE ONLY 2006-0073	

PHOENIX AZ 85003
City State Zip
602-258-7505
Telephone Number
JOHN RIVERS, TREASURER
Name of Officer and Title
2901 NORTH CENTRAL AVE., STE 900
Address
PHOENIX AZ 85012
City State Zip
602-445-4300
Telephone Number

OFFICIAL TITLE

An Initiative Measure

REPEALING SECTIONS 36-601.01 AND 36-601.02, AMENDING BY ADDING NEW SECTION 36-601.01 AND AMENDING SECTION 42-3251.02 ARIZONA REVISED STATUTES; RELATING TO THE SMOKE-FREE ARIZONA ACT

Be it enacted by the People of the State of Arizona:

Section 1. Title

This measure shall be known as the "Smoke-Free Arizona Act."

Section 2. Findings and Declaration of Purpose

WHEREAS, an estimated 3,000 lung cancer deaths and more than 35,000 coronary heart disease deaths occur annually among adult nonsmokers in the United States as a result of exposure to secondhand smoke. CDC. Annual smoking-attributable mortality, years of potential life lost, and economic costs. (United States, 1995-1999 *Morbidity and Mortality Weekly Report* 2002;51(14):300-303.)

WHEREAS, secondhand smoke has been classified by the Environmental Protection Agency (EPA) as a Group A carcinogen. This classification is reserved for chemicals or compounds which have been shown to cause cancer in humans such as asbestos and benzene. (United States Environmental Protection Agency, January 1993. Respiratory Effects of Passive Smoking.)

WHEREAS, secondhand smoke is particularly hazardous to elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease. Children exposed to secondhand smoke have an increased risk of asthma, respiratory infections, sudden infant death syndrome, developmental abnormalities, and cancer. (California Environmental Protection Agency (CAL EPA), "Health effects of exposure to environmental tobacco smoke," *Tobacco Control* 6(4): 346-353, *Winter, 1997*.)

WHEREAS, numerous economic analyses examining restaurant and hotel receipts and controlling for economic variables have shown either no difference or a positive economic impact after enactment of laws requiring workplaces to be smoke-free. Creation of smoke-free workplaces is sound economic policy and provides the maximum level of employee health and safety. (Glantz, S.A. & Smith, L. "The effect of ordinances requiring smoke-free restaurants on restaurant sales in the United States." *American Journal of Public Health* 87:1687-1693, 1997); Colman, R; Urbanas, C.M., "The economic impact of smoke-free workplaces: an assessment for Nova Scotia, prepared for Tobacco Control Unit, Nova Scotia Department of Health," *GPI Atlantic*, September 2001.)

THEREFORE, The people of Arizona declare that everyone has the right to breathe clean indoor air in public places and at work, and that the health of Arizonans will be improved by prohibiting smoking in enclosed public places and places of employment. It is the intent of this Proposition to protect patrons, employees and people who may be particularly vulnerable to the health risks of breathing secondhand tobacco smoke including children, seniors and people with existing health problems.

Section 3. Sections 36-601.01 AND 36-601.02 Arizona Revised Statutes are repealed.

Section 4. Title 36, Article 6, Chapter 6 Article 1 is amended by adding a new 36-601.01 to read:

36-601.01 SMOKE-FREE ARIZONA ACT

A. DEFINITIONS. THE FOLLOWING WORDS AND PHRASES, WHENEVER USED IN THIS SECTION, SHALL BE CONSTRUED AS DEFINED IN THIS SECTION:

1. "EMPLOYEE" MEANS ANY PERSON WHO PERFORMS ANY SERVICE ON A FULL-TIME, PART-TIME OR CONTRACTED BASIS WHETHER OR NOT THE PERSON IS DENOMINATED AN EMPLOYEE, INDEPENDENT CONTRACTOR OR OTHERWISE AND WHETHER OR NOT THE PERSON IS COMPENSATED OR IS A VOLUNTEER.

2. "EMPLOYER" MEANS A PERSON, BUSINESS, PARTNERSHIP, ASSOCIATION, THE STATE OF ARIZONA AND ITS POLITICAL SUBDIVISIONS, CORPORATIONS, INCLUDING A MUNICIPAL CORPORATIONS, TRUST, OR NON-PROFIT ENTITY THAT EMPLOYS THE SERVICES OF ONE OR MORE INDIVIDUAL PERSONS.

3. "ENCLOSED AREA" MEANS ALL SPACE BETWEEN A FLOOR AND CEILING THAT IS ENCLOSED ON ALL SIDES BY PERMANENT OR TEMPORARY WALLS OR WINDOWS (EXCLUSIVE OF DOORWAYS), WHICH EXTEND FROM THE FLOOR TO THE CEILING. ENCLOSED AREA INCLUDES A REASONABLE DISTANCE FROM ANY ENTRANCES, WINDOWS AND VENTILATION SYSTEMS SO THAT PERSONS ENTERING OR LEAVING THE BUILDING OR FACILITY SHALL NOT BE SUBJECTED TO BREATHING TOBACCO SMOKE AND SO THAT TOBACCO SMOKE DOES NOT ENTER THE BUILDING OR FACILITY THROUGH ENTRANCES, WINDOWS, VENTILATION SYSTEMS OR ANY OTHER MEANS.

4. "HEALTH CARE FACILITY" MEANS ANY ENCLOSED AREA UTILIZED BY ANY HEALTH CARE INSTITUTION LICENSED ACCORDING TO TITLE 36 CHAPTER 4, CHAPTER 6 ARTICLE 7, OR CHAPTER 17, OR ANY HEALTH CARE PROFESSIONAL LICENSED ACCORDING TO TITLE 32 CHAPTERS 7, 8, 11, 13, 14, 15, 15.1, 16, 17, 18, 19, 19.1, 21, 25, 28, 29, 33, 34, 35, 39, 41, OR 42.

5. "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION, LIMITED LIABILITY COMPANY, ENTITY, ASSOCIATION, GOVERNMENTAL SUBDIVISION OR UNIT OF A GOVERNMENTAL SUBDIVISION, OR A PUBLIC OR PRIVATE ORGANIZATION OF ANY CHARACTER.

6. "PHYSICALLY SEPARATED" MEANS ALL SPACE BETWEEN A FLOOR AND CEILING WHICH IS ENCLOSED ON ALL SIDES BY SOLID WALLS OR WINDOWS (EXCLUSIVE OF DOOR OR PASSAGEWAY) AND INDEPENDENTLY VENTILATED FROM SMOKE-FREE AREAS, SO THAT AIR WITHIN PERMITTED SMOKING AREAS DOES NOT DRIFT OR GET VENTED INTO SMOKE-FREE AREAS.

7. " PLACES OF EMPLOYMENT" MEANS AN ENCLOSED AREA UNDER THE CONTROL OF A PUBLIC OR PRIVATE EMPLOYER THAT EMPLOYEES NORMALLY FREQUENT DURING THE COURSE OF EMPLOYMENT, INCLUDING OFFICE BUILDINGS, WORK AREAS, AUDITORIUMS, EMPLOYEE LOUNGES, RESTROOMS, CONFERENCE ROOMS, MEETING ROOMS, CLASSROOMS, CAFETERIAS, HALLWAYS, STAIRS, ELEVATORS, HEALTH CARE FACILITIES, PRIVATE OFFICES AND VEHICLES OWNED AND OPERATED BY THE EMPLOYER DURING WORKING HOURS WHEN THE VEHICLE IS OCCUPIED BY MORE THAN ONE PERSON. A PRIVATE RESIDENCE IS NOT A "PLACE OF EMPLOYMENT" UNLESS IT IS USED AS A CHILD CARE, ADULT DAY CARE, OR HEALTH CARE FACILITY.

8. "VETERAN AND FRATERNAL CLUBS" MEANS A CLUB AS DEFINED IN A.R.S. 4-101(7)(A)(B) OR (C).

9. "PUBLIC PLACE" MEANS ANY ENCLOSED AREA TO WHICH THE PUBLIC IS INVITED OR IN WHICH THE PUBLIC IS PERMITTED, INCLUDING AIRPORTS, BANKS, BARS, COMMON AREAS OF APARTMENT BUILDINGS, CONDOMINIUMS OR OTHER MULTIFAMILY HOUSING FACILITIES, EDUCATIONAL FACILITIES, ENTERTAINMENT FACILITIES OR VENUES, HEALTH CARE FACILITIES, HOTEL AND MOTEL COMMON AREAS, LAUNDROMATS, PUBLIC TRANSPORTATION FACILITIES, RECEPTION AREAS, RESTAURANTS, RETAIL FOOD PRODUCTION AND MARKETING ESTABLISHMENTS, RETAIL SERVICE ESTABLISHMENTS, RETAIL STORES, SHOPPING MALLS, SPORTS FACILITIES, THEATERS, AND WAITING ROOMS. A PRIVATE RESIDENCE IS NOT A "PUBLIC PLACE" UNLESS IT IS USED AS A CHILD CARE, ADULT DAY CARE, OR HEALTH CARE FACILITY.

10. "RETAIL TOBACCO STORE" MEANS A RETAIL STORE THAT DERIVES THE MAJORITY OF ITS SALES FROM TOBACCO PRODUCTS AND ACCESSORIES.

11. "SMOKING" MEANS INHALING, EXHALING, BURNING, OR CARRYING OR POSSESSING ANY LIGHTED TOBACCO PRODUCT, INCLUDING CIGARS, CIGARETTES, PIPE TOBACCO AND ANY OTHER LIGHTED TOBACCO PRODUCT.

12. "SPORTS FACILITIES" MEANS ENCLOSED AREAS OF SPORTS PAVILIONS, STADIUMS, GYMNASIUMS, HEALTH SPAS, BOXING ARENAS, SWIMMING POOLS, ROLLER AND ICE RINKS, BILLIARD HALLS, BOWLING ALLEYS, AND OTHER SIMILAR PLACES WHERE MEMBERS OF THE GENERAL PUBLIC ASSEMBLE TO ENGAGE IN PHYSICAL EXERCISE, PARTICIPATE IN ATHLETIC COMPETITION, OR WITNESS SPORTING EVENTS.

B. SMOKING IS PROHIBITED IN ALL PUBLIC PLACES AND PLACES OF EMPLOYMENT WITHIN THE STATE OF ARIZONA, EXCEPT THE FOLLOWING:

1. PRIVATE RESIDENCES, EXCEPT WHEN USED AS A LICENSED CHILD CARE, ADULT DAY CARE, OR HEALTH CARE FACILITY.

2. HOTEL AND MOTEL ROOMS THAT ARE RENTED TO GUESTS AND ARE DESIGNATED AS SMOKING ROOMS; PROVIDED, HOWEVER, THAT NOT MORE THAN FIFTY PERCENT OF ROOMS RENTED TO GUESTS IN A HOTEL OR MOTEL ARE SO DESIGNATED.

3. RETAIL TOBACCO STORES THAT ARE PHYSICALLY SEPARATED SO THAT SMOKE FROM RETAIL TOBACCO STORES DOES NOT INFILTRATE INTO AREAS WHERE SMOKING IS PROHIBITED UNDER THE PROVISIONS OF THIS SECTION.

4. VETERANS AND FRATERNAL CLUBS WHEN THEY ARE NOT OPEN TO THE GENERAL PUBLIC.

5. SMOKING WHEN ASSOCIATED WITH A RELIGIOUS CEREMONY PRACTICED PURSUANT TO THE AMERICAN INDIAN RELIGIOUS FREEDOM ACT OF 1978.

6. OUTDOOR PATIOS SO LONG AS TOBACCO SMOKE DOES NOT ENTER AREAS WHERE SMOKING IS PROHIBITED THROUGH ENTRANCES, WINDOWS, VENTILATION SYSTEMS, OR OTHER MEANS.

7. A THEATRICAL PERFORMANCE UPON A STAGE OR IN THE COURSE OF A FILM OR TELEVISION PRODUCTION IF THE SMOKING IS PART OF THE PERFORMANCE OR PRODUCTION.

C. THE PROHIBITION ON SMOKING IN PLACES OF EMPLOYMENT SHALL BE COMMUNICATED TO ALL EXISTING EMPLOYEES BY THE EFFECTIVE DATE OF THIS SECTION AND TO ALL PROSPECTIVE EMPLOYEES UPON THEIR APPLICATION FOR EMPLOYMENT.

D. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, AN OWNER, OPERATOR, MANAGER, OR OTHER PERSON OR ENTITY IN CONTROL OF AN ESTABLISHMENT, FACILITY, OR OUTDOOR AREA MAY DECLARE THAT ENTIRE ESTABLISHMENT, FACILITY, OR OUTDOOR AREA AS A NONSMOKING PLACE.

E. POSTING OF SIGNS AND ASHTRAY REMOVAL.

1. "NO SMOKING" SIGNS OR THE INTERNATIONAL "NO SMOKING" SYMBOL (CONSISTING OF A PICTORIAL REPRESENTATION OF A BURNING CIGARETTE ENCLOSED IN A RED CIRCLE WITH A RED BAR ACROSS IT) SHALL BE CLEARLY AND CONSPICUOUSLY POSTED BY THE OWNER, OPERATOR, MANAGER, OR OTHER PERSON IN CONTROL OF THAT PLACE IDENTIFYING WHERE SMOKING IS PROHIBITED BY THIS SECTION AND WHERE COMPLAINTS REGARDING VIOLATIONS MAY BE REGISTERED.

2. EVERY PUBLIC PLACE AND PLACE OF EMPLOYMENT WHERE SMOKING IS PROHIBITED BY THIS SECTION SHALL HAVE POSTED AT EVERY ENTRANCE A CONSPICUOUS SIGN CLEARLY STATING THAT SMOKING IS PROHIBITED.

3. ALL ASHTRAYS SHALL BE REMOVED FROM ANY AREA WHERE SMOKING IS PROHIBITED BY THIS SECTION BY THE OWNER, OPERATOR, MANAGER, OR OTHER PERSON HAVING CONTROL OF THE AREA.

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F. NO EMPLOYER MAY DISCHARGE OR RETALIATE AGAINST AN EMPLOYEE BECAUSE THAT EMPLOYEE EXERCISES ANY RIGHTS AFFORDED BY THIS SECTION OR REPORTS OR ATTEMPTS TO PROSECUTE A VIOLATION OF THIS SECTION.

G. THE LAW SHALL BE IMPLEMENTED AND ENFORCED BY THE DEPARTMENT OF HEALTH SERVICES AS FOLLOWS:

1. THE DEPARTMENT SHALL DESIGN AND IMPLEMENT A PROGRAM, INCLUDING THE ESTABLISHMENT OF AN INTERNET WEBSITE, TO EDUCATE THE PUBLIC REGARDING THE PROVISIONS OF THIS LAW.

2. THE DEPARTMENT SHALL INFORM PERSONS WHO OWN, MANAGE, OPERATE OR OTHERWISE CONTROL A PUBLIC PLACE OR PLACE OF EMPLOYMENT OF THE REQUIREMENTS OF THIS LAW AND HOW TO COMPLY WITH ITS PROVISIONS INCLUDING MAKING INFORMATION AVAILABLE AND PROVIDING A TOLL-FREE TELEPHONE NUMBER AND E-MAIL ADDRESS TO BE USED EXCLUSIVELY FOR THIS PURPOSE.

3. ANY MEMBER OF THE PUBLIC MAY REPORT A VIOLATION OF THIS LAW TO THE DEPARTMENT. THE DEPARTMENT SHALL ACCEPT ORAL AND WRITTEN REPORTS OF VIOLATION AND ESTABLISH AN E-MAIL ADDRESS(ES) AND TOLL-FREE TELEPHONE NUMBER(S) TO BE USED EXCLUSIVELY FOR THE PURPOSE OF REPORTING VIOLATIONS. A PERSON SHALL NOT BE REQUIRED TO DISCLOSE THE PERSON'S IDENTITY WHEN REPORTING A VIOLATION.

4. IF THE DEPARTMENT HAS REASON TO BELIEVE A VIOLATION OF THIS LAW EXISTS, THE DEPARTMENT MAY ENTER UPON AND INTO ANY PUBLIC PLACE OR PLACE OF EMPLOYMENT FOR PURPOSES OF DETERMINING COMPLIANCE WITH THIS LAW. HOWEVER, THE DEPARTMENT MAY INSPECT PUBLIC PLACES WHERE FOOD OR ALCOHOL IS SERVED AT ANY TIME TO DETERMINE COMPLIANCE WITH THIS LAW.

5. IF THE DEPARTMENT DETERMINES THAT A VIOLATION OF THIS LAW EXISTS AT A PUBLIC PLACE OR PLACE OF EMPLOYMENT, THE DEPARTMENT SHALL ISSUE A NOTICE OF VIOLATION TO THE PERSON WHO OWNS, MANAGES, OPERATES OR OTHERWISE CONTROLS THE PUBLIC PLACE OR PLACE OF EMPLOYMENT. THE NOTICE SHALL INCLUDE THE NATURE OF EACH VIOLATION, DATE AND TIME EACH VIOLATION OCCURRED, AND DEPARTMENT CONTACT PERSON.

6. THE DEPARTMENT SHALL IMPOSE A CIVIL PENALTY ON THE PERSON IN AN AMOUNT OF NOT LESS THAN \$100, BUT NOT MORE THAN \$500 FOR EACH VIOLATION, IN CONSIDERING WHETHER TO IMPOSE A FINE AND THE AMOUNT OF THE FINE, THE DEPARTMENT MAY CONSIDER WHETHER THE PERSON HAS BEEN CITED PREVIOUSLY AND WHAT EFFORTS THE PERSON HAS TAKEN TO PREVENT OR CURE THE VIOLATION INCLUDING REPORTING THE VIOLATION OR TAKING ACTION UNDER SUBSECTION J. EACH DAY THAT A VIOLATION OCCURS CONSTITUTES A SEPARATE VIOLATION. THE DIRECTOR MAY ISSUE A NOTICE THAT INCLUDES THE PROPOSED AMOUNT OF THE CIVIL PENALTY.

ASSESSMENT. A PERSON MAY APPEAL THE ASSESSMENT OF A CIVIL PENALTY BY REQUESTING A HEARING. IF A PERSON REQUESTS A HEARING TO APPEAL AN ASSESSMENT, THE DIRECTOR SHALL NOT TAKE FURTHER ACTION TO ENFORCE AND COLLECT THE ASSESSMENT UNTIL THE HEARING PROCESS IS COMPLETE. THE DIRECTOR SHALL IMPOSE A CIVIL PENALTY ONLY FOR THOSE DAYS ON WHICH THE VIOLATION HAS BEEN DOCUMENTED BY THE DEPARTMENT.

7. IF A CIVIL PENALTY IMPOSED BY THIS SECTION IS NOT PAID, THE ATTORNEY GENERAL OR A COUNTY ATTORNEY SHALL FILE AN ACTION TO COLLECT THE CIVIL PENALTY IN A JUSTICE COURT OR THE SUPERIOR COURT IN THE COUNTY IN WHICH THE VIOLATION OCCURRED.

8. THE DEPARTMENT MAY APPLY FOR INJUNCTIVE RELIEF TO ENFORCE THESE PROVISIONS IN THE SUPERIOR COURT IN THE COUNTY IN WHICH THE VIOLATION OCCURRED. THE COURT MAY IMPOSE APPROPRIATE INJUNCTIVE RELIEF AND IMPOSE A PENALTY OF NOT LESS THAN \$100 BUT NOT MORE THAN \$500 FOR EACH VIOLATION. EACH DAY THAT A VIOLATION OCCURS CONSTITUTES A SEPARATE VIOLATION. IF THE SUPERIOR COURT FINDS THE VIOLATIONS ARE WILLFUL OR EVIDENCE A PATTERN OF NONCOMPLIANCE, THE COURT MAY IMPOSE A FINE UP TO \$5000 PER VIOLATION.

9. THE DEPARTMENT MAY CONTRACT WITH A THIRD PARTY TO DETERMINE COMPLIANCE WITH THIS LAW.

10. THE DEPARTMENT MAY DELEGATE TO A STATE AGENCY OR POLITICAL SUBDIVISION OF THIS STATE ANY FUNCTIONS, POWERS OR DUTIES UNDER THIS LAW.

11. THE DIRECTOR OF THE DEPARTMENT MAY PROMULGATE RULES FOR THE IMPLEMENTATION AND ENFORCEMENT OF THIS LAW. THE DEPARTMENT IS EXEMPT FROM THE RULEMAKING PROCEDURES IN A.R.S. § TITLE 41, CHAPTER 6 EXCEPT THE DEPARTMENT SHALL PUBLISH DRAFT RULES AND THEREAFTER TAKE PUBLIC INPUT INCLUDING HOLD AT LEAST TWO PUBLIC HEARINGS PRIOR TO IMPLEMENTING THE RULES. THIS EXEMPTION EXPIRES MAY 1, 2007.

H. BEGINNING ON JUNE 1, 2008 AND EVERY OTHER JUNE 1 THEREAFTER, THE DIRECTOR OF THE ARIZONA DEPARTMENT OF HEALTH SERVICES SHALL ISSUE A REPORT ANALYZING ITS ACTIVITIES TO ENFORCE THIS LAW, INCLUDING THE ACTIVITIES OF ALL OF THE STATE AGENCIES OR POLITICAL SUBDIVISIONS TO WHOM THE DEPARTMENT HAS DELEGATED RESPONSIBILITY UNDER THIS LAW.

I. AN OWNER, MANAGER, OPERATOR OR EMPLOYEE OF PLACE REGULATED BY THIS LAW SHALL INFORM ANY PERSON WHO IS SMOKING IN VIOLATION OF THIS LAW THAT SMOKING IS ILLEGAL AND REQUEST THAT THE ILLEGAL SMOKING STOP IMMEDIATELY.

J. THIS LAW DOES NOT CREATE ANY NEW PRIVATE RIGHT OF ACTION NOR DOES IT EXTINGUISH ANY EXISTING COMMON LAW CAUSES OF ACTION.

K. A PERSON WHO SMOKES WHERE SMOKING IS PROHIBITED IS GUILTY OF A PETTY OFFENSE WITH A FINE OF NOT LESS THAN FIFTY DOLLARS AND NOT MORE THAN THREE HUNDRED DOLLARS.

L. SMOKE-FREE ARIZONA FUND

1. THE SMOKE-FREE ARIZONA FUND IS ESTABLISHED CONSISTING OF ALL REVENUES DEPOSITED IN THE FUND PURSUANT TO §42-3251.02 AND INTEREST EARNED ON THOSE MONIES. THE ARIZONA DEPARTMENT OF HEALTH SERVICES SHALL ADMINISTER THE FUND. ON NOTICE FROM THE DEPARTMENT, THE STATE TREASURER SHALL INVEST AND DIVEST MONIES IN THE FUND AS PROVIDED BY §35-313 AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE FUND.

2. ALL MONEY IN THE SMOKE-FREE ARIZONA FUND SHALL BE USED TO ENFORCE THE PROVISIONS OF THIS SECTION PROVIDED HOWEVER THAT IF THERE IS MONEY REMAINING AFTER THE DEPARTMENT HAS MET ITS ENFORCEMENT OBLIGATIONS, THAT REMAINING MONEY SHALL BE DEPOSITED IN THE TOBACCO PRODUCTS TAX FUND AND USED FOR EDUCATION PROGRAMS TO REDUCE AND ELIMINATE TOBACCO USE AND FOR NO OTHER PURPOSE.

3. MONIES IN THIS FUND ARE CONTINUOUSLY APPROPRIATED, ARE NOT SUBJECT TO FURTHER APPROVAL, DO NOT REVERT TO THE GENERAL FUND AND ARE EXEMPT FROM THE PROVISIONS OF §36-190 RELATING TO THE LAPSING OF APPROPRIATIONS.

M. THIS SECTION DOES NOT PREVENT A POLITICAL SUBDIVISION OF THE STATE FROM ADOPTING ORDINANCES OR REGULATIONS THAT ARE MORE RESTRICTIVE THAN THIS SECTION NOR DOES THIS SECTION REPEAL ANY EXISTING ORDINANCE OR REGULATION THAT IS MORE RESTRICTIVE THAN THIS SECTION.

N. TRIBAL SOVEREIGNTY - THIS SECTION HAS NO APPLICATION ON INDIAN RESERVATIONS AS DEFINED IN ARS 42-3301(2).

Section 5. Title 42, Chapter 3, Article 6, Arizona Revised Statutes is amended by adding section 42-3251.02 to read: 42-3251.02. LEVY AND COLLECTION OF TOBACCO TAX FOR SMOKE-FREE ARIZONA FUND.

A. IN ADDITION TO THE TAXES IMPOSED BY 42-3251(1), THERE IS LEVIED AND SHALL BE COLLECTED AN ADDITIONAL TAX OF ONE TENTH OF ONE CENT ON EACH CIGARETTE.

B. MONIES COLLECTED PURSUANT TO THIS SECTION SHALL BE DEPOSITED, PURSUANT TO §§ 35-146 AND 35-147, IN THE SMOKE-FREE ARIZONA FUND ESTABLISHED BY §36-601.01.

Section 6.

1. If any provision, clause, sentence, or paragraph of this Act or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

2. §36-601.01(M) and §42-3251.02 becomes effective on the date of enactment. The remaining provisions of this Act become effective on May 1, 2007.

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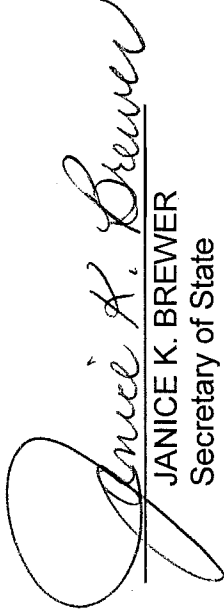


JAN BREWER
SECRETARY OF STATE
STATE OF ARIZONA

RECEIPT

The Arizona Secretary of State has completed her duties in accordance with Arizona Revised Statutes § 19.121.01(A). **Smoke-Free Arizona**, has filed a total of 15,030 petition signature sheets containing 183,151 signatures to initiative petition serial number I-05-2006, which are eligible for verification. This receipt does not constitute an acknowledgement or determination by the Secretary of State that any of those signature sheets are in compliance with legal requirements for placing a measure on the November 7, 2006 General Election ballot. That determination can only be made after the Secretary of State and the County Recorders have performed their duties with respect to initiative petitions as required by law.

Dated this 12th Day of July, 2006.


JANICE K. BREWER
Secretary of State

Sheets Removed from I-05-2006
By the Secretary of State' s Office during processing of petitions

Reasons for Removal	Sheets	Signatures
Notary incomplete or missing or notary expired	76	984
Affidavit of Circulator incomplete or missing	17	210
Paid or Volunteer circulator not marked	12	141
Signatures obtained after notarization	15	194
Blank petitions	6	0
Attached text incomplete or missing	0	0
All signatures on sheet would have been removed for missing information	9	41
Withdrawn by notarized statement	0	0
TOTAL	135	1570



JAN BREWER
SECRETARY OF STATE
STATE OF ARIZONA

August 3, 2006

The Honorable Janet Napolitano
Office of the Governor
1700 West Washington Street,
Phoenix, Arizona 85007

Dear Governor Napolitano:

You are hereby notified, pursuant to Arizona Revised Statutes § 19-121.04(B), that the initiative measure I-05-2006, Smoke-Free Arizona, has met the signature requirements for placement on the November 7, 2006 General Election Ballot as Proposition 201.

Enclosed is the final tabulation of the random sampling and a copy of the official receipt.

Sincerely,


JANICE K. BREWER
Secretary of State

Enclosures

State Capitol: 1700 West Washington Street, 7th Floor
Phoenix, Arizona 85007-2888
Telephone (602) 542-4285 Fax (602) 542-1575



JAN BREWER
SECRETARY OF STATE
STATE OF ARIZONA

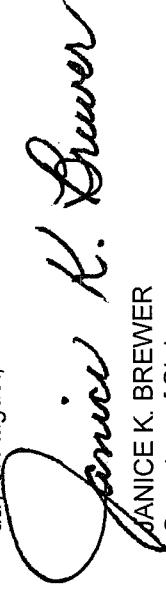
TO: Bill Pfeifer, Chairman
Smoke-Free Arizona
2929 S. 48th Street
Tempe, AZ 85282

Having completed the requirements of A.R.S. § 19-121.04, I, Janice K. Brewer, Secretary of State, hereby certify that:

135 signature pages bearing 1,570 signatures for initiative petition serial number I-05-2006 have been refused for filing in this office because the person circulating was a county recorder or justice of the peace at the time of circulating the petition or due to defects in the circulator's affidavit. A total of 1,048 signatures included on the remaining petition sheets were found to be ineligible. Of the total random sample of 9,158 signatures, a total of 1,799 signatures were invalidated by the county recorders resulting in a failure rate of 19.64 per cent. The actual number of remaining signatures for such initiative petition number I-05-2006 are equal to or in excess of the minimum required by the constitution to place a measure on the general election ballot. The number of valid signatures filed with this petition, based on the random sample, appears to be at least one hundred five per cent of the minimum required or through examination of each signature has been certified to be greater than the minimum required by the constitution.



IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Arizona. Done at the Capitol in Phoenix, this 3rd day of August, 2006.


JANICE K. BREWER
Secretary of State

State Capitol: 1700 W. Washington Street, 7th Floor
Phoenix, Arizona 85007-2888
Telephone (602) 542-4285 Fax (602) 542-1575

INITIATIVE AND REFERENDUM PETITIONS

Minimum Signature Requirement	<u>122,612</u>	<u>95%</u>	<u>116,482</u>	<u>105%</u>	<u>128,743</u>
Number of Signatures Submitted to Secretary of State					<u>185,769</u>
Number of Petition Sheets Removed by the Secretary of State According to A.R.S. §§ 19-121.01(A)(1) & 19-102(C)					<u>135</u>
Number of Signatures on those sheets					<u>1,570</u>
Number of Signatures Removed by the Secretary of State According to A.R.S. §19-121.01(A)(2)(3)					<u>1,048</u>
Total Signatures Removed by the Secretary of State					<u>2,618</u>
Number of Petition Sheets that Contain Signatures Eligible for Verification					<u>15,030</u>
Number of Signatures Eligible for Verification:			<u>183,151</u>		
5% of that Number			<u>9,158</u>		

Determination of Valid Signatures
CALCULATION - A.R.S. § 19-121.04(A)
Random Sample Validity Rate

Total Invalid Random Signatures	divided by	Total Random Signatures	
<u>1,799</u>	divided by	<u>9,158</u>	= <u>19.64%</u>
Number of signatures eligible for Verification			
Subtotal			
Subtract Signatures found ineligible by County Recorder, but not included in random		<u>183,151</u>	<u>0</u>
		<u>183,151</u>	
Multiply Random sample Invalidity Rate by Subtotal to Determine like number			
Subtotal	<u>183,151 times</u>	<u>0.1964</u>	= <u>35,971</u>
Subtract the resulting number from Subtotal			
		<u>35,971</u>	<u>35,971</u>
TOTAL VALID SIGNATURES			
		<u>147,180</u>	
TOTAL PERCENTAGE OF VALID SIGNATURES			
Total valid signatures divided by Minimum Signature Requirement			
		<u>120.0372%</u>	

SECRETARY OF STATE'S OFFICE
DETERMINATION OF VALID SIGNATURES