



Lexington-Fayette County Food & Beverage Assoc. v. Lexington-Fayette County Health Dep't, 131 S.W.3d 745 (Ky. 2004)

Topics Covered: Anti-tobacco

Outcome: Favorable

Issue

The issue in this case was whether a county ordinance prohibiting smoking in most enclosed areas open to the public was valid.

AMA Interest

The AMA, in keeping with its objective of protecting public health, supports a smoke-free America.

Case Summary

The Lexington-Fayette Urban County Council passed an ordinance prohibiting smoking in most retail establishments. The plaintiff was a non-profit Kentucky corporation, whose members consisted generally of food and beverages sellers in Fayette County. The plaintiff sued to have the smoking ban ordinance declared invalid, claiming (1) state law preempted the ordinance, (2) the ordinance was unconstitutional because it was overly broad, (3) the ordinance was unconstitutional because of vagueness, and (4) the ordinance constituted an unreasonable infringement on business owners' right to transact business as they deem fit/prudent.

The trial court, on cross-motions for summary judgment, upheld the ordinance. The case was then appealed directly to the Kentucky Supreme Court, bypassing the Kentucky Court of Appeals.

The Kentucky Supreme Court upheld most of the ordinance. However, the court found that certain language in the ordinance was too vague to be reasonably understood. To that extent, the ordinance was unenforceable.

Litigation Center Involvement

The Litigation Center, through the AMA and the Kentucky Medical Association, filed an amicus curiae brief that argued that municipalities should have the power to pass anti-smoking ordinances.

Kentucky Supreme Court brief