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### Stradley Ronon

2005 Market Street  
Suite 2600  
Philadelphia, PA 19103  
215.564.8000 Telephone  
215.564.8120 Facsimile  
[www.stradley.com](http://www.stradley.com)

With other offices in:  
Washington, D.C.  
Harrisburg, Pa.  
Malvern, Pa.  
Cherry Hill, N.J.  
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New York, N.Y.



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## Light My Fire: Steps for Controlling the High Cost of Employees Who Smoke

Reduced productivity, higher health care costs, increased use of sick days, and employee disputes over excessive breaks and lingering odors ... just some of the ways a smoking habit impacts the workplace. According to a recent study, each employee who smokes costs their employer \$6,000 more per year than a nonsmoker, primarily as a result of lost productivity and increased health care costs. Employers looking to light a fire under employees should consider the following tools to curtail the negative effects of smoking on the workplace.



### Stopping Smoke-Break Abusers

Excessive smoke breaks impair productivity and cause one of the most significant economic impacts on the workplace. Complaints from resentful nonsmoking employees about perceived inequalities in break time also impact productivity. Setting clear expectations regarding the duration, location and use of break time through an effective written policy is the first line of defense against one of the most noticeable negative impacts of smoking on the workplace.

An effective break and meal period policy should:

- Delineate between rest breaks and meal periods. Many employers permit employees to take (or are required by applicable law to provide) paid rest breaks of shorter duration (typically five to 20 minutes) throughout the day and a longer, often unpaid, meal period.
- Specify which breaks or meal periods are paid and count toward compensable time for overtime purposes and which do not. Where applicable, identify procedures for reporting time worked during what would otherwise be unpaid meal time.
- Address rest breaks and meal periods taken for a variety of purposes, not just smoking.

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- Affirmatively state that excessive or extended breaks and meal periods disrupt business operations and negatively impact productivity.
- Identify consequences for abuse of breaks and meal periods.
- Where appropriate to the specific workforce, (a) limit the frequency of rest breaks stated in increments of hours worked; (b) identify the time of day that meal periods should occur; and (c) specify any restrictions on where breaks and meal periods may be taken (e.g., a requirement that employees not exempt from overtime take unpaid meal periods away from their specific work location, or a requirement that shorter rest breaks be taken on or near the employer's premises).
- Comply with any applicable laws impacting rest breaks and meal periods such as (a) federal law providing when such breaks/meal periods must be paid and counted toward compensable time for employees subject to overtime; (b) state or local laws requiring breaks of a specific frequency, duration and location; (c) safety regulations governing certain industries; and (d) legal protections for those employees who may require additional or varying breaks, such as disabled employees or nursing mothers.

With a break policy applicable to smokers and nonsmokers alike, employers have an effective tool to address smokers who abuse their break time. Employees taking excessive smoke breaks should be dealt with in most circumstances in the same manner as an employee discovered over-using Internet privileges or other similar violations of the break policy. The focus of the discipline should be on productivity and abuse of the break policy, not the smoking itself. Even in [states prohibiting workplace discrimination against smokers](#), most laws allow employers to impose discipline if the smoking impacts productivity or other business operations or if the smoking occurs during what should otherwise be work time (as opposed to break time and time prior to or at the end of the workday).

### Smoke-Free Workplace Programs

Many employers go to the heart of the problem by implementing voluntary smoke-free workplace programs. Often employee wellness programs offer

referrals to smoking cessation resources and other programs. Some employers even offer financial incentives to employees who enter a smoking cessation program and remain smoke-free for a certain period of time. While such programs also involve an initial outlay of upfront costs, the long-term costs associated with employees who smoke may make such a program a wise investment. Employers should consult with their benefits personnel to review the variety of options available.

In addition to such a program, employers may consider implementing a smoke-free workplace policy. The policy should identify those areas of the business premises where smoking is prohibited. It should also require employees to comply not only with any state or local laws prohibiting smoking in the workplace or near entrances, but also with any restrictions imposed by the owner or manager of the business premises. The policy should make clear that violation of the smoke-free policy will result in discipline, up to and including termination, and provide referral information for any available smoke-free workplace programs.

### Hiring Bans

Some employers have determined that employee policies and smoke-free workplace programs do not go far enough. Those employers instead choose to reject any applicant who is a smoker. For example, health care providers such as The University of Pennsylvania Health System have adopted [tobacco-free hiring policies](#), prohibiting the hiring of tobacco users.

Several factors impact the development and implementation of a prohibition on hiring tobacco users, including:

- The business implications of a policy requiring rejection of otherwise qualified talent because of tobacco use.
- Procedures for determining which applicants are truly tobacco-free, such as a certification from the applicant of non-tobacco use or in some circumstances testing for tobacco use.
- The impact of any [state laws](#) prohibiting employers from refusing to hire or discriminating against tobacco users.

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- Categories of positions the employer may wish to exempt from the policy.
- Opportunities for applicants to reapply if they stop using tobacco products.

A no-hire policy cannot operate in a vacuum, however. The employer should still consider implementing the additional policies and programs discussed in this article to address current employees who use tobacco.

### “Smoking” Trends

Employers should remain mindful that new smoking trends may also require some degree of flexibility in enforcement. For example, how does an electronic cigarette – which emits vapor instead of smoke and

may not contain tobacco – fit within the employer’s smoke-free workplace policies in light of the increasing number of state and local laws banning electronic cigarettes in the same manner as traditional cigarettes? And employers operating in states that have legalized medical marijuana may be required by applicable law to treat medical marijuana users differently from cigarette-smoking or illegal drug-using employees.

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Employers have a variety of tools at their disposal for addressing smoking in the workplace. Take the actions that work for your business to snuff out the negative impact of smoking on employees and on your company’s bottom line. ■

## Stradley Ronon’s Employment & Labor Practice Group

Jonathan F. Bloom, <i>chair</i> .....	jbloom@stradley.com .....	215.564.8065
Danielle Banks .....	dbanks@stradley.com .....	215.564.8116
Michelle K. Carson .....	mcarson@stradley.com .....	215.564.8137
Christine M. Debevec .....	cdebevec@stradley.com .....	215.564.8156
Nicholas Deenis .....	ndeenis@stradley.com .....	484.323.1351
Sandra A. Girifalco .....	sgirifalco@stradley.com .....	215.564.8064
David J. Karasko .....	dkarasko@stradley.com .....	215.564.8542
Joseph T. Kelleher .....	jkelleher@stradley.com .....	610.651.2274
Andrew S. Levine .....	alevine@stradley.com .....	215.564.8073
Ian M. Long .....	ilong@stradley.com .....	215.564.8558
William E. Mahoney Jr. ....	wmahoney@stradley.com .....	215.564.8059
Francis X. Manning .....	fmanning@stradley.com .....	856.321.2403
John J. Murphy III .....	jmurphy@stradley.com .....	215.564.8019
Michael D. O’Mara .....	momara@stradley.com .....	215.564.8121
Caitlin E. Oberst .....	coberst@stradley.com .....	215.564.8151
James F. Podheiser .....	jpodheiser@stradley.com .....	215.564.8111
Ellen Rosen Rogoff .....	erogoff@stradley.com .....	215.564.8058
Alex L. Rubenstein .....	arubenstein@stradley.com .....	215.564.8053
Amy E. Sparrow .....	asparrow@stradley.com .....	484.323.1353
A. Nicole Stover .....	nstover@stradley.com .....	856.321.2418

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