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# **Compliance with legislation restricting smoking in licensed venues in Victoria**

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## ABSTRACT

The objective of this study was to assess compliance with Victorian legislation that was implemented on 1 September 2002, restricting smoking in gambling venues and licensed non-gambling venues. Trained fieldworkers visited a sample of 42 gambling venues and 33 licensed non-gambling venues in the Melbourne metropolitan area between Thursday and Sunday evenings (9 pm to 12 am) in July 2003 to observe aspects of compliance with the legislation. Observation was unannounced and unobtrusive, although fieldworkers were instructed to be open about their activities if they were approached by staff. A minimum of 10 minutes was spent at each selected venue.

Based on three critical aspects of the legislative requirements (presence of correct signage, required number of smokefree rooms, and no unchecked smoking behaviour in designated smokefree areas), only 48% of venues were compliant with the legislation, including 48% of gambling venues and 49% of non-gambling licensed venues. Overall, 21% of gambling venues and 33% of licensed non-gambling venues did not have the correct number of smokefree rooms operating at the time of the observation. In fact, 2% of gambling venues and 33% of non-gambling premises had no smokefree room at all in operation. These results suggest that there is confusion for venue operators in these requirements. Unchecked smoking was observed in 7% of gambling venues (all in the non-gambling rooms) and 6% of licensed non-gambling venues. This suggests that compliance is high where the rules are clear (ie, smoking is not permitted at all, and was not observed, in gambling rooms).

Ashtrays were observed in the designated smokefree rooms of 17% of gambling venues (all in the non-gambling rooms) and 6% of licensed non-gambling venues. If we considered the presence of smoking-related objects in designated smokefree rooms, such as ashtrays, as one of the criteria for non-compliance, the overall compliance level would be reduced to 45% (reduced to 43% in gambling venues). Tobacco smoke could be smelled in the air in the smokefree rooms of 24% of gambling venues and 12% of non-gambling venues, indicating that the current legislation provides inadequate protection from secondhand smoke for patrons and staff.

The current legislation pertaining to licensed venues represents a 'compliance jungle'. The configuration of some venues does not permit ready classification into number of rooms, and therefore the application of partial smoking restrictions can be difficult for venue operators to assess and enforce. The only way to truly protect patrons and staff from exposure to secondhand smoke is the introduction of complete bans.

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## INTRODUCTION

In Victoria, the most recent restrictions on smoking in public places were introduced on September 1, 2002, limiting smoking in licensed venues (gambling and non-gambling). The types of venues where the amendments apply include those with a general licence (eg, hotels), those with a club licence (eg, RSL clubs) and those with an on-premises licence (eg, bars or nightclubs), as well as bingo centres and other places where bingo is played. The amendments affect all licensed premises with two or more operating rooms; all venues with gaming machines, and all places where bingo is played. In summary, under the *Tobacco (Miscellaneous Amendments) Act 2002*, one operating room in licensed venues with two or more operating rooms must be smokefree; the 'gaming machine area' in single-room gambling venues must be smokefree (this does not include the bar if it is excluded from the gaming machine area); in gambling venues with two rooms, the gambling room is required to be smokefree; and in gambling venues with two or more non-gaming operating rooms, one operating room must be smokefree. One-room venues are not subject to smoking restrictions, unless the room contains a dining area. Under the *Tobacco (Amendment) Act 2000*, in premises with a general or club licence, smoking is banned at times when the predominant activity is the consumption of food or non-alcoholic drinks.

The latest restrictions apply in addition to smokefree dining laws, such that the designated smokefree room in a licensed venue may be a room that is already smokefree under previous amendments. The introduction of these reforms follows the ban on smoking in restaurants, cafes and dining areas in hotels and licensed clubs that came into force on July 1, 2001.

The most recent reforms also ban smoking in bingo centres and during bingo sessions in other places where bingo is played. The Act allows exemptions for some areas of Crown Casino, including TAB and bar areas and high-roller rooms.<sup>1-4</sup>

The nature of the most recent amendments is such that their application at any one time may vary with dining activity and availability in the venue, the number of operating rooms in the venue, as well as whether or not a room is completely or substantially enclosed. Implementation and enforcement of the restrictions, as well as compliance with the new laws, is of particular interest, given that the amendments specify restrictions rather than total bans, and whether or not smoking is permitted depends on a number of factors in each venue. We therefore designed an observational study to evaluate the implementation of the reforms by observing compliance in a range of venues.

## METHOD

### Sample

Venue lists were compiled separately for gambling venues (licensed venues with gaming machines) and for non-gambling venues (licensed venues with no gaming machines). The sampling method was designed to include a range of suburbs across metropolitan Melbourne. For gambling venues, the website listing of the Office of Gambling Regulation<sup>5</sup> of all licensed venues with gambling machines by local government area was used. This led to an extensive list of gambling venues. For each suburb represented in this list, an equivalent list of licensed venues was generated using the electronic and hard copy of the business telephone directory listings under 'Hotels'.

Once a list of gambling and non-gambling venues by suburb was created, the list was ordered by address for convenience of data collection (related to where fieldworkers lived or could easily travel). Each pair of fieldworkers was assigned a particular suburb or group of suburbs. During each data collection period, fieldworkers began at one group of venues, visiting each listed venue in that location which was open. If all venues in the area had been visited within a shift, fieldworkers drove

to another venue or group of venues in the same area. Each pair of fieldworkers was provided with a list of alternative venues if any were closed at the time of the visit, or did not otherwise fit the criteria for inclusion in the study.

Each venue was visited only once. Only venues with more than one operating room at the time of the visit were selected for inclusion in the study, as one-room venues are not required to be completely smokefree under the legislation.

## Procedure

Research assistants from the Centre for Behavioural Research in Cancer (CBRC) visited pre-assigned gambling and non-gambling licensed venues on specific Thursday, Friday, Saturday or Sunday nights during July 2003, specifically July 12–13th, 18–20th and 24–25th. The times of the visits were chosen to cover busy periods of attendance at these venues, and occurred between 9.00 pm and 12.00 am.

Fieldworkers were provided with a standard survey instrument and asked to conduct observations of smoking restrictions in the venues, recording the compliance of patrons and venues with these restrictions. They were asked to spend a minimum of 10 minutes in each venue, allowing enough time to count the number of rooms in the venue, observe any relevant signage, and note smoking behaviour and presence of smoking-related items such as ashtrays. Fieldworkers were provided with an allowance to purchase a drink at each venue, in order to legitimise their attendance at the venue. They were provided with a letter of authorisation from the Director of CBRC, in case they were asked about their activities at a venue. They were asked to collect data unobtrusively, although to be open about their activities if asked by venue staff.

A brief training session was held with all fieldworkers. During this session, the relevant legislation was explained to the fieldworkers, and they were asked to familiarise themselves with the standard observer's protocol before attending the venues. They were provided with a manual detailing the relevant legislative requirements for reference, including pictorial examples of signage requirements. During or immediately following the visit, participants completed the brief observational form, based upon their observations during their attendance in each venue.

The form was designed to detect and assess compliance with the legislation, and other related issues. Information collected included number of rooms in venue; visibility of smoke in the environment; whether tobacco smoke could be smelled in the air; observed smoking behaviour; presence of tobacco-related items such as ashtrays or matches; presence of signage related to smokefree areas; whether this was signage provided by the Health Department or venue-specific; and whether there was any promotion of smoking rooms at the venue. Participants recorded whether any violations of the restrictions were observed and, if so, what (if any) were the consequences.

## Statistical analysis

Data were analysed using SPSS v11.5.1. Frequencies and percentages of observations have been recorded. Details of statistical tests of significance (chi-square tests were used) are not included in the text. The level of significance used was 0.01, indicating a less than 1 in 100 probability that the effect was caused by chance.

## RESULTS

Fieldworkers visited 75 multi-roomed venues overall, 42 gambling venues (56% of the total sample) and 33 non-gambling licensed venues (44% of the sample).

The data presented in Table 1 summarise the number of rooms and types of rooms in the venues visited. Fieldworkers noted the number of publicly accessible main rooms operating in each venue

during the observation period, and the total number of designated smokefree rooms. Most venues had three or more main rooms in operation (68%), and most had one (43%) or two (24%) designated smokefree rooms.

Table 1:

Venue description and percentage of different room types, by venue type

Venues visited		Total %	Gambling venues %	Licensed venues %
		(N=75)	(N=42)	(N=33)
Publicly accessible main rooms operating in venue during observation period	2 rooms	32%	26%	39%
	3 or more rooms	68%	74%	61%
Designated smokefree rooms	0 room	16%	2%	33%
	1 room	43%	38%	48%
	2 or more rooms	41%	60%	18%
Rooms with gaming machines	1 room	N/A	93%	N/A
	2 or more rooms	N/A	7%	N/A
Designated smokefree rooms not including the gaming machine rooms	0 rooms	N/A	43%	N/A
	1 or more rooms	N/A	57%	N/A

Gambling venues had a significantly higher percentage of venues with two or more designated smokefree rooms (60%) than licensed non-gambling venues (18%). This was expected, given that gambling venues must have the gambling room or area smokefree, in addition to another non-gaming machine room, if there is more than one other non-gambling room operating. In multi-room licensed non-gambling venues, however, only one operating room must be smokefree.

## Gambling venues

In gambling venues, observers also noted the number of rooms with gaming machines and the number of designated smokefree rooms not including the gaming machine room. Most of these venues had one (93%) gaming machine room and only three had two gaming machine rooms. Most of these venues had no other (43%) or one other (36%) smokefree room, apart from the gaming machine room.

## Non-gambling venues

Fieldworkers also noted whether there were any designated smokefree dining areas in the licensed non-gambling venues. Most had none (49%), while one-third had one designated smokefree dining area in operation during the visits. This number is likely to be lower than if visits had been conducted at usual dining times earlier in the evening (before 9.00 pm).

## Compliance

Table 2 indicates the extent of compliance with smokefree policies for the venues visited. The overall level of compliance is presented, based on whether the criteria for absolute compliance were met at each venue. Three aspects of the legislative requirements were used to assess overall compliance: correct signage, required number of smokefree rooms, and no unchecked smoking behaviour in designated smokefree areas.

**Table 2:**  
**Compliance with smokefree policies, by venue type**

<i>Compliance</i>	<i>All venues %</i>	<i>Gambling venue %</i>	<i>Licensed venue %</i>
	(N=75)	(N=42)	(N=33)
Overall compliance	48% (n=36)	48% (n=20)	49% (n=16)
Required number of designated smokefree rooms in venue	73% (n=55)	79% (n=33)	67% (n=22)
Prescribed signage present *	57% (n=43)	57% (n=24)	58% (n=19)
No 'unstopped' smoking behaviour observed in designated smokefree room	93% (n=70)	93% (n=39)	94% (n=31)

\*This includes the situation in the smokefree gambling room and any other smokefree non-gambling rooms in gambling venues, if applicable.

Overall compliance was observed in only 36 (48%) of the 75 venues visited. Only 48% of gambling venues and 49% of non-gambling licensed venues were observed to comply fully with all aspects of the legislation, in that they met all three criteria below. For a flowchart of compliance according to the three criteria in gaming and non-gaming licensed venues see Appendix 1.

### Number of rooms

Overall, 20 venues (27%) did not comply with the legislative requirements as far as the number of smokefree rooms was concerned. Twenty-one percent of the gambling venues (n=9) and 33% of the licensed non-gambling venues (n=11) did not have the correct number of smokefree rooms operating at the time of the fieldwork. All two-room gambling venues were compliant, with the gaming room smokefree in nine venues and the gaming room and the additional operating room smokefree in two venues. Non-compliant gambling venues consisted of 1 three-room venue with none of the operating rooms smokefree, 4 three-room venues with only the gaming room smokefree, 2 four-room venues with only the gaming room smokefree and 2 five-room venues with only the gaming room/s smokefree. Eleven (or 33%) licensed non-gambling venues had none of the rooms in operation smokefree. This consisted of 4 two-room venues, 5 three-room venues and 1 four- and 1 five-room venue. Thus, these venues had fewer than the correct number of smokefree rooms open, given the total number of rooms operating in the venue at the time of the visit.

### Prescribed signage

A standard 'no smoking' sign with prescribed symbols, wording and minimum size is required to be displayed under the legislation. All premises affected by the laws are required to display such signs to clearly indicate smokefree rooms or areas, so that someone is likely to see one or more signs when entering the area, room or venue.<sup>1</sup> Observers noted whether the signage for the designated smokefree room or rooms in each venue was in the prescribed form and displayed in the required manner, whether there was signage which did not fit the criteria, or whether no relevant signage was observed.

Signage was incorrect or absent in 43% (n=32) of venues overall: 43% of gambling venues (n=18) and 42% of non-gambling venues (n=14). Signage was incorrect in 20 of these venues, due to the absence of a designated smokefree room where it was required. This included nine gambling venues which did not have a required smokefree room in addition to the gaming machine room. No designated smokefree room was observed when it should have been present in 11 licensed non-gambling venues.

### Smoking behaviour

Fieldworkers noted whether they observed anyone smoking in the designated smokefree rooms. Smoking in a designated smokefree room was observed in 9% (n=7) of venues overall: 12% (n=5) of gambling venues, and 6% (n=2) of licensed non-gambling venues. In the gambling venues, smoking was observed only in the non-gambling smokefree room of each of these venues, not the gaming machine room.

Compliance with smoking behaviour was determined to be when no smoking behaviour was observed in a clearly designated smokefree room, or, if any smoking behaviour was observed, if action was taken by a member of staff to prevent this (such as asking the person smoking to stop and explaining the rules).

If any smoking was seen in the smokefree gambling area, observers noted what happened – whether staff or patrons intervened, or whether no action was observed. Nothing was observed to happen in most of the venues (n=5) where smoking was observed. In the gambling venues where this occurred, in two cases staff asked the patron to stop smoking or informed the patron of the rules, while in two cases nothing happened as a consequence of the smoking behaviour. In the fifth venue, the signage delineating the smokefree area was unclear, with confusion about the area delineated as non-smoking and which way the signs were displayed. Staff subsequently changed the direction of the signage display around when the fieldworkers asked for clarification about whether smoking was permitted or not. The designated smokefree room in this four-room venue was a TAB area, where half the area was designated smokefree, while smoking was permitted in the half of the area with tables in it. The areas were divided by a partition. In this case, the smoking restrictions were unclear and smokefree areas incorrectly designated. Thus, overall, 7% (n=3) of gambling venues were non-compliant in terms of dealing with smoking behaviour.

In the two non-gambling venues, no action was observed as a consequence of observed smoking. In one of these venues, the fieldworkers reported that two people were smoking at a table in the front section of a smokefree dining room, separated by trees and pot plants from a smoking area. In another, where the smokefree room was designated by prescribed signage displayed correctly, the fieldworkers recorded that ‘many people were smoking with a general disregard for signage’. Thus, 6% (n=2) of licensed non-gambling venues were non-compliant in terms of dealing with smoking behaviour. In total, therefore, overall non-compliance in dealing with smoking in these venues was 7% (n=5).

The legislation specifies that a venue ‘will not be liable if smoking occurs in a smokefree area or room within the premises, if they can demonstrate that they did not provide an ash tray, matches, lighter or any other assistance to facilitate smoking, and either: they were not aware, and could not reasonably be expected to have been aware, that smoking was occurring; or they asked the person to stop smoking and informed them that he or she was committing an offence’.<sup>1</sup> In all cases of unchecked smoking (n=7) described above, smoking was observed in a smokefree room where ashtrays were also present, and therefore these venues would be liable for a fine. In another non-gambling venue, smoking was observed and not stopped but it was not noted whether the occupier of the area was aware of it and, as there were no ashtrays or other smoking-related objects in the room, we did not consider this venue non-compliant for the purposes of this report.

### **Smoking-related objects**

In the legislation documentation venues are advised, as well as the clear display of signage, ‘You should also ensure that there are no objects that facilitate smoking, such as ash trays or matches, available for use by patrons’.<sup>1</sup> There are, however, no details of penalties for providing these objects in a designated smokefree room unless there is also unchecked smoking behaviour, as described above.<sup>1</sup> Therefore, for the purposes of evaluating overall compliance we did not consider the presence of these objects in designated smokefree rooms to be considered non-compliance. We did, however, require observers to note the presence of any such smoking paraphernalia in designated smokefree rooms. Ashtrays were observed in a designated smokefree room in 17% (n=7) of gambling venues. In these seven gambling venues, ashtrays were observed in three gaming machine rooms, and four non-gambling smokefree rooms: in one of these rooms, tobacco smoke was also visible in the air. Ashtrays were observed in the designated smokefree room of 6% (n=2) of the non-gambling venues, and in each of these rooms, smoke was also visible in the air. Matches or lighters were not observed in any smokefree room.

The majority of venues that had ashtrays in designated smokefree rooms did not comply with at least one of the three criteria (n=7). Two gambling venues that were compliant with the three criteria had ashtrays in designated smokefree rooms. Therefore, if we considered the presence of smoking-related objects in designated smokefree rooms as one of the criteria for non-compliance, the overall compliance level would be reduced to 45% (reduced to 43% in gambling venues).

### Tobacco smoke in designated smokefree room

Observers noted whether tobacco smoke was perceived in the air via sight or smell in each smokefree room. Overall, Table 3 indicates that tobacco smoke was visible in the air of the smokefree room in 11% of all venues: 10% (n=4) of the gambling venues and 12% (n=4) of non-gambling venues. Tobacco smoke could be smelled in the air of a smokefree room in almost one-quarter of venues (24%). This was more common in the gambling venues (33%, n=14 venues (n=16 rooms)) than the non-gambling venues (12%, n=4 venues). However, as noted previously, one-third of licensed non-gambling venues with more than one room failed to provide a smokefree room on the premises.

Table 3:

Observed presence of tobacco smoke in designated smokefree rooms, by venue and room type

	Gambling venue (N=42)		Licensed venue (N=33)	Total (N=75)
	Gambling room (n=42)	Non-gambling room (n=27)	Non-gambling room (n=33)	
<b>In the designated smokefree room:</b>	% (n)	% (n)	% (n)	% (n)
I can smell tobacco smoke in the air	19% (n=8)	22% (n=6)	12% (n=4)	24% (n=18)
Tobacco smoke visible in the air	7% (n=3)	4% (n=1)	12% (n=4)	11% (n=8)
No smokefree non-gambling room provided	n/a	4% (n=1)	33% (n=11)	16% (n=12)

### Cigarette vending machines

Observers noted whether there were any cigarette vending machines present in venues. As presented in Table 4, most venues (85%) had at least one cigarette vending machine. Most of these were located in the bar area/s (40%), with 19% in the foyer and 16% in the gaming machine area/s. Sixty venues had one vending machine, four venues had two vending machines, and two had three vending machines. Gambling venues had vending machines mainly in the gaming machine area/s, the bar and the foyer areas. Licensed venues had most of their machines in the bar area/s, with some in the foyer area/s.

Table 4:

Presence of cigarette vending machine and/or signage promoting smoking area or room at venue

	Total N=75	Gambling venue % (n) (N=42)	Licensed venue % (n) (N=33)
<b>Presence of vending machine</b>			
Total	85% (n=64)	86% (n=36)	85% (n=28)
In bar area/s	40% (n=30)	24% (n=10)	61% (n=20)
In foyer area/s	19% (n=14)	24% (n=10)	12% (n=4)
In dining area/s	7% (n=5)	10% (n=4)	3% (n=1)
In gaming machine area/s	16% (n=12)	29% (n=12)	n/a
Lounge/smoking room, area/s	9% (n=7)	14% (n=6)	3% (n=1)
Hallway/walkway	1% (n=1)	–	3% (n=1)
Other area/s	1% (n=1)	–	3% (n=1)
None	15% (n=11)	14% (n=6)	15% (n=5)

Percentages add to more than 100 as more than one response possible per venue.

## Promotion of smoking areas

Observers noted whether there was any signage at a venue promoting the presence of a smoking room or area at the venue (eg, 'smokers' lounge available here' and a sign on the bar 'our new outdoor smoking area is now open'). As presented in Table 5, such signage was observed in 33% of venues (n=25). Most of the signs were observed at gambling venues; over half the gambling venues visited displayed such signs (57%, n=24). Most venues had a sign inside the venue (22 gambling venues and one non-gambling venue), while seven venues displayed such signs outside (all were gambling venues). Five gambling venues had a sign both inside and outside the venues.

Table 5:

Presence of signage promoting smoking area or room at venue

	Total	Gambling venue % (n)	Licensed venue % (n)
<b>Signage present promoting a smoking area/room</b>	N=75	n=42	n=33
Total	33% (n=25)	57% (n=24)	3% (n=1)
Inside venue	31% (n=23)	52% (n=22)	3% (n=1)
Outside venue	9% (n=7)	17% (n=7)	–
None observed	67% (n=50)	43% (n=18)	97% (n=32)

Percentages add to more than 100 as more than one response possible per venue.

## Practical difficulties with compliance: examples

It became clear during the course of the study that the configuration of some venues did not permit ready determination of the number of rooms in the venue. The apparent delineation of rooms was frequently ambiguous, for instance where partitions were used that were not ceiling height but apparently delineated separate rooms. This made it difficult to assess the application of partial smoking restrictions. In addition, some areas were designated as smokefree at certain times only (dining areas): this also made it difficult to assess the smokefree status of a room at any time outside the times specified by signage. For both these reasons, it is clear that understanding of the rules and consequent enforcement would be difficult.

In order to illustrate these points, we have included some descriptive examples of these practical difficulties relating to the implementation of the reforms.

### Definition of rooms

In one of the gaming machine venues, the only barrier between the smokefree gaming machine area and smoking lounge was a hip-height barrier, which clearly did not delineate separate rooms. Another gambling venue had two smoking areas within the gaming machine area, separated from the gaming machine area by two-metre-high partitions. In another gambling venue where smoking was permitted in part of the gambling room, there were hip-level dividers in the same room, between the gambling room and the smoking lounge.

One non-gambling licensed venue comprised three levels, none of which was completely separate from the others, with an open area in the middle. None of the rooms was designated to be smokefree. This venue was therefore classified as a one-room venue and the data excluded from the current study.

In two venues (one gambling, one non-gambling) prescribed signage was observed, but in a designated smokefree *area* (an open dining area in the gambling venue, and the foyer in the non-gambling venue) rather than a separate room. In the case of the non-gambling licensed venue, there were two rooms and no designated smokefree room. The entrance area foyer, containing a couch and an ashtray on a coffee table, contained the signage in prescribed form to designate a smokefree area

(as if this was the required smokefree room). The foyer also contained two cigarette vending machines. In the case of the gambling venue, the gaming machine room of the three-room venue was designated non-smoking. The dining area was also signed as smokefree; it was a section of an open area, however, rather than located in a separately enclosed room.

### Designation of smokefree rooms by time of day

In one of the non-gambling licensed venues visited, there were four main publicly accessible operating rooms during the time when the observers visited, and no designated smokefree room. The dining area was smokefree but only during specified dining hours. This was also the case in one of the gambling venues visited, where the required and designated smokefree room was closed and there were no patrons inside it, although it had all the correct signage. Neither of these cases falls under the definition of operating as defined by the legislative requirements<sup>1</sup> – a room is operating when it is open to and available for use by members of the public and/or members of a club.

## DISCUSSION

Fewer than half of the 75 venues visited (48%) complied fully with the three critical aspects of the legislative requirements assessed in this study. Based on the presence of correct signage, required number of smokefree rooms, and no unchecked smoking behaviour in designated smokefree areas, only 48% of gambling venues and 49% of non-gambling licensed venues complied fully with the critical aspects of the legislation.

Overall, over one-quarter of the venues visited did not have the correct number of smokefree rooms operating at the time of observation, including over one-fifth of gambling venues and one-third of licensed non-gambling venues. Twelve venues (mainly non-gambling premises) had no smokefree room at all in operation. These results suggest that there is confusion for venue operators in these requirements. Correct signage was observed in 57% of venues overall. In twenty venues it was incorrect because they did not have a required smokefree room.

Compliance with smoking behaviour was high (93%). This suggests that smokers' acceptance of restrictions is high. None of the five incidents of non-compliance (three in gambling venues and two in non-gambling venues) were observed in gaming machine rooms, but rather in non-gambling rooms. This may in part be due to the fact that the restrictions in gaming machine rooms were well publicised, and are relatively easy to understand and straightforward to implement – most rooms with gaming machines must be designated as smokefree. The application and implementation of the non-gambling room restrictions is less straightforward, however, as there is more variability in these types of rooms. The applicability of the restrictions may differ with time of day, dining area availability, the number of rooms operating in a venue at a certain time, the configuration of the premises etc. For these reasons the non-gambling rooms' smokefree restrictions are likely to be more complicated and less well understood, thus making compliance more difficult.

Ashtrays were observed in the designated smokefree rooms of nine venues, most of these gambling venues. If we considered the presence of smoking-related objects in designated smokefree rooms as one of the criteria for non-compliance, the overall compliance level would be reduced to 45% (reduced to 43% in gambling venues). In some venues, the presence of ashtrays was associated with visible tobacco smoke in the air of the smokefree room. In almost one-quarter of smokefree rooms, tobacco smoke could be smelled in the air. This was more prevalent in gambling venues than non-gambling venues. This indicates that there is a lack of protection from exposure to secondhand smoke despite the introduction of these restrictions.

The fact that in some venues delineation between rooms was represented by partitions indicates that the definition of room can lead to uncertainty in terms of the application of smoking restrictions. One

limitation of this study was the difficulty encountered on occasion by the fieldworkers in determining the number of rooms in a venue; at this time, the observers' interpretation clearly differed from that of the venue owner. For instance, in the two venues where smoking was permitted in part of the gambling area, both had partitions that were not ceiling-high, but were apparently delineating separate rooms. This would not seem to conform to the definition of a room as an enclosed room, including areas that are substantially and completely enclosed.<sup>1</sup>

With uncertainty such as this, it is hardly surprising that compliance overall with the legislative requirements restricting smoking in licensed premises and gambling venues was low.

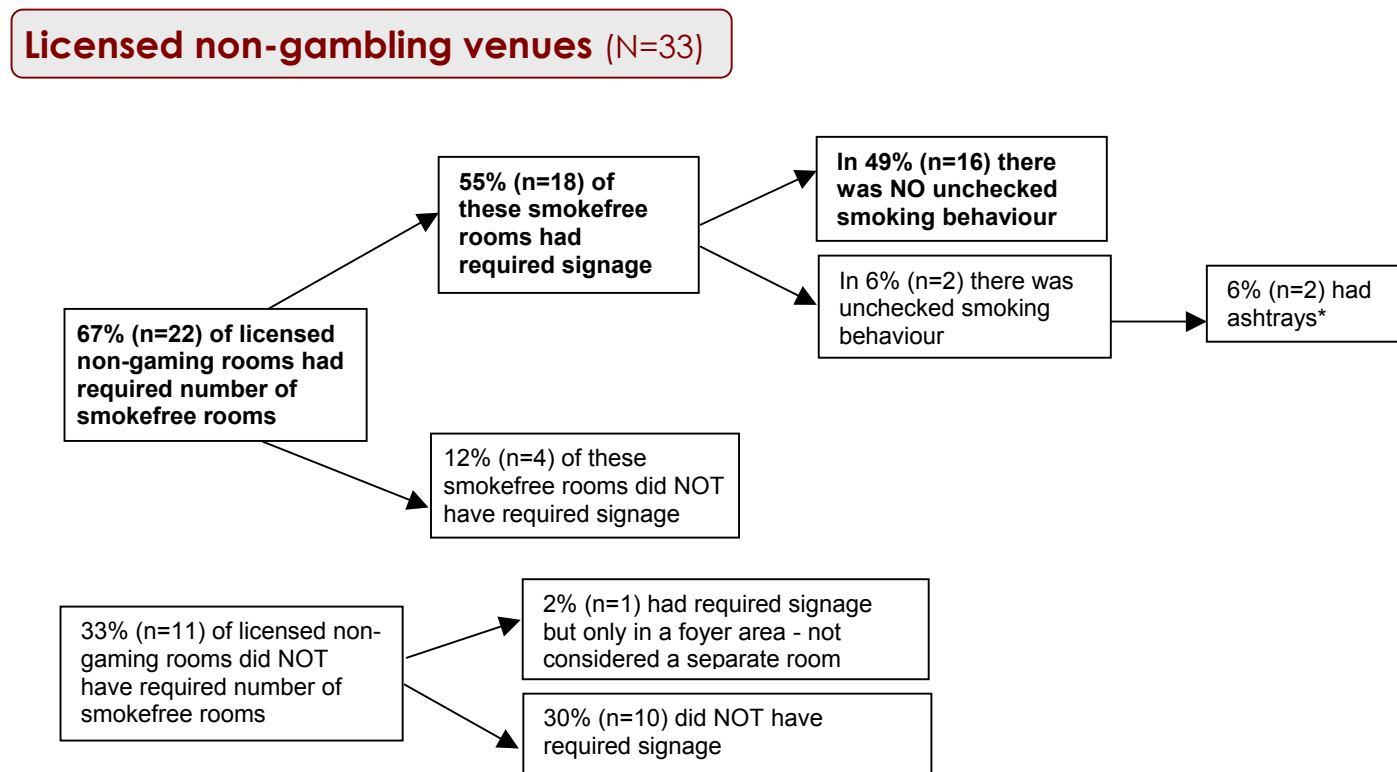
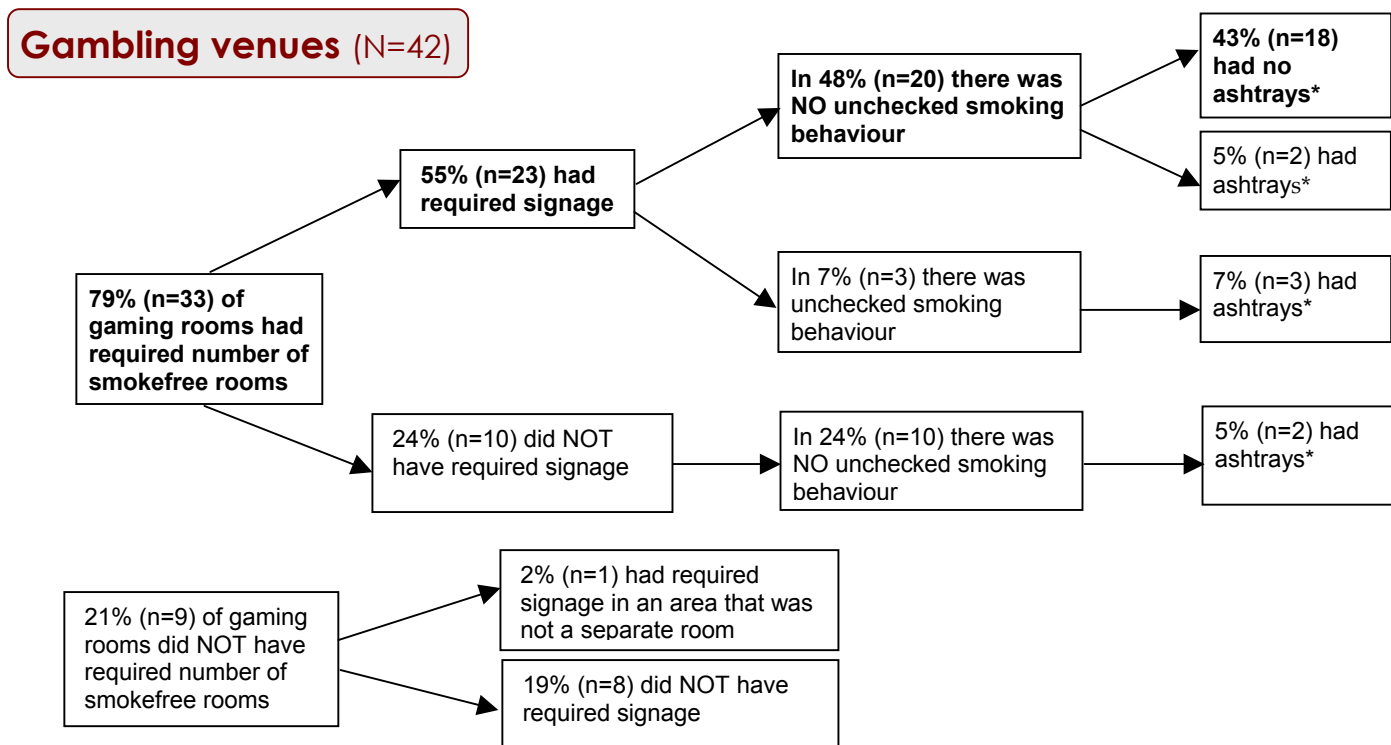
Signage promoting a smoking room or area was observed in only one licensed venue, but was observed in 57% of gambling venues. Most signs associated with gambling venues were inside the venue. Thus, one response to the introduction of smoking restrictions has been the promotion of smoking rooms, perhaps to encourage those smokers who might have been discouraged from attending gaming machine areas to still attend, in the knowledge that a smoking area was available in close proximity to the gaming machines. This is something to be monitored in future.

Overall, the results indicate that the restrictions are confusing for operators, especially in non-gaming machine rooms. As smoking behaviour in smoking rooms was rarely observed, it is clear that people will comply if the rules are comprehensible and unambiguous. It is hardly surprising that compliance overall was so low given the nature of the pertinent legislation. The current legislation provides inadequate protection from secondhand smoke for patrons and staff, as evidenced by observation of tobacco smoke in the air in designated smokefree rooms. In effect, the legislation pertaining to licensed venues represents a 'compliance jungle'. The configuration of some venues does not permit ready classification into number of rooms, and therefore the application of partial smoking restrictions can be difficult to assess and therefore enforce. The only way to truly protect patrons and staff from exposure to secondhand smoke is the introduction of complete bans.

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**Appendix 1:  
Flow chart of compliance for gambling and non-gambling licensed venues**



Note: Bold text indicates venue compliance.

\*Presence of ashtrays was not considered a criterion for non-compliance for the purposes of this report. However, the legislation does state that venues should not have objects that facilitate smoking in designated smokefree rooms, although there are no penalties described for doing so unless patrons are smoking and are not asked to stop smoking by the occupier of the room.