

Lawmakers want a playground smoking ban

By: James Call – December 2, 2013

Smoking is banned in many places in Florida but not in and around playgrounds. That's an irony created by the 2002 constitutional amendment that created the **Florida Clean Indoor Air Act** which expressly preempted regulation of smoking to the state -- forbidding city and county governments from enforcing local ordinances. **Rep. Katie Edwards**, D-Plantation, and **Sen. Rob Bradley**, R-Orange Park, want to change that.

The two lawmakers have filed identical bills, **HB 309** and **SB 342**, to allow cities and counties to restrict smoking on publicly owned land, such as playgrounds and beaches, and authorize law enforcement to issue citations. At least 22 cities and counties have laws in place banning smoking at parks, playgrounds and other municipally owned lands. A bill similar to the Bradley-Edwards' proposal enabling enforcement of the ordinances died during this year's legislative session.

"When I take my kids to a public park or playground, I would like to do so without there being cigarette butts and smoking occurring in the park or playground," Bradley said this past month when he filed the bill.

Bradley said the proposal would accomplish two things: protect the health of children and solve a littering problem created when smokers flick cigarette butts on the ground. Smoking advocacy groups have challenged both assumptions when fighting similar proposals in other states.

The **Smokers Club's** website compares smoking bans and restrictions to a social engineering effort that infringes on civil liberties with the ultimate goal to eliminate smoking rights completely. When it engaged in debates on playground and beach smoking bans in California and Virginia the group pointed to numerous studies that it says found no link between outdoor exposure to second-hand smoke and illness. The club also has suggested that enforcing littering laws will resolve Bradley's problem with butts.

"There are limits on the exercise of political power. Under our constitutional system, a nonsmoking majority cannot arbitrarily stamp out the rights of a smoking minority," **Robert Levy** of the **Cato Institute** argued in a commentary posted on the Smokers Club website. "For a regulation to be legitimate there must be a good fit between the regulation and the goal it seeks to accomplish."

Levy concluded smoking bans on public property fail to clear such a hurdle.

The Bradley-Edwards proposal authorizes local governments to restrict smoking on certain properties, provides limitations on such restrictions, outlines when a citation can be issued for violating the restriction and defines the term “playground.”

The Senate bill has been referred to the **Regulated Industries, Community Affairs** and **Criminal Justice** committees. The House bill has yet to be referred to a committee.