

Smoking at KCK casino clouds KC, NKC bans

The pint-sized 7th Street Casino in downtown Kansas City, Kan., could thwart a metrowide effort to ban smoking on casino floors.

Here's why:

Bans approved by Kansas City voters in April and the North Kansas City Council on Tuesday evening don't take effect until "all" surrounding casinos also are covered by similar laws.

The language in the two city-approved ordinances appears to cover the tribal 7th Street Casino owned by the Oklahoma-based Wyandotte Nation.

Billy Friend, second chief of the tribe, said Wednesday, however, that the tribe had no plans to snuff out smoking there.

"It's just not a hot-button issue in Indian gaming," he said. "We have a no-smoking restaurant, but we've never discussed a complete nonsmoking casino."

Friend added that smoking had long been part of the ambience of gambling.

"I don't know what the statistics are, but in Oklahoma I'd guess 75 percent of our patrons are smokers."

Friend said the tribe would almost certainly resist, on grounds of tribal sovereignty, any smoking ban Wyandotte County's Unified Government is now privately debating and could consider in coming months.

Unified Government chief counsel Hal Walker noted that the tribe last year signed a revenue-sharing deal with the city in

which it agreed to abide by city codes and ordinances, including its criminal codes where a smoking ban might be classified.

"If we adopt that (smoking ban) provision, it would be my opinion they'd be subject to it," Walker said.

Friend disagrees.

"We wouldn't fall under that," he said. "We're still a sovereign government."

Friend said the tribe might agree to a smoking ban only if it was imposed by federal law or through a mutually agreed compact with the state.

When told of Friend's stance, Walker suggested the matter could wind up in court.

"My gut tells me they've got to comply," Walker said.

Meanwhile, the law approved April 8 by Kansas City voters is under challenge in court by bar owners and others affected. Kansas City's two casinos, Ameristar Kansas City Casino and Hotel and the Isle of Capri Casino, did not sue.

The measure does not ban smoking on those two Kansas City gambling floors until all nearby casinos also are covered by similar laws.

Galen Beaufort, Kansas City's attorney, said the city's ordinance includes the tribal casino in Kansas City, Kan.

"Yes, it does," he said.

Beaufort also raised the issue of city health and public safety codes that he said could apply to the tribal gambling operation.

"If an ordinance in KCK, a Kansas state statute or a federal law prohibited smoking, then that's when it would be

triggered," he said.

So far, no statewide Kansas smoking ban has been suggested for proposed state-owned slot machine gambling at The Woodlands racetrack or at a traditional casino elsewhere in Wyandotte County that a state panel is to select in September.

Besides the issues in Kansas City, Kan., Riverside officials also show no sign of considering a ban anytime soon that might affect the Argosy Casino Hotel & Spa within its borders.

Riverside Mayor Kathleen Rose could not be reached Wednesday,

If the tribal casino does become a stumbling block, some arcane legal questions could be raised.

One potential issue is whether the 7th Street Casino is a "casino" under Kansas City's ordinance, or a bingo parlor.

Questions also could be raised whether the tribe's sovereign half-acre of land legally lies "in" Wyandotte County as the ordinances require.

The word "casino" appears nowhere in the federal Indian Gaming Regulatory Act that authorized the 7th Street Casino and hundreds more like it in the nation.

That 1988 law instead defined three classes of gambling activity permitted on qualified and sovereign Indian lands. The 7th Street Casino is a Class II facility that can offer only "the game of chance commonly known as bingo" and certain card games authorized by state law.

The federal government's definition of bingo and how it, in recent years, has permitted electronic gambling devices that look and play exactly like slot machines is another matter altogether – and one that may also be headed to court.

Walker considers the tribe's stance economic.

“They want the smoker to come gamble,” he said.

Friend won't argue with that.

“It would give us something of an advantage” if the 7th Street Casino was the metro area's exclusive casino for smokers, said Friend. “But I don't know if we'd want to be known as a smokers' paradise.”