

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2300

2005 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2300

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2300

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date February 9, 2005

Tape Number	Side A	Side B	Meter #
1	X		277-END
1		X	1-1421
Committee Clerk Signature <i>Lisa VanBerkom</i>			

Minutes:

Chairman Mutch opened the hearing on SB 2300, relating to personal insurance loss history information. All Senators were present.

Senator Ralph Kilzer introduced the bill. One of the questions is why not exempt restaurants and bars. The truth is that is where the highest amount of cigarette smoking takes place. This effects waitresses and bartenders that are exposed to those levels for long periods of time.

Senator Heitkamp- What have you done to convince the Senate majority leader that we need to lead by example and close our own smoke room in the capitol?

Senator Kilzer- I have discussed it with the majority leader and others.

Representative Kaldor, a co-sponsor of the legislation appeared before the committee. See written testimony.

Dr. Robert Shepard appeared before the committee in support of the bill. See written testimony.

David Smith appeared before the committee in support of the bill. See written testimony.

Gordy Smith appeared before the committee in support of the bill. See written testimony.

Dr. Ben Clayburgh appeared before the committee in support of the bill. See written testimony.

David Peske, representing the North Dakota Medical Association in support of the bill. See written testimony.

Janel Herman, representing medical and respiratory therapy students in Bismarck, appeared before the committee in support of the bill. See written testimony.

Susan Bosak, representing the Health Policy Consortium appeared in support of the bill. See written testimony.

Kathleen Mangskau, representing the Department of Health handed out written testimony to the committee in support of the bill.

Kayla Block, a student at the University of Mary, delivered a copy of written testimony in support of the bill to committee members.

Bill Shalhoob, representing the ND Hospitality Association appeared in opposition to the bill. See written testimony.

Senator Klein- Are you saying that you are slowly moving toward a smoke free environment?

Bill- Yes. An example is back in 1974, there was no such thing as a non-smoking room.

Currently, 75% of rooms in hotels are non-smoking. Several restaurants who have a large clientele of children are now smoke-free. We are responding to the demands of today, that demand does not exist with the bar owners and customers.

Senator Heitkamp- You mention how the business community is quick to respond. I've seen polls with a 70/30 split on this issue. If you know what the public wants, why would you be

against this? Why don't we work at educating the 30% on how they might live an alternative life in those places.

Bill- The vote in Fargo was 58% instead of 70% in Fargo, when the voters took it.

Senator Heitkamp- What do we say to people like the Smith family?

Bill- I can't speak on behalf of the bowling alley that you are making reference to.

It always seems to come down to a bar and restaurant issue.

Senator Heitkamp- Bars and restaurants are public places, not like homes that are private residences.

Bill- The workplace is generally smoke-free except for bars and restaurants.

Allen Leier, a bar owner in Bismarck appeared in opposition to the bill. Most of his customers are smokers, a ban would really hurt his business, he might lose 30% of his business daily, and even more on the weekends.

Vickie Wagner, Secretary for the North Dakota Council of Clubs appeared in opposition to the bill. See written testimony.

Vickie- Would this bill effect the casinos?

Chairman Mutch- We would not have jurisdiction over the casinos.

Joan Carmen submitted written testimony to the committee. See attached.

Vickie- I would like to make a suggestion of giving tax breaks to bars that are smoke-free rather than requiring all bars to be smoke-free.

Ben Clayburgh- People go to the bars and restaurants more often that are smoke-free in comparison to ones that allow smoking. This is a matter that should be handled by the state.

Senator Krebsbach- Where does ND rank in smoking illnesses compared to other states?

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Senate Industry, Business and Labor Committee

Bill/Resolution Number SB 2300

Hearing Date February 9, 2005

Kathleen Mangskau, from the State Health Department- I am not aware of a ranking system for that area, but we could certainly look into it. California has had significant decreases in illness and death from the non-smoking laws that have been implemented there.

Janelle Schmitz with the American Lung Association appeared in support of the bill.

Chairman Mutch- What are the schools doing in our state about this?

Valerie Fischer, with the Department of Public Instruction appeared in support of the bill.

See written testimony.

Ben Clayburgh- At the University of Minnesota, a study was conducted that children who smoke several times a day are more likely to engage in risky behavior, than non-smoking teens.

Senator Klein- Where can we go in terms of education for our children?

Ben- The problems with the mother who is smoking, affects the baby in the womb. Several defects occur from that.

Mary Muhlbradt from Minot appeared before the committee in support of the bill. See written testimony.

Chairman Mutch closed the hearing on SB 2300. No action was taken on the bill.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2300

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date 2-14-05

Tape Number	Side A	Side B	Meter #
2	xx		3454-3876
Committee Clerk Signature <i>Lisa VanBerkom</i>			

Minutes: **Vice Chair Klein allowed committee discussion on SB 2300. Chairman Mutch was absent.**

Senator Klein presented amendments to the committee.

Senator Heitkamp moved to adopt section F of the amendments.

Senator Espegard seconded.

Roll Call Vote: 6 yes. 0 no. 1 absent.

Senator Nething moved to adopt section D and G of Senator Klein's amendments.

Senator Krebsbach seconded.

Roll Call Vote: 3 yes. 3 no. 1 absent.

Senator Heitkamp moved to adopt section G of Senator Klein's amendments.

Senator Nething seconded.

Roll Call Vote: 3 yes. 3 no. 1 absent.

Senator Espegard moved to amend the bill by including a sunset clause for bars.

Page 2
Senate Industry, Business and Labor Committee
Bill/Resolution Number SB 2300
Hearing Date 2-14-05

Senator Nething seconded.

Roll Call Vote: 4 yes. 2 no. 1 absent.

Senator Heitkamp moved a DO PASS AS AMENDED.

Senator Nething seconded.

Roll Call Vote: 5 yes. 1 no. 1 absent.

Carrier: Senator Espegard.

Senator Heitkamp moved for a reconsideration of committee action.

Senator Nething seconded.

The yeas prevailed with 5 yes. 1 no. and 1 absent.

Senator Krebsbach moved to amend the bill by adding bars and section G with a two year sunset.

Senator Heitkamp seconded.

Roll Call Vote: 6 yes. 0 no. 1 absent.

Senator Heitkamp moved a DO PASS AS AMENDED.

Senator Nething seconded.

Roll Call Vote: 5 yes. 1 no. 1 absent.

Carrier: Senator Espegard

PROPOSED AMENDMENTS TO SENATE BILL NO. 2300

Page 5, line 14, after "d." insert "Bars, with 2 year sunset
Page 5, ~~after~~ after line 17, insert: until August 1, 2007.

~~e. Livestock auction markets.~~

f. In or on the grounds of any hospital operated by the state or licensed under chapter 23-16.

~~g. Bars, until August 1, 2007.~~

g. Any public place owned, rented, leased, or otherwise operated by a social, fraternal, or religious organization when that place is being used solely by the organization members or their guests or families,

*after 2 years
until August 1, 2007.*

~~h.~~

~~Page 5, line 15, replace "e." with "i." and replace the first "which" with "that"~~

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2300: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (5 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). SB 2300 was placed on the Sixth order on the calendar.

Page 5, line 15, replace the first "which" with "that"

Page 5, after line 17, insert:

- "f. In or on the grounds of any hospital operated by the state or licensed under chapter 23-16.
- g. Bars, until August 1, 2007.
- h. Any public place owned, rented, leased, or otherwise operated by a social, fraternal, or religious organization when that place is being used solely by the organization members or their guests and families, until August 1, 2007."

Renumber accordingly

2005 HOUSE HUMAN SERVICES

SB 2300

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2300

House Human Services Committee

Conference Committee

Hearing Date 3-14-05

Tape Number	Side A	Side B	Meter #
1		XX	11--5324
2	xx		65--end
2		xx	101--760
Committee Clerk Signature <i>Pam Dever</i>			

Minutes:**Chair Price:** We are opening the hearing on SB 2300. We are allowing 50 minutes on each side. You can submit written testimony without verbally testifying. If you wish to sign in and indicate for or against you may do so on the clip board with the registration sheet.

Sen. Ralph Kilzer - Dist 47, Bismarck, ND: I am the prime sponsor and support this bill and it is referred to as "the smoking bill". There is no fiscal note. This bill would reduce the mortality and morbidity caused by second hand smoke. About 80 to 120 die each year in ND because of second hand smoke. This is about the same number of people that are killed on our highways each year. The morbidity is high. Many people have their asthma and other lung disease progress much faster than normal because of second hand smoke. **(SEE ATTACHED #1)**

Rep. Devlin: I see in here it says if a city has a tougher regulation, that would be honored instead of this. What would happen if the city voted not to regulate smoke? Do we take away their control completely?

Sen. Kilzer: The bill does state if a political subdivision has a more restrictive law, that would be the law for that political subdivision. If the political sub has a less restrictive law, then this bill would be the defining document. This bill would overrule their ordinance.

Rep. Nelson: What are the six other states that have this smoking ban, other than New York and CA, in bars and cafes?

Sen. Kilzer: I don't have that in front of me. They are in the north east like CT, MA, in that area.

Rep. Nelson: You mentioned Cuba has outlawed smoking in bars and cafes. Do you suppose the citizens of Cuba had a hand in that decision making process.

Sen. Kilzer: I would think not. In Cuba, when you reach a certain age, you do receive smoking products free. That continues.

Rep. Nelson: In the definition section, the places of employment, I understand that if I hired employees in my shop, as I am a farmer, would smoking in the shop be illegal under this bill?

Sen. Kilzer: If you are the employer, then you nor your employee should be smoking in a confined work place. If the door is open, would not matter.

Rep. Porter: There is an exemption "in or on the grounds of any hospital licensed in ND".

Sen. Kilzer: That was put in at the request of health care people. It feels that some of their psychiatric patients, who are often smokers, would not come to the hospital if nonsmoking.

Rep. Kreidt: Couldn't we say the same thing about residence in nursing homes? They have smoked for tons of years.

Sen. Kilzer: People who are in their own private dwelling are not effected by SB2300.

Rep. Weisz: Why are you exempting hotel rooms?

Sen. Kilzer: We would still keep smoking and nonsmoking rooms like present.

Rep. Joyce Kingsbury, Dist. 16: Sponsor & support of SB2300. (SEE ATTACHED #2) (1146)

Rep. Lee Kaldor, Dist. 20: sponsor and support of SB 2300. (SEE ATTACHED #3)

Rep. Porter: What happens during a play when the actors go to light up a smoke during a play?

Rep. Kaldor: Can't do it. If the committee wants other exemptions, they can so do.

Rep. Kreidt: Under the penalty provision, there are penalties for the owner or supervisor of a business if they are in violation of this bill. Is there any penalty for the person who comes in to my business and lights up?

Rep. Kaldor: If you don't take any action, I doubt he would be fined. It's the responsibility of the business owner or manager. We are not criminalizing smoking.

Rep. Potter: On the exemption on #5, why was H added.

Rep. Kaldor: That was done in the senate. I think it was VFW, AMVETS, and it's tradition.

Dr. John Windsor, MedCenter One, Bismarck, ND: In support of bill. (SEE ATTACHED)

David Smith: testified in support. 7 years old. (SEE ATTACHED #6)

Gordy Smith: Here to testify in support of SB 2300. (SEE ATTACHED #7)

Kelly Buettner-Schmidt, Asst. Prof. of Nursing & Project Director of the Tobacco

Education, Research & Policy - Minot State University: Here to give information. (SEE ATTACHED #8).

Deborah Knuth - Dir. of Government Relations - American Cancer Society in ND: (4250)
Support SB 2300 (SEE ATTACHED LETTER #9)

Kathleen Mangskau - Director Tobacco Prevention & Control - ND Dept. Of Health:
(4483) I support SB 2300. (SEE ATTACHED #10).

Rep. Kaldor: One of the questions that was brought up earlier was when the community votes and they turn down a ban. How do you feel about this law. Should we have a right to preempt what a local community decides and if so, why.

Kathleen: In order to enforce this we would have to get a legal opinion. In most cases state laws over rule local laws, unless there is the right for something stronger.

June Herman - Senior Advocacy Director, American Heart Assoc.: Support (Attached #11)

Rep. Nelson: You referred to the competitiveness between cities with lack of a good state comprehensive policy. If we pass this bill, where would ND rank regionally with states around us?

June: A real plus with this is that Moorhead is ready to take this up again. SD does have smoke free policies for those except malt or liquor license. Don't know about MT. **(Tape 1 ends)**
(begin Tape 2, side A)

Janel Smith - American Lung Assn: support SB 2300?(SEE ATTACHED #12)

Chair Price: Let's begin with opposition now.

Rep. Wrangham: We need to remember that there is a segment of the population that do smoke. It is legal and people do it. I passed out the editorial from Fargo paper. **(Attached #13)** Please let people do what they want during their entertainment hours. I think you should remove the August 1 sunset clause on bars. You should not cause the value of these establishments to decrease.

Bill Shalhoob- ND Hospitality Assn: (300) We are opposed to SB 2300 and have some amendments. Please read all the letters I passed out. It's also a property rights issue. The voters

of Dickinson rejected this ban. Minot passed it that is different from Fargo and West Fargo.(**SEE ATTACHED #14**)

Lowell Thomas, Minot, ND - Pres of ND Tournament Assoc.: Here on my own behalf opposed to this bill. (**SEE ATTACHED #16**).

Rep. Nelson: Being part of a bowling alley, do you have any programs? Are there nonsmoking leagues?

Lowell: I would have to let someone else address that. I just deal with the bar industry.

Warren Schneider, Bottineau, ND: opposed to SB 2300. I won a tavern. This bill scares the heck out of me. All my bar tenders smoke. They have to take their breaks inside because I am a very small business. Who will I hire if this law passes. My wife and I don't smoke. My customers did not ask for this law. Catering to our customers is what our business is all about. Laws like this one that could affect so many business in such a negative way, should be left to our own local governments.

Vicki Wagner - ND Council of Veterans, Fraternal & Charitable Organizations Secr;

AMVETS Gaming Manager: (1516) opposed to SB 2300. I bring a letter from Joan Carmen. (**SEE ATTACHED #17a and 17b**)

Jim Melon, Mandan, ND: I own a bowling center in Mandan. I oppose SB 2300. We have junior programs that are a nonsmoking environment. We have a state tournament for Special Olympics that 600 kids and adults come to and this is totally smoke free. I am against this 100%.

Pete Hauck, Fargo, ND: (2212) opposed to SB 2300. I own the bar and restaurant at Hector Airport. I was forced to go smoke free by airport regulations. My bar sales decreased by 27%. I

lost all the local customers I had. I'm 95% airline related. The airport is completely smoke free, so those customers have no where to go.

Rep. Kaldor: When did the airport authority require smoke-free?

Pete: Two years ago this May. This is 2004 compared to 2003. We pay for parking for our Patrons. Restaurant sales have gone up, but down in bar. They aren't going to the bar.

Gary Huber, Minot, ND: I own three bars. I am a nonsmoker. I oppose SB 2300. In July 2003, I opened a nonsmoking bar. During six months I lost \$88,000. I went to smoking and my revenues raised 200%. 50% of my customers are smokers and 35 employees are smokers. I have air exchangers and spent \$160,000 to do this. I think they work and have had very little complaint.

Rick LaFleur, coin machine operator, Devils Lake, ND: Oppose SB2300. I have come to the conclusion that the state of ND smokes. Not the people, but the state. The state of ND gets a lot of revenue from smoking and tobacco settlement. Either make smoking illegal or recognize it as a right of the citizens. The settlement money will not come unless the tobacco companies can pay. I do not smoke. My father-in-law died from lung cancer. This is about choice. No one in my family smokes. I go to smoke free places. (3377) I have passed out testimony from a bar owner in Devils Lake. (Attached #21)

Shauna Kolobakken, Landing Bar/Bottle Shop, Minot, ND: I oppose this and resent the fact that some committee organizations thinks they have the right to come in to privately owned business and dictate what they can and can't do. (SEE ATTACHED #22)

Todd Kranda - Kelsch Law Firm, attorney: I appear here on behalf of Charitable Gaming Assn. of ND. In opposition, but support the amendments brought by Hospitality Assn.

Alan Leier, Bismarck, ND: (4270) Opposed to SB 2300. (SEE ATTACHED #23)

Morris Anderson, Minot, ND: (5000) I have a 40 lane bowling alley. I opposed this bill. I have been in business for 47 years. My lounge seats 310 people. My restaurant is nonsmoking. Four or five years ago, my grandson made me aware of how smoky and bad the air was in my business.

We looked in to a system to help air exchange. We bought some units and what a change. We were so pleased. It was very costly. I think we can do things that help when you have smoking environment. We don't need big brother to mandate everything. Our kids leagues are totally smoke free for that period. Don't think we need to have such a tough law. My grandsons are the ones that jumped down on me and that is a good thing. **(end side A, Tape 2 - begin side B)**

Rep. Kaldor: What do the units cost you put in.?

Morris: About \$2600-\$2700 a unit. We change our own filters every two weeks. It is better for my employees not to breath in the smoke.

Mike O'Brien, Dakota Music owner, Bismarck, ND: We are a coin operated business.

Opposed to SB 2300. My son and his wife would like to move back here. I am trying to buy two separate companies in ND. They would take a combined \$60,000 decrease in pay to move back. My company can't survive even a 10% decrease in revenues. If this bill passes, this will mean 30% to 40% decrease in revenue. Nickie Weismann passed out information and letters. **(SEE ATTACHED #13)** How much more should I invest in ND if business are going to keep adding taxes and mandates like this. ND is not going to progress. Vote NO unless you add the amendments brought by hospitality people. We have three nonsmoking bars in Bismarck. There is not a one that is busy. They are Expressway Inn and Tropical Island in Bismarck, and Rats Bar in Mandan. **(No more opposition - HEARING IS CLOSED) (715)**

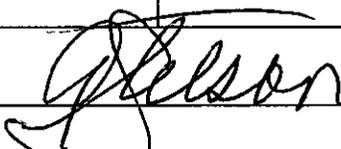
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2300

House Human Services Committee

Conference Committee

Hearing Date 3-22-05

Tape Number	Side A	Side B	Meter #
1	xx		1030--6395
Committee Clerk Signature 			

Minutes: **Chair Price:** Let's look at SB 2300. (tape can't be heard in the beginning)

Rep. Kreidt: On the medical exemptions, I propose #1 and adding #2 and add wording of "not with standing the provisions of any other state or local law..... May smoke on the facility grounds if approved by the board of said facility.

(Discussion could not be heard on the tape)

Chair Price: Do we have any other amendments from the committee?

Rep. Damschen: I am still drafting it. I have a problem on page 6, section 3, subsection 2. The e-mail has been overwhelming for this bill. They want local control. Could we insert "retain a level of local control"?

Rep. Weisz: I don't have a problem with the Damschen amendment. Dickinson established a president, I think. What about stringent control?

Rep. Porter: The one way to address this is on line 22 change "more" have the word "less", and then "less" could be down to the level of nothing if that's what the local community decides. So you would have " provides less stringent protection from the hazards of tobacco smoke". That could be lesser

restrictive ordinance. You see that in Dickinson, because they are rather isolated from larger areas. Fargo and West Fargo is different because one has a definite advantage over the other. Right now we have different levels of the law in those areas. Restaurants say this would level the field a bit. Dickinson said "no", by the vote of the people.

Rep. Kaldor: I want to pass out some information from American Lung, American Heart, and Cancer Assn. In Dickinson, they had a much more restrictive piece before them, not SB 2300. Some communities are waiting for us to take care of the unfair playing field. This bill is not as restrictive as the Dickinson ordinance was. Smoking is a social issue. People are addicted to it. They consider it a social right.

Rep. Kreidt: I move (can't hear most of it) Delete exemption #2 insert nursing facility (can't hear words on tape).....

Rep. Devlin: Was that a resident?

Rep. Kreidt: Yes, not staff.

Rep. Porter: I second.

Rep. Kaldor: Does that specify an area or can it be any where in the facility?

Rep. Kreidt: Nursing homes do not allow smoking in their rooms. There is a designated area set up with ventilation so it does not affect staff or other residents..

VOICE VOTE: 11 yes and 1 no. Amendment #1 passed.

Chairman Price: Any further discussion or amendments?

Rep. Kreidt moved as Do Pass as Amended.

Rep. Potter: Second Vote: 10-2-0 Carrier: Rep. Kaldor (Tape malfunctioned at different times during meeting.)

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2300

Page 5, line 19, remove ", until August 1, 2007"

Page 5, line 22, remove ", until August 1, 2007"

Renumber accordingly

Date: 3/22/05

Amnd
3

Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 2300

House Human Services Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken _____

Motion Made By _____ Seconded By _____

Representatives	Yes	No	Representatives	Yes	No
Chairman C.S. Price	✓		Rep.L. Kaldor		✓
V Chrm.G. Kreidt	✓		Rep.L. Potter		✓
Rep. V. Pietsch	✓		Rep.S. Sandvig		✓
Rep.J.O. Nelson	✓				
Rep.W.R. Devlin	✓				
Rep.T. Porter	✓				
Rep.G. Uglem		✓			
Rep C. Damschen		✓			
Rep.R. Weisz	✓				

Total () 7 No 5

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 3/22/05

Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL
BILL/RESOLUTION NO. HB 2306

House Human Services Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Amd

Motion Made By Rep. Kreidt Seconded By Rep. Patten

Representatives	Yes	No	Representatives	Yes	No
Chairman C.S. Price	✓		Rep.L. Kaldor	✓	
V Chrm.G. Kreidt	✓		Rep.L. Potter	✓	
Rep. V. Pietsch	✓		Rep.S. Sandvig	✓	
Rep.J.O. Nelson		✓			
Rep.W.R. Devlin	✓				
Rep.T. Porter	✓				
Rep.G. Uglem	✓				
Rep C. Damschen	✓				
Rep.R. Weisz		✓			

Total Yes 10 No 2

Absent 0

Floor Assignment Rep. Kaldor

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2300, as engrossed: Human Services Committee (Rep. Price, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (10 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2300 was placed on the Sixth order on the calendar.

Page 1, line 1, after "to" insert "create and enact a new section to chapter 23-12 of the North Dakota Century Code, relating to smoke-free exceptions; to"

Page 2, line 11, after "beverages" insert ", including bars located within hotels or restaurants which are in separate enclosed areas vented directly to the outdoors which are not licensed primarily or exclusively to sell alcoholic beverages"

Page 2, line 26, replace "Health care services" with:

"7. "Health care services""

Page 2, line 27, after the fifth underscored comma insert "and" and replace ", and" with an underscored period

Page 2, remove lines 28 and 29

Page 2, line 30, replace "7." with "8."

Page 3, line 4, replace "8." with "9."

Page 3, line 22, replace "9." with "10."

Page 3, line 25, replace "10." with "11."

Page 4, line 1, replace "11." with "12."

Page 4, line 4, replace "12." with "13."

Page 4, line 6, replace "13." with "14."

Page 4, line 9, replace "14." with "15."

Page 5, remove lines 17 and 18

Page 5, line 19, replace "g." with "f." and remove ", until August 1, 2007"

Page 5, replace lines 20 through 22 with:

"g. Any place of public access rented or leased for private functions from which the general public and children are excluded and arrangements for the function are under the control of the function sponsor."

Page 6, after line 24, insert:

"SECTION 4. A new section to chapter 23-12 of the North Dakota Century Code is created and enacted as follows:

Exceptions - Medical necessity.

1. Notwithstanding the provisions of any other state or local law, a patient may smoke in a hospital licensed by the state or on the grounds of a

hospital licensed by the state if the patient's attending physician authorizes the activity based on medical policies adopted by the hospital organized medical staff.

2. Notwithstanding the provisions of any other state or local law, a resident of a licensed basic care facility or a licensed nursing facility may smoke in the facility or on the grounds of the facility if approved by the board of the facility."

Renumber accordingly

2005 SENATE INDUSTRY, BUSINESS AND LABOR

CONFERENCE COMMITTEE

SB 2300

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2300

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date 4-04-05

Tape Number	Side A	Side B	Meter #
1		xxxx	2156-4800
Committee Clerk Signature <i>Lisa Van Berkom</i>			

Minutes: Chairman Krebsbach called the conference committee to order. Members present were:

Chairman Krebsbach, Senator Klein, Senator Heitkamp, Rep. Kreidt, Rep. Pietsch, Rep. Kaldor.

Chairman Krebsbach requested someone from the House explain the amendments to the bill.

Rep. Kreidt: We passed the bill with what I thought was a good bill. The amendments were the two exceptions in regard to medical necessity and those two involved hospitals or grounds and the intent behind that was directed toward residents and patients of those institutions.

Senator Klein: We put those in.

Rep. Kreidt: We added the medical provisions in the House. The other one that we added in, was bars. We exempted bars from having to be smoke free. We removed the sunset.

Senator Klein: In addition, did you also remove fraternal organizations?

Rep. Kaldor: Page 5, lines 20-22, we inserted language that would include fraternal organizations which became section G.

Senator Klein: Then the fraternal groups are no longer exempt.

Page 2

Senate Industry, Business and Labor Committee

Bill/Resolution Number SB 2300

Hearing Date 4-04-05

Rep. Kaldor: That is correct.

Rep. Pietsch: I think that fraternal organizations have their own separate bars.

The conference committee reviewed the bill and proposed amendments and thoughts of possible amendments.

Chairman Krebsbach called the hearing to recess.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2300

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date 4-06-05

Tape Number	Side A	Side B	Meter #
1	xxx		2044-6000
Committee Clerk Signature <i>Lisa Van Berkorn</i>			

Minutes: Chairman Krebsbach convened the conference committee on SB 2300.

Members of the committee were:

Senators

Representatives

Chairman Krebsbach

Rep. Kreidt

Senator Klein

Rep. Pietsch

Senator Heitkamp

Rep. Kaldor

Rep. Kaldor: I do have an amendment that I will hand out, relating to the penalty section that we discussed last week. This is amendment 307 prepared by legislative council and you will notice on this amendment that it has the language for a motion so it relates to the receding to the House amendments and is based on the engrossed Senate bill. What this does is makes the individual who is smoking in a prohibited area subject to an infraction. It moves the owner of the property into second. I would move this motion.

Senator Heitkamp: Second.

Senator Klein: I think we are moving in the right direction, I just don't know why the supervisor or owner would fall in here some how. This is important, but I still think they shouldn't be held responsible.

Rep. Kaldor: The way that this operates, the person committing the act is first, subject to the penalty. Now before we would go to the owner, that would be the first line of remedy. I do believe this is for discussion purposes. The person responsible for the building needs to be responsible for what happens to a degree.

Senator Klein: I guess I was still looking at taking the owner off of the hook. I just wonder if we are going a little too far. We are reaching way out there.

Senator Heitkamp: I support the amendment. I talks about and puts the responsibility on the smoker. I agree with Rep. Kaldor. The person that controls the building, controls the building. If they are not in control of what is happening there, where you can prove that they are allowing this to happen there, then we should just kill the bill because to me, this is no different than a kid that isn't twenty-one comes in the bar and the bar owner doesn't do anything, at some point, the person running the bar has got to kick them out.

Rep. Kreidt: I agree with Senator Heitkamp and Rep. Kaldor. I don't think it is fair to place the total responsibility on the owner of the business and the smoker had no responsibility at all. It is a two-way street. We have to have recourse for the smoker.

Roll Call Vote for adoption of amendment .0307

6 yes. 0 no. 0 absent.

Senator Klein presented amendment 58264.0316.

Senator Klein: This just takes the owner off of the hook. My thought was I don't see where the owner should have any responsibility with this. I move the amendment.

Senator Heitkamp seconded the amendment but doesn't support it.

Roll Call Vote: 1 yes. 5 no. Motion failed.

Senator Klein: I had an amendment drafted to address the concerns we talked about with golf courses and out door sporting events. The language does say they are exempt. If you put it in there, it could cause more trouble. If you are out golfing, you can smoke outside.

Senator Krebsbach: For the record, golf courses are exempt and the committee agrees with this.

Rep. Kreidt: I am very confident that we are okay with that.

Rep. Kaldor: How would you interpret this? If a nonsmoker saw a smoker smoking, and wanted to tell on them, the Attorney General said that that would not be an enforceable infraction.

Senator Heitkamp: You can't get into that game, if you read the bill, the way it is now, they are already exempt. The people who don't think so are looking for boogie men. If we start getting into the exempt game, we are going to be here until June.

Rep. Kreidt: I don't have an amendment, but I know this is a concern in regards to truck stops. We have many large truck stops out there that may be hurt by this bill. There would be no children in that area, and if we had truckers that knew they couldn't smoke, they might just drive through North Dakota and create a real hardship for these places. Just for discussion.

Senator Klein: That issue came in one of my discussions and I think you will see on page 2, under H, we have created a description of truck stops, however, what I felt we needed to add was "separately enclosed, accessible only to adults".

Rep. Kreidt: The truck stops, they do have a nice cafe and they would be smoke free. I think I could support the amendments.

Senator Heitkamp: Isn't the argument that Senator Klein is bringing applicable to every business? If we start talking about what business is important and what isn't, at what point are we deciding that one business is more important than any other? I won't support this amendment.

Senator Klein moved the amendments. Rep. Kreidt seconded.

Rep. Kaldor: I won't vote for this amendment.

Roll Call Vote: 4 yes. 2 no. 0 absent. Motion carries and the amendment is adopted.

Rep. Kaldor: I have concerns about separate and ventilated areas and this amendment would address this issue. I am concerned that we are going to have these people go to the expense of ventilating and separating and then in the future, we ban smoking all together and they went to all this expense. Legislative Council is drafting the amendments.

Chairman Krebsbach: We will call a recess until a later time.

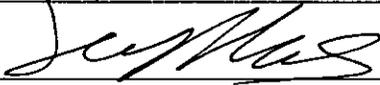
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2300

Senate Industry, Business and Labor Committee

X Conference Committee

Hearing Date April 8, 2005

Tape Number	Side A	Side B	Meter #
1	X		1-2408
Committee Clerk Signature 			

Minutes: **Chairman Krebsbach called the conference committee to order to discuss SB 2300. Members were Senators Krebsbach, Klein, & Heitkamp, and Representatives Kreidt, Pietsch, & Kaldor.**

Representative Kreidt presented amendments to members of the committee. The amendments remove ventilation systems from the bill on page 2, line 11. If a complete smoking ban were to take place in the future, it would basically be a waste of money for those businesses to install ventilation systems. Ventilation systems give people a false sense of security, people who still be breathing in second hand smoke.

Representative Kreidt made a motion to adopt the amendments (0.0321). Seconded by Representative Kaldor.

Discussion:

Senator Krebsbach- I am not in favor of removing the ventilation systems from this bill. I think that even though your arguments are valid, a certain amount of the carcinogens are removed by the ventilation systems. I will not support the amendment.

Senator Klein- We need to create a comfort level for people. It remains an option to sit in a smoking area. We need to leave the ventilation systems in place in the legislation, I think it will help pass the bill.

Representative Kaldor- I will be supporting the amendments. If we remove that language from the bill, we are removing a mandate. Any business that decides they are going to separate an area for smoking, would have to spend the money on ventilation systems. It is a false sense of security, there isn't any evidence that indicates ventilation removes the dangerous elements of smoking from the air. This amendment is definitely a compromise.

Senator Heitkamp- I think that the bars don't want to do ventilation. The people that want smoking being banned completely realize that installing ventilation systems in bars will make it a more difficult for a permanent ban in the future. I think both sides of the issue would like to see these amendments passed.

Representative Kreidt- The cost can vary on ventilation systems, there are some that are very expensive and it would not be worth it for businesses to invest a large amount of money in it at this point.

The vote was 3-3-0, with the motion failing. Voting in favor was Senator Heitkamp and Representatives Kreidt & Kaldor. Voting in opposition were Senators Krebsbach & Klein, and Representative Pietsch.

Senator Klein introduced an amendment to the committee. He made a Do Pass recommendation for amendment (58264.0315). Seconded by Pietsch.

Senator Klein- The language is similar to Representative Kaldor's as it relates to bowling centers. Having a bar directly vented to the outdoors is very important.

Senator Heitkamp- I believe that by going into the ventilation business is going to cause problems down the road. I'm going to oppose the amendment because I think we are setting up business owners for major failure in regards to the money they will be putting in to these systems.

Representative Kaldor- This bill was about worker safety and health, we are doing nothing for that if we pass language like this with ventilation systems in place. This would be setting us up for failure in the future, giving people a false impression. We cannot pretend that something is healthy, when it really is not.

Senator Klein- The alternative is people would be in a place without ventilation, which would be more of a hazard to people's health. Some of the language in my amendment is similar to what the voters in Minot passed for their smoking ban.

Senator Heitkamp- The proposed amendments do not accomplish what they intend to do. I am cautious on what could come into place with a smoking ban initiative. If this was put to a vote of the people, and businesses make these investments in ventilation systems, they will be the ones at the losing end down the road. Let's acknowledge the fact that as far as the North Dakota Legislature goes, that we are not ready to ban smoking in bars at this time.

The vote on amendment (0.0315) on SB 2300. The vote was 4-2-0, with the proposed amendments passing. Voting in favor were Senators Krebsbach & Klein, and

Representatives Kreidt & Pietsch. Voting in opposition was Senator Heitkamp & Representative Kaldor.

Senator Klein presented an amendment that would eliminate employer owned vehicles from being smoke-free. The business owner needs to make that decision on their vehicles.

Senator Klein made a Do Pass recommendation on the amendment (0.0317). Seconded by Senator Heitkamp.

Senator Heitkamp- If a truck driver wants to smoke in their truck as they go across our state, and their employer approves of it, that is their own business. I don't see the bill as it is going forward to have the North Dakota Highway Patrol as the "smoke police" if it comes down to that. If we start getting in the exemption business, it is going to come down to those areas where the general public congregates. I think that this amendments is going to make things even more confusing.

Representative Kreidt- I'm going to oppose any further amendments to this bill, I don't want to see it watered down any further.

Representative Kaldor- I don't think this is something that is going to get enforced, and I don't know if we need employer owned vehicles in the language of this bill.

The vote on the adoption of amendment (0.0317) was 3-3-0, with the motion failing. Voting in favor were Senators Krebsbach & Klein, and Representative Kaldor. Voting in opposition was Senator Heitkamp and Representatives Kreidt & Pietsch.

Senator Klein introduced an amendment to the committee. The bar and restaurant in some places is often seperated by a wall. This amendment exempts bars and restaurants in

Page 5

Senate Industry, Business and Labor Committee

Bill/Resolution Number SB 2300

Hearing Date April 8, 2005

communities of less than a thousand people from the smoking ban. He received this idea from constituents in small towns in his district.

Senator Klein made a Do Pass recommendation on the amendment (0.0319). Seconded by Senator Heitkamp.

The vote was 2-4-0, with the motion failing. Voting in favor was Senator Klein & Representative Pietsch. Voting in opposition were Senators Krebsbach & Heitkamp, and Representatives Kreidt & Kaldor.

Chairman Krebsbach closed the conference committee meeting on SB 2300. No further action was taken.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2300

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date 4-12-05

Tape Number	Side A	Side B	Meter #
1	xxx		0
Committee Clerk Signature <i>Lisa Amber Korn</i>			

Minutes:

Chairman Krebsbach reopened the conference committee on SB 2300. All members were present.

Chairman Krebsbach: Are there any new amendments?

Senator Klein: It was brought to my attention, that the authority of the Labor Commissioner would be writing the rules. There was discussion that the legislature should decide the rules.

I would move 58264.0324.

Rep. Kreidt seconded.

Senator Heitkamp: There are some of us that believe that the Labor Commissioner has authority on some of these circumstances now already. I do. I also believe that we don't want to hand cuff the commissioner from dealing with some of these issues. I also think that it will respond to where the general public is at. I am concerned that there is starting to be three different groups. The ones that never wanted this bill to happen, the ones that no matter what, the

Page 2

Senate Industry, Business and Labor Committee

Bill/Resolution Number SB 2300

Hearing Date 4-12-05

bill has become such a good number to them, they are going to vote for it anyway, but the middle group is the one that if you keep tacking more and more amendments on this bill, such as we have done, they are going to vote against this bill.

Senator Klein: I disagree. The venting stuff was part of the House amendment that we never touched. Our amendments have been benign. I don't think that is the case.

Senator Krebsbach: It is not my intent to amend this bill until it is killed. I want the best bill possible for the state at this time, granted, neither side will be completely happy. But at least it's a start.

The hearing was closed. No action was taken.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2300

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date 4-13-05

Tape Number	Side A	Side B	Meter #
2	xxx		0-2900
Committee Clerk Signature <i>Lisa Van Berken</i>			

Minutes: Chairman Krebsbach called the conference committee back to order. Members present were Senator Krebsbach, Senator Klein, Senator Heitkamp, Rep. Kreidt, Rep. Pietsch, Rep.Kaldor.

Chairman Krebsbach: Please look over the amendments 58264.0327. That is the most current. Have you had a chance to review what has been done? To simplify the process, rather than take a motion to adopt individually, the new things that are in this amendment entirety that would take care of the process that is needed.

Senator Heitkamp: So moved, Chairman.

Rep. Pietsch seconded.

There was no discussion.

Chairman Krebsbach: Chris (intern) has prepared an addendum for us as to all of the changes and the current form of the bill. At this time, it is distributed to the committee.

Roll Call Vote: 6 yes. 0 no. 0 absent. **Carrier:** Senator Krebsbach

58264.0306
Title.

Prepared by the Legislative Council staff for
Representative Kaldor
April 4, 2005

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2300

That the Senate accede to the House amendments as printed on pages 1034 and 1035 of the Senate Journal and page 1268 of the House Journal and that Engrossed Senate Bill No. 2300 be further amended as follows:

Page 3, line 3, after the first underscored comma insert "and" and remove ", and employer-owned vehicles"

Page 5, line 5, replace "for" with "of"

Renumber accordingly

Date: 4-6-05
 Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2300

Senate Industry, Business, and Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Adopt Kaldor's Amendment 0307

Motion Made By Rep. Kaldor Seconded By Heitkamp

Senators	Yes	No	Senators	Reps	Yes	No
Chairman Mutch			Senator Fairfield			
Senator Klein	X		Senator Heitkamp			
Senator Krebsbach	X		Rep. Kriedt		X	
Senator Espgaard			Rep. Pietsch		X	
Senator Nothing			Rep. Kaldor		X	
Sen. Heitkamp	X					

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 4-6-05
Roll Call Vote #: 3

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2300

Senate Industry, Business, and Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken 58264.0316 (Klein's)

Motion Made By Klein Seconded By Kreidt

Senators	Yes	No	Senators	Yes	No
Chairman Match			Senator Fairfield		
Senator Klein	X		Senator Heitkamp		
Senator Krebsbach	X		Rep. Kreidt	X	
Senator Espgaard			Rep. Pietsch	X	
Senator Netting			Rep. Kaldor		X
Sen. Heitkamp		X			

Total (Yes) 4 No 2

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2300

That the House recede from its amendments as printed on pages 1034 and 1035 of the Senate Journal and page 1268 of the House Journal and that Engrossed Senate Bill No. 2300 be amended as follows:

Page 1, line 1, after "to" insert "create and enact a new section to chapter 23-12 of the North Dakota Century Code, relating to smoke-free exceptions; to"

Page 2, line 11, after "beverages" insert ", including a bar located within a hotel, bowling center, or restaurant which is in a separately enclosed area and which is not licensed primarily or exclusively to sell alcoholic beverages"

Page 2, line 26, replace "Health care services" with:

"7. "Health care services""

Page 2, line 27, after the fifth underscored comma insert "and" and replace ", and" with an underscored period

Page 2, remove lines 28 and 29

Page 2, line 30, replace "7." with "8."

Page 3, line 4, replace "8." with "9."

Page 3, line 22, replace "9." with "10."

Page 3, line 25, replace "10." with "11."

Page 4, line 1, replace "11." with "12."

Page 4, line 4, replace "12." with "13."

Page 4, line 6, replace "13." with "14."

Page 4, line 9, replace "14." with "15."

Page 4, after line 13, insert:

"16. "Truckstop" means a roadside service station and restaurant that caters to truckdrivers."

Page 5, line 5, replace "for" with "of"

Page 5, remove lines 17 and 18

Page 5, line 19, replace "g." with "f." and remove ", until August 1, 2007"

Page 5, replace lines 20 through 22 with:

- "g. Any place of public access rented or leased for private functions from which the general public and children are excluded and arrangements for the function are under the control of the function sponsor.
- h. Separately enclosed areas in truckstops which are accessible only to adults."

Page 6, after line 24, insert:

"SECTION 4. A new section to chapter 23-12 of the North Dakota Century Code is created and enacted as follows:

Exceptions - Medical necessity.

1. Notwithstanding the provisions of any other state or local law, a patient may smoke in a hospital licensed by the state or on the grounds of a hospital licensed by the state if the patient's attending physician authorizes the activity based on medical policies adopted by the hospital organized medical staff.
2. Notwithstanding the provisions of any other state or local law, a resident of a licensed basic care facility or a licensed nursing facility may smoke in the facility or on the grounds of the facility if approved by the board of the facility."

Renumber accordingly

April 12, 2005

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2300

That the House recede from its amendments as printed on pages 1034 and 1035 of the Senate Journal and page 1268 of the House Journal and that Engrossed Senate Bill No. 2300 be amended as follows:

Page 1, line 1, after "to" insert "create and enact a new section to chapter 23-12 and a new section to chapter 34-06 of the North Dakota Century Code, relating to smoke-free exceptions and the authority of the labor commission; to"

Page 2, line 11, after the underscored period insert "The term includes a bar located within a hotel, bowling center, or restaurant that is not licensed primarily or exclusively to sell alcoholic beverages if the bar is in a separately enclosed area vented directly to the outdoors."

Page 2, line 26, replace "Health care services" with:

"7. "Health care services""

Page 2, line 27, after the fifth underscored comma insert "and" and replace ", and" with an underscored period

Page 2, remove lines 28 and 29

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Page 4, line 9, replace "14." with "15."

Page 4, after line 13, insert:

"16. "Truckstop" means a roadside service station and restaurant that caters to truckdrivers."

Page 5, line 5, replace "for" with "of"

Page 5, remove lines 17 and 18

Page 5, line 19, replace "g." with "f." and remove ", until August 1, 2007"

Page 5, replace lines 20 through 22 with:

- "g. Any place of public access rented or leased for private functions from which the general public and children are excluded and arrangements for the function are under the control of the function sponsor.
- h. Separately enclosed and separately ventilated areas in truckstops which are accessible only to adults."

Page 6, after line 24, insert:

"**SECTION 4.** A new section to chapter 23-12 of the North Dakota Century Code is created and enacted as follows:

Exceptions - Medical necessity.

1. Notwithstanding the provisions of any other state or local law, a patient may smoke in a hospital licensed by the state or on the grounds of a hospital licensed by the state if the patient's attending physician authorizes the activity based on medical policies adopted by the hospital organized medical staff.
2. Notwithstanding the provisions of any other state or local law, a resident of a licensed basic care facility or a licensed nursing facility may smoke in the facility or on the grounds of the facility if approved by the board of the facility."

Page 6, line 27, after "proprietor" insert:

- "1. An individual who smokes in an area in which smoking is prohibited under section 23-12-10 is guilty of an infraction.
- 2."

Page 6, line 30, after "who" insert "willfully"

Page 7, after line 2, insert:

"**SECTION 6.** A new section to chapter 34-06 of the North Dakota Century Code is created and enacted as follows:

Authority of labor commissioner - Exception. Notwithstanding section 34-06-03, the labor commissioner may not adopt rules relating to sections 23-12-09 through 23-12-11. If the labor commissioner is made aware of a possible violation of chapter 23-12, the commissioner may refer the violation to an appropriate law enforcement agency for enforcement pursuant to section 23-12-11."

Renumber accordingly

Date: 4-18-05
 Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. 2300

Senate ~~Human Services~~ IBC Committee

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Adopt Amendments ~~580~~ (5826 + .0324)

Motion Made By Klein Seconded By Kaldor

Senators	Yes	No	Representatives	Yes	No
Chair Krebsback			Rep Kredit		
Sen. Klein			Rep. Pietsch		
Sen. Heitkamp			Rep Kaldor		

Total (Yes) Withdrawn No

Absent _____

Floor Assignment Motion Withdraw

If the vote is on an amendment, briefly indicate intent:

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2300

That the House recede from its amendments as printed on pages 1034 and 1035 of the Senate Journal and page 1268 of the House Journal and that Engrossed Senate Bill No. 2300 be amended as follows:

Page 1, line 1, after "to" insert "create and enact a new section to chapter 23-12 of the North Dakota Century Code, relating to smoke-free exceptions; to"

Page 2, line 11, after the underscored period insert "The term includes a bar located within a hotel, bowling center, or restaurant that is not licensed primarily or exclusively to sell alcoholic beverages if the bar is in a separately enclosed area vented directly to the outdoors."

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Page 4, after line 13, insert:

"16. "Truckstop" means a roadside service station and restaurant that caters to truckdrivers."

Page 5, line 5, replace "for" with "of"

Page 5, remove lines 17 and 18

Page 5, line 19, replace "g." with "f." and remove ", until August 1, 2007"

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- "g. Any place of public access rented or leased for private functions from which the general public and children are excluded and arrangements for the function are under the control of the function sponsor.
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Page 6, after line 24, insert:

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Page 6, line 27, after "~~proprietor~~" insert:

- "1. An individual who smokes in an area in which smoking is prohibited under section 23-12-10 is guilty of an infraction.
- 2."

Page 6, line 30, after "who" insert "willfully"

Renumber accordingly

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2300

That the House recede from its amendments as printed on pages 1034 and 1035 of the Senate Journal and page 1268 of the House Journal and that Engrossed Senate Bill No. 2300 be amended as follows:

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Page 2, line 11, after the underscored period insert "The term includes a bar located within a hotel, bowling center, or restaurant that is not licensed primarily or exclusively to sell alcoholic beverages if the bar is in a separately enclosed area."

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Page 7, after line 2, insert:

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Authority of labor commissioner - Exception. Notwithstanding section 34-06-03, the labor commissioner may not adopt rules relating to sections 23-12-09 through 23-12-11. If the labor commissioner is made aware of a possible violation of chapter 23-12, the commissioner may refer the violation to an appropriate law enforcement agency for enforcement pursuant to section 23-12-11."

Renumber accordingly

Proposed amendments 58264.0327 make the following changes to Engrossed Senate Bill No. 2300 (58264.0300):

- Bars are exempted from the smoking ban forever, there is no sunset
 - o Bars now include what we normally think of as a bar plus any bar that is within a hotel, bowling center, or restaurant if the bar is in a separately enclosed area
- Employer-owned vehicles are not places of employment and therefore do not have to be smoke-free
- As stated above, the August 1, 2007 sunset on the bar exemption is removed by these amendments
- Two additional exemptions are added by these amendments
 - o (1) Any place of public access that is rented for a private function, that excludes the general public and children, is exempted from the smoking ban
 - o (2) Separately enclosed areas in truckstops which are accessible only to adults are exempted from the ban
- A patient may smoke in a hospital that is licensed by the state if the patient's physician authorizes the smoking
 - o A resident of a licensed basic care or nursing facility may smoke in the facility if approved by the facility's board
- This amendment adds a penalty for individuals who smoke in an area where smoking is prohibited under 23-12-10
- To be guilty of an infraction, a business owner must willfully fail to comply with section 23-12-10
- The amendment provides that the labor commissioner may not adopt rules relating to sections 23-12-09, 23-12-10, or 23-12-11
- If the labor commissioner is made aware of a violation of chapter 23-12, the labor commissioner may refer the violation to law enforcement for enforcement pursuant to 23-12-11

REPORT OF CONFERENCE COMMITTEE

SB 2300, as engrossed: Your conference committee (Sens. Krebsbach, Klein, Heitkamp and Reps. Kreidt, Pietsch, Kaldor) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 1034-1035, adopt amendments as follows, and place SB 2300 on the Seventh order:

That the House recede from its amendments as printed on pages 1034 and 1035 of the Senate Journal and page 1268 of the House Journal and that Engrossed Senate Bill No. 2300 be amended as follows:

Page 1, line 1, after "to" insert "create and enact a new section to chapter 23-12 and a new section to chapter 34-06 of the North Dakota Century Code, relating to smoke-free exceptions and the authority of the labor commissioner; to"

Page 2, line 11, after the underscored period insert "The term includes a bar located within a hotel, bowling center, or restaurant that is not licensed primarily or exclusively to sell alcoholic beverages if the bar is in a separately enclosed area."

Page 2, line 26, replace "Health care services" with:

"7. "Health care services""

Page 2, line 27, after the fifth underscored comma insert "and" and replace ", and" with an underscored period

Page 2, remove lines 28 and 29

Page 2, line 30, replace "7." with "8."

Page 3, line 3, after the first underscored comma insert "and" and remove ", and employer-owned vehicles"

Page 3, line 4, replace "8." with "9."

Page 3, line 22, replace "9." with "10."

Page 3, line 25, replace "10." with "11."

Page 4, line 1, replace "11." with "12."

Page 4, line 4, replace "12." with "13."

Page 4, line 6, replace "13." with "14."

Page 4, line 9, replace "14." with "15."

Page 4, after line 13, insert:

"16. "Truckstop" means a roadside service station and restaurant that caters to truckdrivers."

Page 5, line 5, replace "for" with "of"

Page 5, remove lines 17 and 18

Page 5, line 19, replace "g." with "f." and remove ", until August 1, 2007"

Page 5, replace lines 20 through 22 with:

- "g. Any place of public access rented or leased for private functions from which the general public and children are excluded and arrangements for the function are under the control of the function sponsor.
- h. Separately enclosed areas in truckstops which are accessible only to adults."

Page 6, after line 24, insert:

"**SECTION 4.** A new section to chapter 23-12 of the North Dakota Century Code is created and enacted as follows:

Exceptions - Medical necessity.

1. Notwithstanding the provisions of any other state or local law, a patient may smoke in a hospital licensed by the state or on the grounds of a hospital licensed by the state if the patient's attending physician authorizes the activity based on medical policies adopted by the hospital organized medical staff.
2. Notwithstanding the provisions of any other state or local law, a resident of a licensed basic care facility or a licensed nursing facility may smoke in the facility or on the grounds of the facility if approved by the board of the facility."

Page 6, line 27, after "~~proprietor~~" insert:

- "1. An individual who smokes in an area in which smoking is prohibited under section 23-12-10 is guilty of an infraction.
- 2."

Page 6, line 30, after "who" insert "willfully"

Page 7, after line 2, insert:

"**SECTION 6.** A new section to chapter 34-06 of the North Dakota Century Code is created and enacted as follows:

Authority of labor commissioner - Exception. Notwithstanding section 34-06-03, the labor commissioner may not adopt rules relating to sections 23-12-09 through 23-12-11. If the labor commissioner is made aware of a possible violation of chapter 23-12, the commissioner may refer the violation to an appropriate law enforcement agency for enforcement pursuant to section 23-12-11."

Renumber accordingly

Engrossed SB 2300 was placed on the Seventh order of business on the calendar.

2005 TESTIMONY

SB 2300

NDHA

North Dakota Healthcare Association

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2300

Page 1, line 1, after "to" insert "create and enact a new section to chapter 23-12 of the North Dakota Century Code, relating to smoke-free exceptions; to"

Page 2, line 26, replace "Heath care services" with:
"7. "Health care services" "

Page 2, line 27, after the fifth underscored comma, insert "and" and replace ", and" with an underscored period

Page 2, remove lines 28 and 29

Page 2, line 30, replace "7." with "8."

Page 3, line 4, replace "8." with "9."

Page 3, line 22, replace "9." with "10."

Page 3, line 25, replace "10." with "11."

Page 4, line 1, replace "11." with "12."

Page 4, line 4, replace "12." with "13."

Page 4, line 6, replace "13." with "14."

Page 4, line 9, replace "14." with "15."

Page 5, remove lines 17 and 18

Page 5, line 19, replace "g." with "f."

Page 5, line 20, replace "h." with "g."

Page 6, after line 24, insert:

"**SECTION 4.** A new section to chapter 23-12 of the North Dakota Century Code is created and enacted as follows:

Exceptions - Medical necessity.

1. Notwithstanding the provisions of any other state or local law, a patient may smoke in a hospital licensed by the state or on the grounds of a hospital licensed by the state if the patient's attending physician authorizes the activity based on medical policies adopted by the hospital organized medical staff."

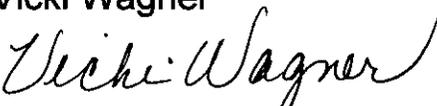
Renumber accordingly

I adamantly oppose SB 2300.

I questioned why I did not find a fiscal note attached to SB 2300, as it will impact greatly on the expected income from tobacco and related vices.

Although I can't quote any exact numbers, I would like to attach my version of a fiscal note. Your "sin" tax on tobacco paid to the state will decrease drastically. Many people who don't smoke much at home or work, enjoy smoking with their beer or cocktail at liquor establishments. Most persons who work in the liquor and gambling sector smoke. If they can't smoke in a bar or club, there goes the expected tobacco tax. These staff persons won't have to be smoke-free long, as the impact on the volume of business will decrease so sharply, that lay-offs will start immediately. That will pillage the unemployment compensation from a sector that rarely collects. The "sin" tax on alcohol will also be negatively affected. The gaming tax and bingo sales tax will take a steep nosedive too. Finally as each Club's or bar's business goes downhill, it will appear as if prohibition has set in. There will be bankruptcies, foreclosures and vacant commercial real estate that can never recover. Please don't allow this tragedy to take place. Oppose SB 2300, and let the clubs and bars make their own decisions concerning smoking and non-smoking.

Vicki Wagner


Amvets Gaming Manager

First of all I would like to say that I agree with the efforts to prevent underage smoking. I believe that the easiest way to not smoke is not to start. However, I also believe that the people who are old enough to smoke have a right to do so. Everyone is so eager to jump on the band wagon about the 'non-smoker's rights'..what about the smoker's rights.

The clubs, bars, restaurants, etc. have gone the extra mile to make it better for the non-smokers. Giving special areas or seating for the non-smoker.

In the club I work in the dining area is non-smoking. It forces the person who does smoke to leave their table and go into the bar area to stand and smoke. The smokers comply. I have had players at my blackjack table that are bothered by someone smoking and have seen the smoker step back from the table to smoke. The smokers comply. There are restaurants and even a bar in the area that do not allow smoking. The smokers comply.

Yet none of this is enough. My question is why aren't the non-smokers patronizing the non smoking bar instead of trying to force the smoker out of the smoking areas or facilities. I believe that a smoker has just as much right to go out and enjoy the company of friends, play bingo and gamble as the non-smoker does. If this law is passed, you are taking away their rights. The non-smoker has a choice, what choice are you giving the smoker?

Finally, instead of trying to make it impossible to smoke in public, why in the world don't you just make it illegal to smoke? You are constantly saying how smoking and second-hand smoke kills. So then why not make cigarettes, cigars, pipes, all tobacco illegal...put an end to it period. Instead of trying to lock away the smokers in their homes, make it illegal. Why not? Money, that's why. Because you people who insist that it kills and want to make it impossible for the smokers would lose too much in tax dollars. So instead of losing the precious all mighty dollar, you continue to strip away the rights of the very people that are providing the revenue.

Joan Carman

OPPOSED

ND Hospitality Assn. Testimony
Senate Industry, Business and Labor Committee
SB 2300

Mr. Chairman and members of the committee, my name is Bill Shalhoob and I represent the North Dakota Hospitality Assn. For the record I am also the current owner and operator of Schlotzsky's Deli and the Select Inn of Bismarck. I have been an owner and operator of various hospitality properties in North Dakota since 1974.

We are opposed to SB 2300. We do so for two reasons. First, there is a substantial and meaningful difference between publicly owned buildings and privately owned buildings open to the public. Property ownership rights and the control of a persons property is among our most basic rights as Americans. Government interference in this right should be restricted to absolute essentials and should not extend to smoking beyond our current laws on the state level. Our employees are in our establishments by choice, not forced indenture. Indeed, many are smokers who choose to work in one of the few workplaces where they can smoke. And while we do work hard and spend significant revenues advertising for customers to frequent our businesses, they are generally aware of individual smoking policies around their area and absolutely aware after their first visit. The best way to vote is with your patronage. Don't go to a facility if you don't like their smoking policy the same as you would if you don't like their food, service, prices, cleanliness or atmosphere. The marketplace and our operators are already responding to the demand for smoke free facilities. These changes are based, as they should be, on customer demand and the business interests of each individual property owner. As noted in the Bismarck Tribune, the last two major restaurants to open in Bismarck have started as smoke free facilities and many others like the Seven Seas and East Forty now limit

smoking to the bar area. As demand continues to increase so will the ongoing rush to no smoking facilities and workplaces. The marketplace is a wonderful place that responds quickly to customer demand.

In North Dakota we must be mindful that one size does not fit all. Our unique combination of urban and rural settings and seasonal weather changes does not lend itself to an all or nothing approach. We believe smoking restrictions should be decided at the local level. The voters of Dickinson rejected a smoking ban. The voters of Minot approved one that is different from Fargo and West Fargo. In fact, Fargo voters had a choice of three differing ordinances to choose from and in an election selected the ordinance that best suited their desires. I would point out that in every election held so far voters have not instituted a smoking ban in bars, a move that our members and operators feel would have a significantly adverse affect on their businesses even if the ban is extended to all bars as it is in this bill. A total ban on smoking is not the answer to this issue. HB 1030 is in committee in the House and could provide a vehicle for an incremental approach if that is the legislature's desire.

Mr. Chairman and members of the committee, we would urge a do not pass on SB 2300. Thank you for your consideration and I would be happy to answer any questions.

TESTIMONY IN SUPPORT OF SB 2300

Kayla Block
Bismarck, North Dakota

Chairman Munch, members of the Senate Industry, Business and Labor Committee. I am Kayla Block, a student at the University of Mary. I am here to testify in favor of SB 2300.

As a person who is extremely allergic to smoke, I feel this bill would only enhance the public places and places of employment in the state of North Dakota. Environmental tobacco smoke, or ETS, is a leading cause of preventable death in the United States. In North Dakota alone 80 to 140 adults and children die each year from ETS. The Center for Disease Control reported that 3 to 19 year olds had higher cotinine (metabolized nicotine) from ETS levels in their blood than those 20 years or older did. That means 3-19 year olds are more at risk for asthma, lung cancer, ear infections and numerous other health problems. These health problems lead to greater medical bills.

I am in this higher cotinine risk category. I am subjected to ETS in restaurants, stores and perhaps even in my place of employment, but I can do nothing but breathe it all in. It is difficult to find a restaurant that has a smoke-free bar. Business owners are reluctant to make their establishments smoke-free for fear of losing business. But if all businesses were subjected to the same prohibition on smoking, the playing field would be level. Patrons would not stop going to a business because it is smoke-free if all businesses were smoke-free.

I urge you to give this bill a do pass recommendation. Please help save the lives of North Dakotans. Thank you.

North Dakota 2005 Legislative Session

Senate – Industry Business and Labor Committee

Senate Bill 2300

February 9, 2005

Mr. Chairman and Members of the Committee:

My name is Susan Bosak. I am the Executive Administrator for the Health Policy Consortium (HPC). The HPC is an association of the four largest integrated health systems in the State – Altru Health System in Grand Forks, Medcenter One Health Systems in Bismarck, MeritCare Health System in Fargo, and Trinity Health System in Minot. I strongly encourage the Senate Committee on Human Services to bring Senate Bill 2283 to the floor of the Senate with a DO PASS recommendation.

As healthcare providers, we recognize that secondhand smoke is classified as a Group A Carcinogen—a substance known to cause cancer in humans—by the United States Environmental Protection Agency. According to the Centers for Disease Control and Prevention, secondhand smoke is the third leading preventable cause of death, killing over 35,000 Americans each year. Smoking costs Americans approximately \$155 billion annually in direct medical costs and lost productivity costs. These statistics, in and of themselves, present healthcare providers with an overwhelming epidemic, which needs to be addressed. The Center for Disease Control's advisory that heart patients, or those at risk, avoid indoor smoke-filled environments is something we need to consider as well.

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We advocate an atmosphere conducive to physical, mental and spiritual well-being and we are thereby a tobacco-free organization.

Many other states, counties and cities have put into place a ban on tobacco usage in public places. These government entities recognize the damages of second-hand smoke on their citizens and the economic savings realized by sound tobacco control policy implementation.

The members of HPC support public policies at all levels of government that protect people from environmental tobacco smoke. Furthermore, the members of HPC actively support state law, which protect all persons from the harmful effects of tobacco smoke ensuring public safety with the ultimate goal of providing tobacco-free environments to protect all individuals.

Mr. Chairman and Members of the Committee, thank you for allowing me the opportunity to address you this morning. I would be willing to answer any questions you would have at this time.



Altru
Health System

Susan Bosak - handout

**Clean Indoor Air Tobacco-Free Policy Statement
August 2004**

As health care providers, we recognize that secondhand smoke is classified as a Group A Carcinogen – a substance known to cause cancer in humans – by the United States Environmental Protection Agency. We also recognize that secondhand smoke is the third leading preventable cause of death, killing over 35,000 non-smoking Americans each year. The Centers for Disease Control's new advisory that heart patients, or those at risk, avoid indoor smoke-filled environments is something we need to consider.

The statistics, in and of themselves, present health care providers with an overwhelming epidemic, which needs to be addressed. As local health care providers in the greater Grand Forks community, we advocate for an atmosphere conducive to physical, mental and spiritual well being. Therefore, we are a tobacco-free organization-meaning tobacco use is not permitted in any of our facilities.

Furthermore, as local healthcare providers we support public policies at the local, state and federal levels that protect all people from environmental tobacco smoke. Additionally, we actively support local ordinances that broaden the scope and raise the standards of current state laws to protect all persons from the harmful effects of tobacco smoke.

Communities should enact comprehensive smoke-free public and workplace laws that protect all workers and all community members from the proven dangers of secondhand smoke. All workers have the right to breathe clean air regardless of the occupation they choose. The negative effects of secondhand smoke are not exclusive to any one industry or type of employee.

We encourage our community to enact a 100% smoke free policy for a healthier tomorrow.

This consensus statement is supported and advanced in a collaborative manner by the following healthcare leaders:

Greg Gerloff

Greg Gerloff
Chief Executive Officer

Casey Ryan

Casey Ryan, MD
President

Dave Molmen

Dave Molmen
Chief Operating Officer

Jim VanLooy

Jim VanLooy, MD
Chief Medical Officer

Margaret Reed

Margaret Reed, RN, MBA
Chief Nurse Executive

Patrick M. Devig

Patrick Devig, MD
Cardiothoracic Surgeon

**CLEAN INDOOR AIR SMOKE-FREE POLICY STATEMENT
JUNE 2004**

As health care providers, we recognize that secondhand smoke is classified as a Group A Carcinogen – a substance known to cause cancer in humans by the United States Environmental Protection Agency. We also recognize that secondhand smoke is the third leading preventable cause of death, killing over 53,000 non-smoking Americans each year. The Center for Disease Control's new advisory that heart patients, or those at risk, avoid indoor smoke-filled environments is something we need to consider.

The statistics, in and of themselves, present health care providers with an overwhelming epidemic, which needs to be addressed. As local health care providers in the Bismarck/Mandan community, we advocate for an atmosphere conducive to physical, mental and spiritual well-being. Therefore, we are all smoke-free organizations – meaning tobacco use is not permitted in any of our facilities.

Furthermore, as local healthcare providers, we support public policies at the local, state and federal levels that protect all people from environmental smoke. Additionally, we actively support local ordinances that broaden the scope and raise the standards of current state laws to protect all persons from the harmful effects of smoke.

Communities should enact comprehensive smoke-free public and workplace laws that protect all workers and all community members from the proven dangers of secondhand smoke. All workers have the right to breathe clean air regardless of the occupation they choose. The negative effects of secondhand smoke are not exclusive to any one industry or type of employee.

We encourage our community to enact 100% smoke-free policies for a healthier tomorrow.

Aug 24, 2004.
Date

Ann P. Cooper.
Medcenter One Board of Trustees

Smoke Free-Air Policy Statement
August 2004

As health care providers, we recognize that secondhand smoke is classified as a Group A Carcinogen—a substance known to cause cancer in humans—by the United States Environmental Protection Agency. We also recognize that secondhand smoke is a leading preventable cause of death, killing over 53,000* non-smoking Americans each year. The Center for Disease Control advises as little as 30 minutes in a smoky environment can rapidly increase the formation of blood clots and restrict flow to the heart, causing a heart attack.

The statistics, in and of themselves, present health care providers with an overwhelming epidemic which needs to be addressed. As local health care providers in the community, we advocate for an atmosphere conducive to physical, mental and spiritual well-being. Therefore, we are all tobacco-free organizations—meaning tobacco is not permitted in any of our facilities.

Furthermore, as local healthcare providers we support public policies at the local, state and federal levels that protect all people from secondhand smoke. Additionally, we actively support local and state policies that broaden the scope and raise the standards of current state laws to protect all persons from the harmful effects of tobacco smoke.

Local and state policy makers should enact comprehensive smoke-free public and workplace laws that protect all workers and all community members from the proven dangers of secondhand smoke. All workers have the right to breathe smoke free air regardless of the occupation they choose. The negative effects of secondhand smoke are not exclusive to any one industry or type of employee.

We encourage ND and local communities to enact 100% smoke free policies for a healthier tomorrow.

This consensus statement is supported and advanced in a collaborative manner by the following organizations and their leaders:

Northwest District Medical Society
Minot, ND

District #2 Nurses' Association
Minot, ND

Board of Health
First District Health Unit

Minot Statement

Source: (Glantz, S.A. & Paimley, W., "Passive Smoking and Heart Disease: Epidemiology, Physiology, and Biochemistry," *Circulation*, 1991; 83(1): 1-12; and, Taylor, A., Johnson, D. & Kazemi, H., "Environmental Tobacco Smoke and Cardiovascular Disease," *Circulation*, 1992; 86: 699-702)

Clean Indoor Air Tobacco-Free Policy Statement
June 2004

As health care providers, we recognize that secondhand smoke is classified as a Group A Carcinogen – a substance known to cause cancer in humans-by the United States Environmental Protection Agency. We also recognize that secondhand smoke is a leading preventable cause in death, killing over 53,000* non-smoking Americans each year. The Centers for Disease Control's new advisory that heart patients, or those at risk, avoid indoor smoke-filled environments is something we need to consider.

The statistics, in and of themselves, present health care providers with an overwhelming epidemic which needs to be addressed. As local health care providers in the community, we advocate for an atmosphere conducive to physical, mental and spiritual well-being. Therefore, we are all tobacco-free organizations – meaning tobacco is not permitted in any of our facilities.

Furthermore, as local healthcare providers we support public policies at the local, state and federal levels that protect all people from environmental smoke. Additionally, we actively support local ordinances that broaden the scope and raise the standards of current state laws to protect all persons from the harmful effects of tobacco smoke.

Communities should enact comprehensive smoke-free public and workplace laws that protect all workers and all community members from the proven dangers of secondhand smoke. All workers have the right to breathe smoke-free air regardless of the occupation they choose. The negative effects of secondhand smoke are not exclusive to any one industry or type of employee.

We encourage ND and local communities to enact 100% smoke-free policies for a healthier tomorrow.

This consensus statement is supported and advanced in a collaborative manner by the following organizations and their leaders:

Marshall Korman, CEO
Prairie at St. John's

Doug Kenyon, Administrator
VA Medical Center

Mike Unhjem, President/CEO
Blue Cross Blue Shield

Roger Gilbertson, MD
CEO/President
MeritCare Health System

Greg Glasner, MD, Chairman
Board of Directors
Dakota Clinic, Ltd.

Paul Wilson, CEO
Innovis Health Systems

Source:
American Heart Association Website, <http://www.americanheart.org>, May 10, 2004.

Fargo Statement

Clean Indoor Air Tobacco-Free Policy Statement

January 2005

As health care providers, we recognize that secondhand smoke is classified as a Group A Carcinogen – a substance known to cause cancer in humans-by the United State Environmental Protection Agency. We also recognize that secondhand smoke is a leading preventable cause in death, killing over 53,000* non-smoking Americans each year. The Centers for Disease Control's new advisory that heart patients, or those at risk, avoid indoor smoke-filled environments is something we need to consider.

The statistics, in and of themselves, present health care providers with an overwhelming epidemic which needs to be addressed. As local health care providers in the community, we advocate for an atmosphere conducive to physical, mental and spiritual well-being. Therefore, we are all tobacco-free organizations – meaning tobacco is not permitted in any of our facilities.

Furthermore, as local healthcare providers we support public policies at the local, state and federal levels that protect all people from environmental smoke. Additionally, we actively support local ordinances that broaden the scope and raise the standards of current state laws to protect all persons from the harmful effects of tobacco smoke.

Communities should enact comprehensive smoke-free public and workplace laws that protect all workers and all community members from the proven dangers of secondhand smoke. All workers have the right to breathe smoke-free air regardless of the occupation they choose. The negative effects of secondhand smoke are not exclusive to any one industry or type of employee.

We encourage ND and local communities to enact 100% smoke-free policies for a healthier tomorrow.

This consensus statement is supported and advanced in a collaborative manner by the following organizations and their leaders:

Dan Howell, CEO	Jeffrey M. Cook, Administrator	Dr. David Muhs	Sharon Unruh, Administrator
Anne Carlson Center for Children	Dakota Clinic Ltd.	Merit Care Clinic	Central Valley Health District

Eunice Sahr, Chair
Jamestown Healthy Lifestyle Coalition

Smoke-Free Air Policy Statement
August 2004

As health care providers, we recognize that secondhand smoke is classified as a Group A Carcinogen—a substance known to cause cancer in humans—by the United States Environmental Protection Agency. We also recognize that secondhand smoke is a leading preventable cause of death, killing over 53,000 non-smoking Americans each year. The Center for Disease Control advises that as little as 30 minutes in a smoky environment can rapidly increase the formation of blood clots and restrict flow to the heart, thus causing a heart attack.

The statistics, in and of themselves, present health care providers with an overwhelming epidemic that needs to be addressed. As local health care providers in the Valley City-Barnes County community, we advocate for an atmosphere conducive to physical, mental and spiritual well-being. Therefore, we are all tobacco-free organizations—meaning tobacco use is not permitted in any of our facilities.

Furthermore, as local healthcare providers we support public policies at the local, state and federal levels that protect all people from secondhand tobacco smoke. Additionally, we actively support local and state policies that broaden the scope and raise the standards of current state laws to protect all persons from the harmful effects of tobacco smoke.

Local and state policy makers should enact comprehensive smoke-free public and workplace laws that protect all workers and all community members from the proven dangers of secondhand smoke. All workers have the right to breathe smoke-free air regardless of the occupation they choose. The harmful effects of secondhand smoke are not exclusive to any one industry or type of employee.

We encourage local communities and the State of North Dakota to enact 100% smoke-free policies for a healthier tomorrow.

This consensus statement is supported and advanced in a collaborative manner by the following organizations and individuals:

Linda K Lane
Linda Lane, Manager
MethCare Clinic Valley City

James B Buhr MD

Genevieve Goren MD

Olive Ann Roggen
Olive Ann Roggen, Chairperson
City-County Board of Health

Frederick Notzel MD

Sandeep Laroia MD

Johnson L. Smith

Johnson L. Smith, CEO/Pres.
Mercy Hospital, Valley City

As health care providers, we recognize that secondhand smoke is classified as a Group A Carcinogen—a substance known to cause cancer in humans—by the United States Environmental Protection Agency. We also recognize that secondhand smoke is a leading preventable cause of death, killing over 53,000* non-smoking Americans each year. The Center for Disease Control advises as little as 30 minutes in a smoky environment can rapidly increase the formation of blood clots and restrict flow to the heart, causing a heart attack.

The statistics, in and of themselves, present health care providers with an overwhelming epidemic which needs to be addressed. As local health care providers in the community, we advocate for an atmosphere conducive to physical, mental and spiritual well-being. Therefore, we are all tobacco-free organizations—meaning tobacco is not permitted in any of our facilities.

Furthermore, as local healthcare providers we support public policies at the local, state and federal levels that protect all people from secondhand smoke. Additionally, we actively support local and state policies that broaden the scope and raise the standards of current state laws to protect all persons from the harmful effects of tobacco smoke.

Local and state policy makers should enact comprehensive smoke-free public and workplace laws that protect all workers and all community members from the proven dangers of secondhand smoke. All workers have the right to breathe smoke free air regardless of the occupation they choose. The negative effects of secondhand smoke are not exclusive to any one industry or type of employee.

We encourage ND and local communities to enact 100% smoke free policies for a healthier tomorrow.

This consensus statement is supported and advanced in a collaborative manner by the following organizations and their leaders:

Craven Hagan Clinic
KOTANA Medical Association
Leonard P. Nelson Cancer Treatment Center
Mercy Cardiac Rehab
Mercy Medical Center
Mercy Radiology Department
Mercy Respiratory Therapy

Mercy Wellness Center
North Dakota Dental Hygienist's Association
North Dakota Nurses Association – District #8
Orthopaedic & Sports Surgery Center
Trinity Community Clinic – Western Dakota

UMDHU Board of Health
Williston Dental Society

Source: (Giantz, S.A. & Pamley, W., "Passive Smoking and Heart Disease: Epidemiology, Physiology, and Biochemistry," *Circulation*, 1991; 83(1): 1-12; and, Taylor, A., Johnson, D. & Kazemi, H., "Environmental Tobacco Smoke and Cardiovascular Disease," *Circulation*, 1992; 86: 699-702)

February 9, 2005

Chairman Mutch and Members of the Committee:

I am Janel Herman and I am representing eight respiratory therapy and medical students from Bismarck. Chris Fenster and Jackie Johnson are with me today to present the results of a study we completed in Bismarck area bars as part of our Health Promotion Course.

As students, we study heart and lung physiology. We wondered about the effects of secondhand smoke on our bodies. Our research took us to three area bars on three separate nights. These bars are popular venues for students our age, but were chosen randomly for purposes of the study. We spent six hours in each venue because this would be a moderate estimate of secondhand smoke exposure for someone in the workplace.

The results surprised all of us, including one of the nation's leading experts on secondhand smoke, Mr. James Repace, who agreed to help us with the study.

We measured cotinine levels in our urine prior to entering the bar, two hours after leaving, and twelve hours after leaving. Cotinine is a byproduct of nicotine and can only be measured in a person's body after exposure to tobacco. All of the students participating in the study were non-smokers.

Air pollution levels were estimated from the urine cotinine levels using scientific models. On the graph labeled "Air quality in bars in Bismarck ND with smoking" you will see that in each bar we visited, the air quality was found to be unhealthy by U.S. Air Quality Index standards. This was the case regardless of the number of active smokers, the ventilation system or the size of the room.

On the second graph, labeled "Absorption of Secondhand Smoke by Bar Patrons," you can see the individual results of our study. Each color represents one of the eight students. The three columns represent their cotinine levels prior to entering the bar, two hours after leaving and twelve hours after leaving the bar. The study was completed in three separate venues, and the details below the graph describe the size of the room, the average number of active smokers and the average number of persons in the bar during the study.

It is important to note that our bodies continued to demonstrate the impact of nicotine exposure long after leaving a smoke-filled room. You can see, that 12 hours after leaving the bar, all subjects showed considerable elevation of their urine cotinine levels above their baseline values. This supports the scientific evidence that there is no safe level of exposure to secondhand smoke.

The elevated baseline levels in subjects 1 and 4 can be explained because they were exposed to secondhand smoke in their work environment three to five days prior to the study.

A recent article in the Bismarck Tribune quoted someone saying that the workers in smoky environments are not "indentured" servants." While not servants, college students need to pay their bills. There are few venues other than the hospitality industry that can accommodate our complicated school schedules. I do not understand how this person can be so ambivalent concerning my health, and the health of my friends and family. No businesses' profit is more important than a person's health. I am aware that currently there are six states that care enough about the health of their employees to provide smoke-free workplaces for everyone.

I implore you as legislators to set aside personal opinion and focus on the scientific evidence. Secondhand smoke is dangerous and you need to remove it from workplaces to protect all North Dakotans.

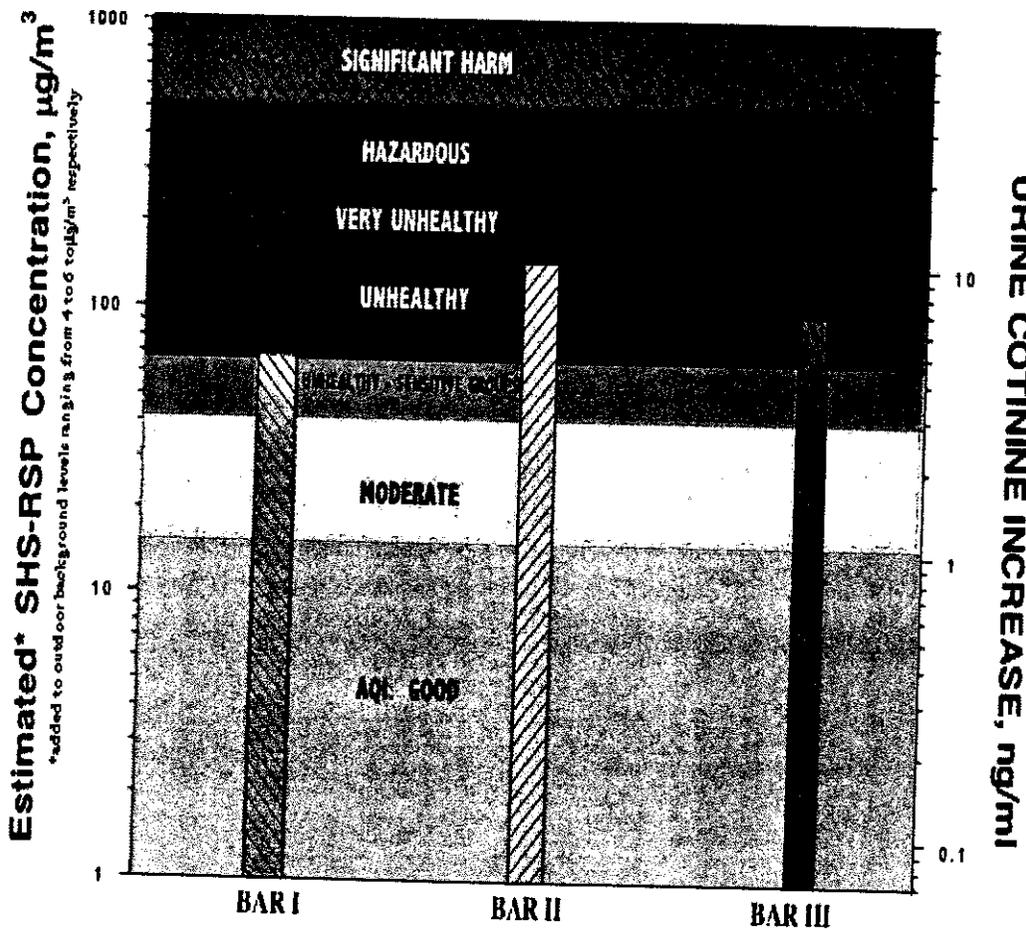
James Repace asked that I include this brief statement in my testimony today. Mr. Repace is a biophysicist and currently serving as Visiting Assistant Clinical Professor at Tufts University School of Medicine.

"Based on the cotinine levels in the volunteer bar patrons, the air quality in Bismarck bars is "Code Red," or unhealthy, because of secondhand smoke pollution; by contrast the air outdoors in Bismarck is "Code Green," or good, according to the federal air quality index for outdoor air. These results show that smoking in bars is incompatible with healthy air quality, and strongly support a comprehensive clean indoor air law, making bars smoke-free for patrons AND staff" James Repace

AIR QUALITY IN BISMARCK, ND BARS WITH SMOKING: CODE RED

BASED ON URINE COTININE FROM 8 BAR PATRONS FOR 6 HR. EXPOSURE, OCTOBER 2004

BISMARCK, NORTH DAKOTA, STUDY: BAR PATRON SMOKE EXPOSURE vs. U.S. AIR QUALITY INDEX (AQI) COLOR CODE FOR PM_{2.5} OUTDOOR AIR POLLUTION

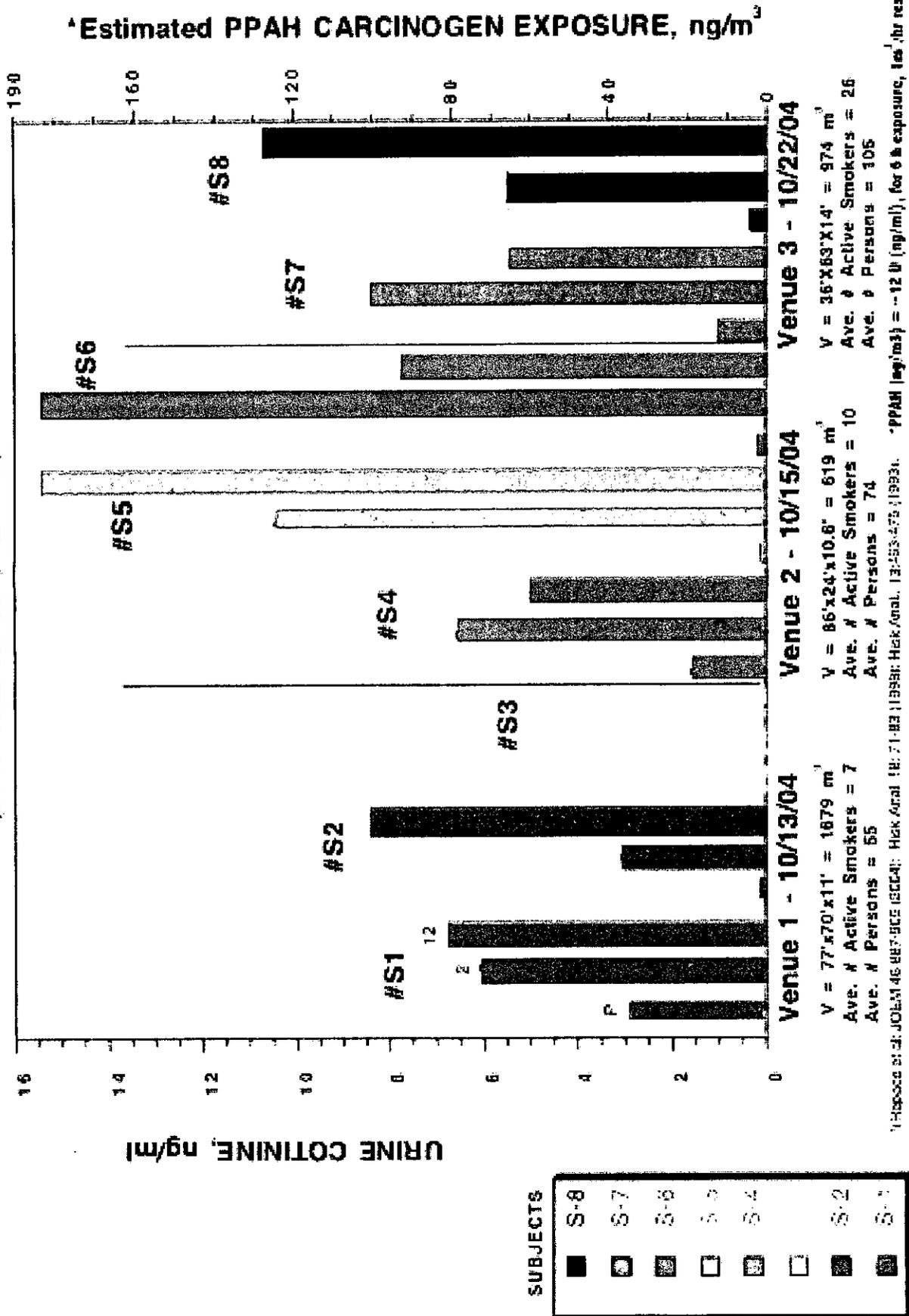


*[SHS-RSP (µg/m³) = 14.35 U (ng/ml) for 24 hr average exposure @ 0.75 m³/hr respiration rate]

ABSORPTION OF SECONDHAND SMOKE BY BAR PATRONS

BISMARCK, ND, BAR COTININES, PRE-, 2-HRS POST-, & 12-HRS POST-EXPOSURE FOR EACH OF 8 STUDENT BAR PATRONS EXPOSED TO SMOKE FOR 6 HOURS

(DATA: E. HUGHES; N. BENKOWITZ) L. PERACE, NOV. 14, 2004





Dr. Ben Clayburgh

Other People's Smoke (Secondhand Smoke)

Secondhand smoke is the name for the poisonous smoke given off by a burning cigarette, cigar or pipe. Smokers may claim to have a right to smoke, but nonsmokers have a more important right to breathe safe air.

Secondhand smoke can produce six times the pollution of a busy highway then in a crowded restaurant

Secondhand smoke causes 30 times as many lung cancer deaths as all regulated pollutants combined.

There are more than 3,000 chemicals present in tobacco smoke including at least 60 known carcinogens. Secondhand smoke contains smaller amounts of the same chemicals that harm smokers. ETS is so harmful that the U.S. Environmental Protection Agency (EPA) has classified it as a "Group A" carcinogen. "Group A" carcinogens are the most toxic substances known to cause cancer in humans, also including benzene, radon, and asbestos.

Secondhand smoke causes wheezing, coughing, colds, earaches and asthma attacks.

Secondhand smoke fills the air with many of the same poisons found in the air around toxic waste dumps.

Every year, 434,000 people die of illnesses related to their smoking. But smokers are not the only ones whose health can suffer. Their tobacco smoke in the air is called environmental tobacco smoke (ETS) or secondhand smoke. Breathing it can be a hazard to your health and to the health of others.

The more often you're around secondhand smoke, the greater your risk for health problems. Each year it causes about 3,000 lung cancer deaths in U.S. adults who don't smoke. Secondhand smoke increases the nonsmoker's risk for heart disease and makes worse the symptoms of adults already suffering from asthma, allergies, or bronchitis.

Children are usually innocent victims, unable to choose whether or not to be in a smoke-filled environment. Among infants to 18 months of age, secondhand smoke is associated with as many as 300,000 cases of bronchitis and pneumonia each year. It also increases the chances for middle ear problems, causes coughing and wheezing, and worsens asthma conditions.

Facts like these show that other people's smoke is more than an annoyance. Secondhand smoke is a serious threat to your good health.

Health Effects Associated with Secondhand Smoke Exposure:

- Low birth weight or small for gestational age.
- Sudden Infant Death Syndrome (SIDS).
- Acute lower respiratory tract infections in children.
- Asthma induction and exacerbation in children.
- Chronic respiratory symptoms in children.
- Eye and nasal irritations in adults
- Middle ear infections in children
- Lung cancer
- Nasal sinus cancer
- Heart disease mortality
- Acute and chronic coronary heart disease morbidity

Quit using tobacco products for your health and the health of others.

Talk to your caregiver for more information.

Cancer facts provided by the National Cancer Institute.

Dr. Clayburgh

Toxic Ingredients in Cigarette Smoke

*Increases risk of birth defects **Also cancer causing

Metals

- Cadmium* **
- Magnesium*
- Mercury*
- Titanium*
- Lead*
- Copper*

Cancer Causing Agents

- Nitrosamines
- Chrysene
- Benzo(a)pyrene
- Polonium 210
- Dibenza(a,j)Acridine
- B-Nepthylamine
- Urethane
- Nitrosornicotine
- Toluidine

Other Chemicals Found in Tobacco Smoke and Their Common Uses

- Acetone (Nail Polish Remover)
- Ammonia (Floor Cleaner)
- Arsenic (Poison)**
- Butane (Cigarette Lighter Fluid)
- Cadmium (Rechargeable Batteries)* **
- Carbon Monoxide (Car Exhaust Fumes)*
- DDT/Dieldrin (Insecticides)
- Ethanol (Alcohol)*
- Formaldehyde (Preserver - Body Tissue and Fabric)* **
- Hexamine (Barbecue Lighter)
- Hydrogen Cyanide (Gas Chamber Poison)
- Methane (Swamp Gas)
- Methanol (Rocket Fuel)
- Naphthalene (Mothballs)
- Nicotine (Insecticide/Addictive Drug)
- Nitrobenzene (Gasoline Additive)
- Nitrous Oxide Phenols (Disinfectant)
- Toluene (Industrial Solvent)*
- Vinyl Chloride (Makes PVC)* **

Dr
Clayburgh

What You Should Know About Tobacco in North Dakota

Tobacco is deadly.

- Tobacco use is the nation's most preventable cause of death and disease.
- Each year 855 North Dakotans die prematurely from smoking. That's 16 of our citizens every week.
- An estimated 1800 North Dakota kids start smoking each year; 600 (1 in 3) will eventually die of a smoking-related cause.
- Secondhand smoke kills too. For every eight smokers who die from tobacco, one non-smoker dies from secondhand smoke.
- An estimated 42,000 North Dakota kids are exposed to secondhand smoke at home.

Tobacco is addictive.

- A burning cigarette produces more than 4,000 chemicals, including 43 known cancer causing substances and over 400 other toxins, including the highly addictive drug nicotine.
- More than 90 percent of all adult smokers begin while in their teens, or earlier, and more than half become regular, daily smokers before they reach the age of 19.
- More than one in five North Dakota adults currently smokes cigarettes – an estimated 109,000 adults.
- Cigarette smoking among North Dakota's American Indian population is twice as high as that of non-Indians.
- About 35% of North Dakota high school students currently smoke. Most young people who become regular smokers continue to smoke throughout adulthood.
- Over 22% of North Dakota high school boys use chew or spit tobacco.

Tobacco is costly.

- Tobacco-related health care costs in North Dakota total over \$193 million per year.
- North Dakota kids buy or smoke about 3.0 million packs of cigarettes each year.

The tobacco industry marketing influence is strong.

- The tobacco industry spends over \$21 million promoting their deadly products in North Dakota each year.
- Children and teenagers make up the majority of all new smokers and the tobacco industry's marketing campaigns often have special appeal to them.

Tobacco use can be prevented.

- Research and experience in other states show that tobacco use can be dramatically reduced by implementing a comprehensive statewide tobacco use prevention program.
- The four states with the nation's oldest tobacco prevention programs (Oregon, Arizona, California, and Massachusetts) have reduced adult smoking rates at more

- than three times the rate of other states through well-funded and sustained comprehensive tobacco use prevention programs.
- North Dakota's comprehensive tobacco use prevention program needs to be based on proven best practices and needs to be fully funded and sustained over time.
 - The U.S. Department of Health and Human Services Centers for Disease Control estimates that North Dakota needs to spend at least \$8.1 million per year to reduce tobacco use and prevent kids from using tobacco through a comprehensive prevention program.
 - Current state funding for tobacco use prevention is just \$2.5 million per year.

An increase in North Dakota's cigarette tax would also reduce and prevent tobacco use.

- North Dakota's current state cigarette excise tax is just 44 cents per pack – 32nd among all states.
- North Dakota's last cigarette tax increase was in 1993.
- Increased cigarette taxes can reduce both adult and youth smoking, and save lives and health care costs.
- Higher cigarette prices prevent kids from starting tobacco use.
- Increased cigarette taxes produce more state revenue even as cigarette consumption declines.

Data Sources:

Campaign for Tobacco-Free Kids – www.tobaccofreekids.org

U.S. Department of Health and Human Services, Centers for Disease Control and Prevention. "Best Practices for Comprehensive Tobacco Control Programs," August, 1999.

U.S. Department of Health and Human Services. *Reducing Tobacco Use: A Report of the Surgeon General—Executive Summary*. Atlanta, Georgia: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2000.

U.S. Department of Health and Human Services. *Tobacco Use Among U.S. Racial/Ethnic Minority Groups—African Americans, American Indians and Alaska Natives, Asian Americans and Pacific Islanders, and Hispanics: A Report of the Surgeon General*. Atlanta: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, 1998.

U.S. Department of Health and Human Services *Reducing the Health Consequences of Smoking. U.S. Surgeon General's Report, 1989*.

CDC, *State Highlights 2002, April 2002*; CDC, "Annual Smoking-Attributable Mortality, Years of potential Life Lost, and Economic Costs -- United States 1995-1999," *MMWR*, April 11, 2002, www.cdc.gov/mmwr

TESTIMONY BEFORE THE SENATE INDUSTRY, BUSINESS
AND LABOR COMMITTEE

FEBRUARY 9, 2005

Mr. Chairman, my name is David Smith and I'm 7 years old. I hate smoke because it makes me very sick. I have a bad type of asthma and two weeks ago I went to the bowling alley for 1 hour and I ended up getting very sick and I had to go to a doctor and I missed 4 days of school. I wanted to have my next birthday party at the bowling alley and now I can't because of the smoke. I also can't go to my friend's birthday party at the bowling alley and this isn't fair.

Please vote for this law and help keep us kids from getting sick.

Thanks for your time. I will try to answer any questions you might have.

**TESTIMONY BEFORE THE
SENATE
INDUSTRY, BUSINESS AND LABOR COMMITTEE**
February 9, 2005

Senate Bill No. 2300

Testimony - Presented by Gordy Smith

Chairman Mutch, members of the committee, my name is Gordy Smith and I'm here as a private citizen to testify in support of Senate Bill 2300. I feel strongly enough about this bill to take time off of work to come here today to testify.

My son has a rare, chronic form of asthma that wasn't properly diagnosed until we were referred to the University of Minnesota when he was four years old. As he told you, I took him to the bowling alley to watch his mom bowl and to play video games. We were only there an hour that night and later he had a horrible asthma attack. While there are many different philosophical arguments both supporting and opposing laws restricting smoking, I believe that if each of you had to witness your son gasping for breath, scared to death and coughing to the point of vomiting your decision on this bill would be easy. David was sick for several days and coughed so hard he broke blood vessels in his face. We took him to see a doctor here and we were in contact with his specialist at the University of Minnesota. His specialist agreed with us that second hand smoke likely triggered his attack.

One of government's most important responsibilities is to protect its citizens, especially those people who are particularly vulnerable. Certainly our children are some of our most vulnerable citizens and they need government to stand up and take the necessary action to protect them. I don't see how the state of North Dakota feels it is fulfilling its responsibility to protect its children when it allows smoking in facilities open to the public. Encouraging parents to boycott businesses that allow smoking is not a fair or reasonable solution. Is it fair to deny my son the opportunity to go somewhere like the bowling alley because of the poisons in the air? Doesn't my son have a right to go there to learn to bowl, to attend his friend's birthday parties or just to watch his mom and dad bowl? How can my son's right to be safe be superceded by someone's right to smoke?

Someone I know tells me he opposes this bill because he doesn't want government that far into our lives. Frankly I find this line of reasoning and logic to be hypocritical. Look around, government is in our lives in all sorts of areas that are a lot less important than our children's health, or our own health. For example, local government tells us when we have to shovel our sidewalks after a snowfall. State government tells us how old we can be before we can hunt and requires us to take a hunter safety course before we can hunt. Both of these are examples where government has stepped into our lives to protect its citizens. Yet, the health problems and deaths associated with second hand smoke far exceed any safety problems addressed by either example. We are all well aware of the terrible toll on our citizens that drunk driving takes annually. State government has stepped into our lives and done many, many things and passed many laws to try to protect us all from drunk drivers. It seems hypocritical that smoking is allowed in facilities open to the public despite the fact that studies have shown many, many more of its citizens die from second hand smoke than from drunk drivers. It's time that State government stands up to protect the 80% of us who don't smoke from the 20% that do.

I'm sure there will be business owners or others who will cite economic hardship should this law pass. I don't believe the individual who claims financial hardship from this law has taken all the financial burdens into account. How about the financial burden that has to be born by those of us who are harmed physically by second hand smoke? Who reimburses my wife, my son and I for the medications my son had to take, for the doctor's appointment he had, for the time away from school and work that we all experienced? How can we as parents be reimbursed for the fear and worry we experience when our son has an attack triggered by second hand smoke? Who reimburses our son for this lost right to go somewhere like the bowling alley to have fun? Finally who reimburses our son for the fear he experiences when he has these attacks? Our kids deserve better from us.

I ask for your support for SB2300. Please stand up for those vulnerable citizens such as my son David who need your help to keep them safe, who need your help to protect their right to good health. It's easy for us to go along and ignore the effects of second hand smoke because no one immediately drops dead like they do in a fatal shooting or a deadly car crash. I'm guilty of just ignoring this risk for most of my life. But when second hand smoke endangers my child's health and life, when it eliminates his right to go where he wants to have fun or be employed, it's time that I stand up against it. No one has the right to endanger another's health or life.....no one.

Thank you for your attention and consideration. I'll gladly answer any questions you might have.

Dr. Robert Shepard's testimony

Testimony North Dakota Legislature Second Hand Smoke

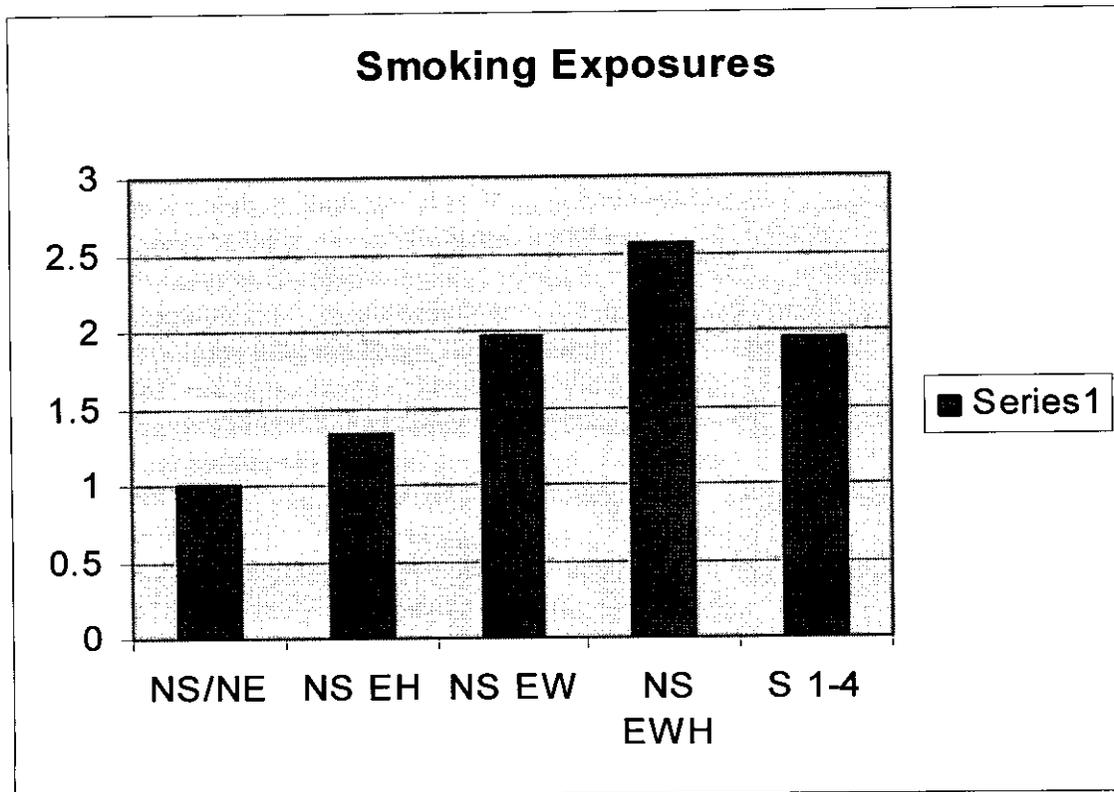
Let me thank all of you for your time today. I appreciate the opportunity to discuss this major public health issue – Second Hand Smoke. The study conducted by my partner and I and published in the British Medical Journal has generated a lot of interest and, most fun of all, a lot of controversy.

I hope, in the few minutes I have today, to show you not only why the results we found are plausible, but actually why they should have been expected. Indeed, it would have been more surprising if we had found nothing.

Starting in the early 1990, many studies were done that showed individuals exposed to second hand smoke had a higher risk of heart attacks than people not exposed. This is the same type of data as the recent studies on Vioxx. People who took Vioxx had a higher risk of heart attacks than did people who did not. People exposed to second hand smoke have a higher risk of heart attacks than people not exposed. What does this mean?

Take a sample group of 1000 people and assume that none of them are exposed to second hand smoke. This group will have a certain number of heart attacks, say 100. Now take a second group of people, identical to the first except for the one issue we are measuring (either Vioxx or second hand smoke) and count the number of heart attacks in the second group. Let's say the second group has 130 heart attacks. We can now say the second group has an increased risk of 30%. We also express this as a relative risk of 1.3. There are over 50 studies in the medical literature that document an increased risk of heart attack with exposure to second hand smoke. Let's look at one. (Pitsavos C, et al Tob Control 2002 Sep;11(3):220-5)

This study divided people into 4 groups. All groups were 100% non-smokers. The first group has no second hand smoke exposure anywhere. The second group is exposed only at home, the third only at work and the fourth at both home and work. The risk for each group is shown in the attached graph. (NS/NE = Non-smoker Not-exposed, NS EH = Non-smoker Exposed at Home, NS EW = Non-smoker exposed at work, NS EW = Non-smoke exposed at work and at home. For reference, a study of light smokers (1-4 cigarettes per day is also included.)



Note that if you exposed your spouse to your cigarette smoking, your spouse has an increased risk of heart attacks of 30%. Note also, that people exposed at work have almost twice the risk of a heart attack as people who are not exposed at work.

This shows the consistent finding from all studies that exposure to second hand smoke is associated with increased risk. Note also, that the greater the exposure, the higher the risk. This is a dose response curve. Whenever we find a “dose response curve”, the probably that the factor looked at is causative is increased.

Now we can ask the rhetorical question: “If second hand smoke is the causative factor, would removing the second hand smoke reduce the risk?” The importance of our study is that it was the first time this question had been asked.

Whenever scientists find an association like this, the next question asked is “What are the mechanisms? How does cigarette smoke, whether first hand or second hand, cause heart disease?”

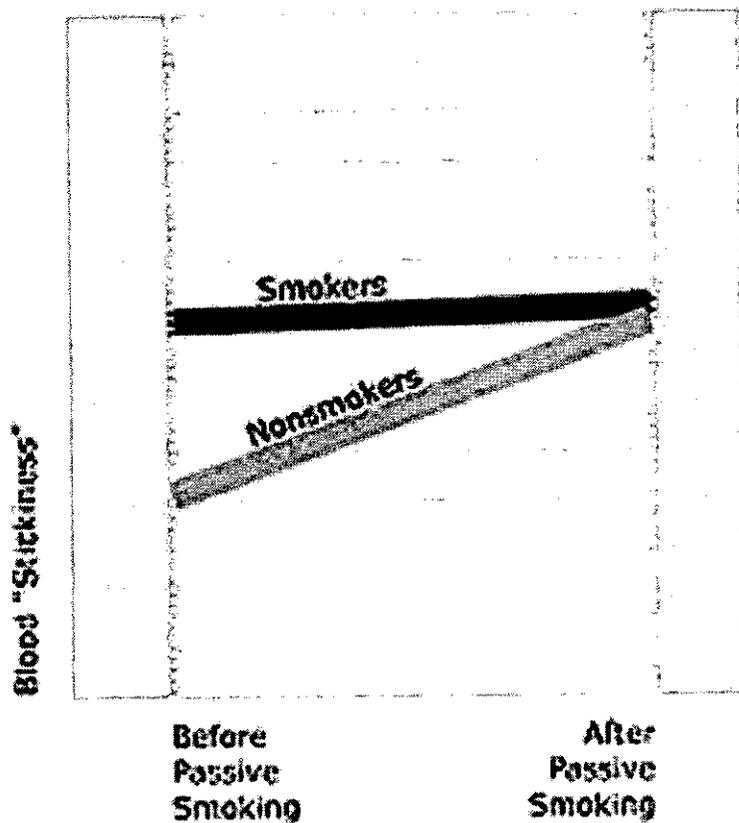
Let me give you a brief high level overview of the answer. All of the answers are laboratory proven. These experiments have actually been done on people and animals.

First, let me review the mechanisms of heart attacks. There are three different processes that can occur, either alone or together, to cause a heart attack. First, you can have cholesterol build-up in the arteries, like scale in a pipe, until the artery is closed. You can have a clot form in the artery, just like clots in a vein in your leg, and suddenly plug up the artery like a cork in a bottle. Lastly, the artery can spasm and close so tightly as to prevent any blood flow.

Laboratory studies in animals show that rabbits exposed to second hand smoke for six months will have twice as much cholesterol build-up in their arteries as rabbits not exposed. And ultrasound studies in humans have shown that chronic exposure to second hand smoke results in thicker arterial walls. Thus second hand smoke contributes to faster cholesterol build up in our arteries.

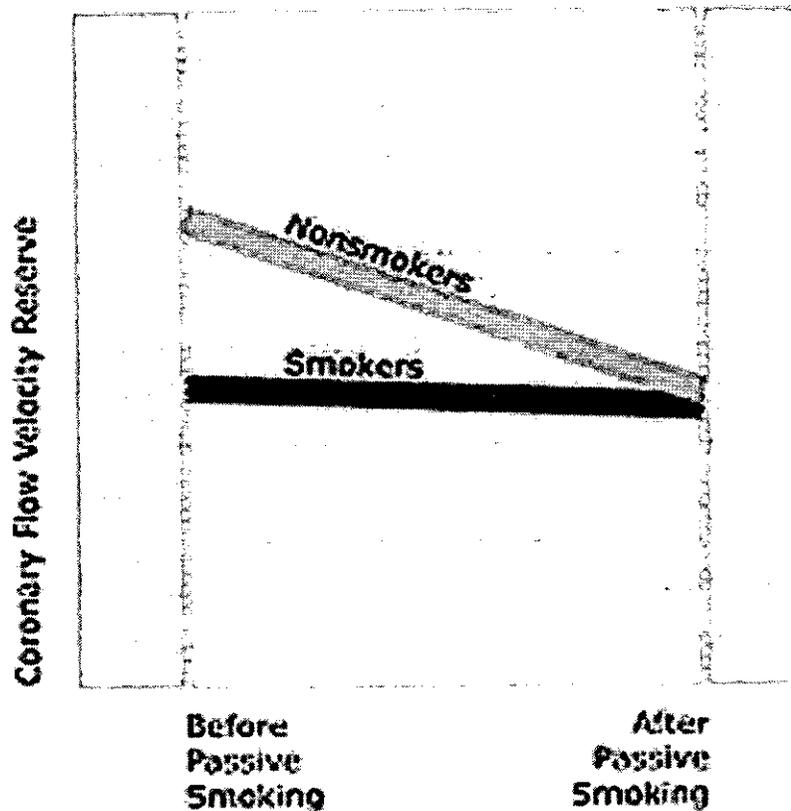
Now about platelets: Platelets are small fragments of cells floating around in our blood stream. Their function is to trigger clotting. One mechanism of heart attacks is clot formation. That is why taking aspirin daily reduces heart attacks; it slows down the clotting mechanism, by weakening our platelets so that they do not clump together as quickly. We can measure this effect in the laboratory. Now what happens to platelets when they are exposed to second hand smoke? They become activated. That is, they are primed to clot. Smokers have platelets that are maximally activated. Like a hair trigger on a gun, they are ready to fire. When volunteers are exposed to second hand smoke, their platelets become just as activated as a smoker's platelets. The striking finding is that this takes only 20 minutes. Again, this is an experimentally confirmed finding and is illustrated in the attached graph. If you enter a smoky atmosphere, and stay for 20 minutes, your platelets are ready to clot. It is no wonder you are primed for a heart attack. This effect persists for hours after exposure.

**Effect of Second Hand Smoke
on Blood "Stickiness"
of Smokers vs. Nonsmokers**



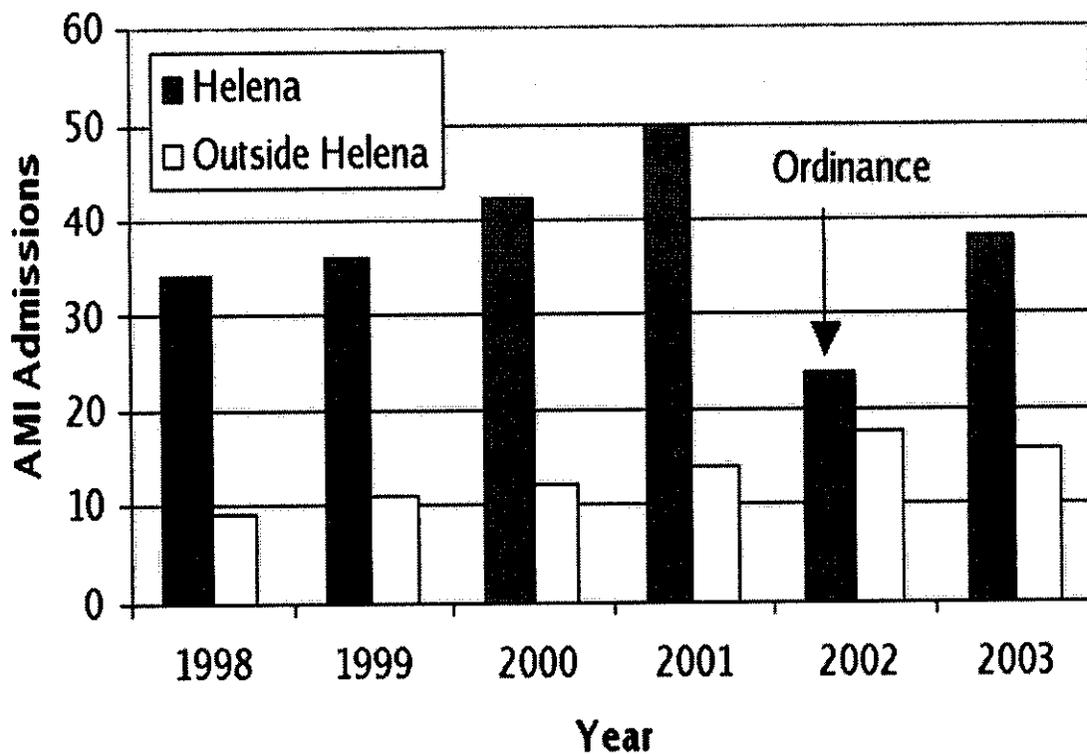
The third mechanism is arterial spasm. The walls of our arteries have muscles that allow the artery to expand to increase blood flow, or contract to shift blood flow to some other area of the body. If those muscles spasm, (much like a Charlie-horse), they can squeeze the artery so tightly that blood flow stops. In one study, they measured the blood flow through the coronary arteries of volunteers, some smokers and some non-smokers. The smokers had 30% less blood flow through their coronary arteries than non-smokers. The researchers then exposed both the smokers and non-smokers to second hand smoke. There wasn't much change in the smoker's arteries, they were already constricted. The striking change was in the non-smokers. Their arteries reduced their blood flow by 30%, to the same lower level as smokers. This took only 30 minutes exposure and persisted for hours after exposure.

**Effect of Second Hand Smoke
on Coronary Arteries' Ability to Increase
Blood Flow of Smokers vs. Nonsmokers**



What we have now is the “perfect storm”, increasing cholesterol build up, activated platelets ready to clot, and narrowed coronary arteries reducing blood flow. And the last two effects occurring very quickly and lasting for hours. Think now about a meal in a smoky restaurant, you are there for a couple of hours, and then you go home and wake up 4 hours later with a heart attack. It is no wonder we never connected these events.

Now to our study: What we did was very simple. We just counted the number of heart attacks to our hospital. We are a small town, isolated and the closest general hospital to ours is 60 miles away, and the closest hospital with cardiac facilities better than ours is 90 miles away. This enabled us to capture all of the heart attacks in our community. What we found is that the number dropped, and dropped significantly, during the six months the ordinance was in effect. It rebounded after the ordinance was suspended. Like a light switch on and off. Was this possibly just chance? Yes, but when we analyzed the probability that this occurred by chance, it was less than 5 in 100 or 1 in 20. Whenever an association occurs with this low probability, it is considered statistically significant.



At the same time, we counted the number of heart attacks outside of Helena. This number did not change. So the association was both temporal (i.e. started with and stopped with the ordinance) and geographical (i.e., it occurred only in the region of our community affected by the ordinance).

Lastly, I would like to point out that the raw data and our analysis was extensively reviewed by the editorial board of the British Medical Journal, one of the most widely respected journals in the world. It was also reviewed by the CDC.

The CDC published an editorial in the same issue of the journal as our paper. They said, and we agree, it is a first study. It had small numbers. It needs to be repeated. We agree on all accounts. They also reviewed a lot of additional information and concluded that the result is biologically plausible and consistent with everything medical science knows about tobacco smoke and heart disease. This led to the following comments:

- “Even without future studies or replications of these findings the data are sufficient to warrant caution regarding exposure to secondhand smoke. Clinicians should be aware that such exposure can pose acute risks, and all patients at increased risk of coronary heart disease or with known coronary artery disease should be advised to avoid all indoor environments that permit smoking.”
- “Additionally, the families of such patients should be counseled not to smoke within the patient’s home or in a vehicle with the patient.”

Today, you have the opportunity to protect the citizens of your state from exposure to second hand smoke. You have to ask yourself, is the residual doubt in your mind about these effects worth the risk to your families, your friends, and your neighbors. If just one person dies of a heart attack that you could have prevented, is it worth the risk?

Testimony Supporting SB 2300
February 9, 2005
Representative Lee Kaldor
District 20

Mr. Chairman and members of the Senate Industry Business and Labor Committee, I am Representative Lee Kaldor, Representing District 20—all of Traill County and parts of Steele, Cass and Barnes Counties. I am here today to give testimony in support of SB 2300.

There are others here today from the health community who will speak to the technical details of this bill as well as the health needs for controlling Environmental Tobacco Smoke (ETS), or what we commonly call "Second-hand smoke". You will hear the evidence that exists to prove that ETS is unsafe for those who are exposed to it. You will hear of the evidence that demonstrates the need to make our workplaces and public places clear of ETS and safe for employees and clientele. You will hear much about the fact that improved ventilation and air filtration does not solve the problem of ETS pollution. I am here to focus on another aspect of this legislation. I want to discuss with you, the business and employee safety issues relating to this bill and its effect.

There will be testimony today that suggests that such a strict measure will hurt business and impose unnecessary restrictions on business and people's rights to smoke. I might agree with that point if we were to adopt legislation that piecemealed restrictions by opening several exemptions and allowing for separate ventilation and filtration systems and walled-off sections in restaurants and bars. While these so-called remedies might be considered a big step in the right direction, they will only lead to inconsistent and inadequate enforcement. In addition, they do not solve one of the most important problems--that of exposing **employees** to ETS to the detriment of their health. The Bismarck Tribune recently published an editorial on this issue and contended that employee health rights represent a false issue, but I beg to differ. For me, it is the crux of the issue. Employees deserve a safe workplace and this is especially so when the solution is so simple. Removing ETS from all enclosed places where employment exists will have a dramatic and positive effect on the health of our employees, especially the most vulnerable who work in hospitality industry. Often time, these employees are young and paid at the minimum wage level. For many, these are the only jobs they can get while going to school because of the fact that they are conducive to part-time employment. Yet, they are the ones most likely exposed to ETS and its ill effects.

A uniform measure such as SB 2300 will make enforcement easier and less confusing for employers. It levels the playing field in that all establishments will be smoke free. Loyal clientele will likely patronize their favorite bar or restaurant as in the past. Not only that, but businesses will be surprised to see new customers who have avoided their businesses in the past because of the presence of smoke.

When you get a chance, take a look at the CD "Make it your Business" that has been provided for your viewing. What you will see are North Dakota businesses which have made the move to smoke a free environment and have seen it as a positive move.

Finally, as we continue to learn more about the ill effects of ETS, it is imperative that we react to the new information and take action as a state to protect our workers, our children and our citizens and their right to breathe clean air. The right to breathe clean air is as fundamental as the right to have clean water supplies. Why should we expect anything less?

I might add that in today's Fargo Forum is an article about Minnesota's debate on this very issue. A Senate bill has passed out of committee for the same comprehensive ban proposed here.

Mr. Chairman and Committee members, I hope that you give this legislation the favorable consideration it deserves. Act boldly in the interests of all of those who work in ETS polluted environments. Give them a chance to breathe clean air. Thank you.



**NORTH DAKOTA
MEDICAL
ASSOCIATION**

1622 East Interstate Avenue
Post Office Box 1198
Bismarck, North Dakota
58502-1198

(701) 223-9475
Fax (701) 223-9476

Robert W. Beattie, MD
Hettinger
President

Shari L. Orser, MD
Bismarck
Vice President
Council Chair

John H. Windsor, DO
Bismarck
Secretary-Treasurer

Robert A. Thompson, MD
Grand Forks
Speaker of the House

Jack Kerbeshian, MD
Grand Forks
AMA Delegate

Bruce Levi
Executive Director

David Peske
Director of
Governmental Relations

Leann Tschider
Director of Membership
Office Manager

**Testimony in Support of SB 2300
Senate Industry, Business and Labor Committee
February 9, 2005**

Your preceding speakers – all physicians – testified regarding the adverse health consequences of secondhand smoke exposure. Senate Bill No. 2300 would protect people in North Dakota from the dangers of secondhand smoke. For that reason, the North Dakota Medical Association supports Senate Bill. No. 2300.

Secondhand Smokes Causes Disease in Healthy Nonsmokers

1. Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution, and that breathing secondhand smoke (also known as environmental tobacco smoke) is a cause of disease in healthy nonsmokers, including heart disease, stroke, respiratory disease, and lung cancer. The National Cancer Institute determined in 1999 that secondhand smoke is responsible for the early deaths of up to 65,000 Americans annually. (National Cancer Institute, "Health effects of exposure to environmental tobacco smoke: the report of the California Environmental Protection Agency. Smoking and Tobacco Control Monograph 10," *Bethesda, MD: National Institutes of Health, National Cancer Institute (NCI)*, August 1999.)

2. The Public Health Service's National Toxicology Program has listed secondhand smoke as a known carcinogen. (Environmental Health Information Service (EHIS), "Environmental tobacco smoke: first listed in the Ninth Report on Carcinogens," *U.S. Department of Health and Human Services (DHHS), Public Health Service, National Toxicology Program*, 2000.)

3. A study of hospital admissions for acute myocardial infarction in Helena, Montana before, during, and after a local law eliminating smoking in workplaces and public places was in effect, has determined that laws to enforce smokefree workplaces and public places may be associated with a reduction in morbidity from heart disease. (Sargent, Richard P.; Shepard, Robert M.; Glantz, Stanton A., "Reduced incidence of admissions for myocardial infarction associated with public smoking ban: before and after study," *British Medical Journal* 328: 977-980, April 24, 2004.)

4. Secondhand smoke is particularly hazardous to elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease. Children exposed to secondhand smoke have an increased risk of asthma, respiratory infections, sudden infant death syndrome, developmental abnormalities, and cancer. (California Environmental Protection Agency (Cal EPA), "Health effects of exposure to environmental tobacco smoke", *Tobacco Control* 6(4): 346-353, Winter, 1997.)

5. The Americans With Disabilities Act, which requires that disabled persons have access to public places and workplaces, deems impaired respiratory function to be a disability. (Daynard, R.A., "Environmental tobacco smoke and the Americans with Disabilities Act," *Nonsmokers' Voice* 15(1): 8-9.)

6. The U.S. Surgeon General has determined that the simple separation of smokers and nonsmokers within the same air space may reduce, but does not eliminate, the exposure of nonsmokers to secondhand smoke. (Department of Health and Human Services. *The Health Consequences of Involuntary Smoking: A Report of the Surgeon General*. Public Health Service, Centers for Disease Control, 1986.) The Environmental Protection Agency has determined that secondhand smoke cannot be reduced to safe levels in businesses by high rates of ventilation. Air cleaners, which are only capable of filtering the particulate matter and odors in smoke, do not eliminate the known toxins in secondhand smoke. (Environmental Protection Agency (EPA), "Indoor air facts no. 5: environmental tobacco smoke," *Washington, D.C.: Environmental Protection Agency (EPA)*, June 1989.)

7. The Centers for Disease Control and Prevention has determined that the risk of acute myocardial infarction and coronary heart disease associated with exposure to tobacco smoke is non-linear at low doses, increasing rapidly with relatively small doses such as those received from secondhand smoke or actively smoking one or two cigarettes a day, and has warned that all patients at increased risk of coronary heart disease or with known coronary artery disease should avoid all indoor environments that permit smoking. (Pechacek, Terry F.; Babb, Stephen,

"Commentary: How acute and reversible are the cardiovascular risks of secondhand smoke?"
British Medical Journal 328: 980-983, April 24, 2004.)

8. A significant amount of secondhand smoke exposure occurs in the workplace. Employees who work in smoke-filled businesses suffer a 25-50% higher risk of heart attack and higher rates of death from cardiovascular disease and cancer, as well as increased acute respiratory disease and measurable decrease in lung function. (Pitsavos, C.; Panagiotakos, D.B.; Chrysohoou, C.; Skoumas, J.; Tzioumis, K.; Stefanadis, C.; Toutouzas, P., "Association between exposure to environmental tobacco smoke and the development of acute coronary syndromes: the CARDIO2000 case-control study," *Tobacco Control* 11(3): 220-225, September 2002.)

9. Smoke-filled workplaces result in higher worker absenteeism due to respiratory disease, lower productivity, higher cleaning and maintenance costs, increased health insurance rates, and increased liability claims for diseases related to exposure to secondhand smoke. ("The high price of cigarette smoking," *Business & Health* 15(8), Supplement A: 6-9, August 1997.)

10. Numerous economic analyses examining restaurant and hotel receipts and controlling for economic variables have shown either no difference or a positive economic impact after enactment of laws requiring workplaces to be smokefree. Creation of smokefree workplaces is sound economic policy and provides the maximum level of employee health and safety. (Glantz, S.A. & Smith, L. "The effect of ordinances requiring smokefree restaurants on restaurant sales in the United States". *American Journal of Public Health*, 87:1687-1693, 1997; Colman, R.; Urbonas, C.M., "The economic impact of smoke-free workplaces: an assessment for Nova Scotia, prepared for Tobacco Control Unit, Nova Scotia Department of Health," *GPI Atlantic*, September 2001.)

11. Smoking is a potential cause of fires; cigarette and cigar burns and ash stains on merchandise and fixtures causes economic damage to businesses. ("The high price of cigarette smoking," *Business & Health* 15(8), Supplement A: 6-9, August 1997.)

SB 2300 Summary

Senate Bill No. 2300 would revise chapter 23-12 to protect the public health and welfare by prohibiting smoking in public places and places of employment. The operative provision is on page 5, lines 1 through 5, which prohibits smoking in all enclosed areas of (1) public places, and (2) places of employment. An "enclosed area" means all space between a floor and a ceiling that is enclosed on all sides by solid walls or windows, exclusive of doorways, which extend from the floor to the ceiling (page 2, lines 21 through 23). "Public places" are defined generally as an enclosed area to which the public has access or in which the public is permitted, including a publicly owned building or office, and enclosed areas available and customarily used by the general public and businesses and nonprofit entities patronized by the public. This definition includes bars, restaurants, and other areas defined in the bill (page 3, lines 4 through 21). A "place of employment" is defined generally as an area under the control of a public or private employer that employs normally frequent during the course of employment. The definition includes conference rooms, cafeterias, meeting rooms, and other employment areas (page 2, line 30 through page 3, line 3).

Some areas would be exempt from the smoking prohibition, including private residences, except when operated as a childcare facility; hotel and motel rooms; retail tobacco stores; outdoor areas of places of employment (except a sports arena); and any area which is not commonly accessible to the public and which is part of an owner-operated business having no employee other than the owner-operator. (Page 5, lines 6 through 17).

In addition, smoking as part of a traditional American Indian spiritual or cultural ceremony would not be prohibited.

For enforcement purposes, SB 2300 would require state agencies to enforce the prohibition with respect to state owned buildings or offices. Otherwise, section 4 of the bill would amend section 23-12-11 to subject an owner or other person with general supervisory responsibility over a public place or place of employment who fails to comply with the smoking prohibition to an infraction (the fine not to exceed \$100 for the first violation, \$200 for a second violation within

one year, and not to exceed \$500 for each additional violation within one year of the preceding violation).

The bill retains local control in allowing a city or county to provide more stringent protection from the hazards of environmental tobacco smoke (Page 6, lines 13 through 19).

Senate Bill No. 2300 provides an opportunity for the Legislative Assembly to have a major, positive impact on the health of all North Dakota citizens. On behalf of the North Dakota Medical Association, I urge you to recommend a "DO PASS" on Senate Bill No. 2300.

*Didn't
work*

SB2300
Testimony in Favor
Keith Johnson, R.S.
ND Public Health Assn. & ND Environmental Health Assn.
#380

Good morning, ladies and gentlemen of the Committee. My name is Keith Johnson, and I represent the 250 + members of the ND Public Health and Environmental Health Associations.

By now, you and I both know that tobacco is harmful, in all its forms. Smoke, spit, secondhand – it is all harmful. I think you've been convinced, and so I will spend no more time on that subject.

SB2300 is an honest bill, because it takes the direct approach of recognizing the danger inherent in tobacco, and removes it from public and workplace venues where the habits of a few can harm the health of many. It simply says that, if you are in a place where other patrons or fellow workers breathe the same air, you do not have the privilege of lighting small fires to tarry substances so that everyone is forced to breathe in the smoke. That sounds reasonable to me.

You will hear the argument that this is an individual rights issue, that an owner of a public place or workplace can allow someone to light small fires in his or her public place, and that we can separate the people who don't want to breathe in the smoke so that they don't smell it. This guarantees the individual rights of everyone except the people trying to avoid the smoke from the small fires that have been lit elsewhere. Yes, they have the right to leave. The Serbs gave that individual right to the Bosnians, too, but the world did not consider that to be a right. They considered it to be the tyranny of a few abusing the rights of a majority. Owners of workplaces protect their workers from other environmental hazards – hardhats, eye protection, earmuffs and steel toed boots are all very common in the workplace. It stands to reason that clean air to breathe should reasonably be among those protections.

Society has set rules that prevent injury to the many by a few since before the days of common law. SB2300 is another one of those rules. I urge a Do Pass.

Testimony in Favor of
Senate Bill 2300 to
Senate Industry, Business and Labor Committee
February 9, 2004

Chairman Mutch and members of the Senate Industry, Business and Labor Committee,

My name is Steven Rixen and I am here to testify on behalf of Medcenter One Health Systems. Our Board of Trustees and Medical Staff are very concerned about secondhand smoke and approved a *Clean Indoor Air Smoke-Free Policy Statement* in August of 2004.

Quoting text from our Policy Statement:

"We recognize that secondhand smoke is classified as a carcinogen - a substance known to cause cancer in humans by the United States Environmental Protection Agency. We also recognize that secondhand smoke is the third leading preventable cause of death, killing over 53,000 non-smoking Americans each year. The Center for Disease Control's new advisory that heart patients, or those at risk, avoid indoor smoke-filled environments is something we need to consider.

The statistics, in and of themselves, present health care providers with an overwhelming epidemic, which needs to be addressed. As local health care providers in the Bismarck/Mandan community, we advocate for an atmosphere conducive to physical, mental and spiritual well-being. Therefore, we are all smoke-free organizations - meaning tobacco use is not permitted in any of our facilities.

*Furthermore, as local healthcare providers, we support public policies at the local, state and federal levels that protect all people from environmental smoke. Additionally, **we actively support local ordinances that broaden the scope and raise the standards of current state laws to protect all persons from the harmful effects of smoke.***

Communities should enact comprehensive smoke-free public and workplace laws that protect all workers and community members from the proven dangers of secondhand smoke. All workers have the right to breathe clean air regardless of the occupation they choose. The negative effects of secondhand smoke are not exclusive to any one industry or type of employee."

Medcenter One Health Systems requests a do pass on Senate Bill 2300. With your vote we can begin to make indoor air cleaner for all residents of North Dakota.

Testimony
Senate Bill 2300



Senate Industry, Business and Labor
Wednesday, February 9, 2005

June Herman
Senior Advocacy Director, American Heart Association

Good morning, Chairman Mutch and members of the Senate Industry, Business and Labor Committee. My name is June Herman, and I am the senior director of advocacy for the American Heart Association. I am here today to testify in support of establishing smoke free public health protections, and I encourage the committee to extend those protections to all North Dakota workers.

Previous testimony has provided you with the cardiovascular implications of the exposure to second-hand smoke, and attached to my testimony is a document showing how even a little exposure is dangerous. So much so that heart patients, and those at risk of heart disease are now being warned to avoid all secondhand smoke.

You may find that smoke free policy development will sort into two key policy areas – public health protection and business regulation. If you approach this bill as a public health issue, given the science provided to you today, how could one group of workers be asked to work in an unsafe environment while others are protected? Worker safety protections have always been applied as extensively as possible. For this worksite health issue, the only proven protection is 100% smoke free air. Those who seek to exempt a sector of the workforce often represent the least likely sector to provide any type of health coverage for their employees. So not only do we place those workers at risk, their health care becomes the responsibility of government health programs, or other employers.

If you approach this bill as a business regulation issue, the debate will quickly become one of why one worksite must comply, and others don't. The recent Fargo, W. Fargo, and Moorhead smoke free policy work is a good example of how hard it is in a competitive hospitality environment to draw a fair, clean line of exemptions. That is why the Fargo City commission was ready to move with a 100%, comprehensive policy, and why Moorhead did the same. Unfortunately, their work unraveled with one hospitality venue seeking exemptions, then another, then another.

You will find granting exemption for one sector to be a slippery slope, as bar/grill establishments seek to compete with "bar" establishments, and restaurants compete with bar/grill establishments, business restaurants with clubs and organizations. And they all have one thing in common – workers exposed to environment poisons that threaten their health.

In North Dakota, a greater number of hospitality sites now understand the health impact to their workforce, and realize the liability they can face in exposing their workers. What many of them seek is a common workplace health policy that levels the playing field for all. Attached to my testimony I've attached a copy of a letter on this matter from a Jamestown truck stop owner who encourages that every work place is covered with your policy.

Whether a public health policy, or a business regulation issue, the fairest approach for all is requiring smoke free protections of all worksites.

A little is dangerous...

Short-term exposure to secondhand smoke does real damage. far beyond the stench and irritation. This means hospitality patrons are at significant risk, along with restaurant and bar employees.

♥ 5 minutes exposure=smoking a cigarette...

Five minutes exposure to secondhand smoke stiffens the aorta (the main artery carrying blood from the heart to the body) as much as smoking a cigarette. More arterial stiffness makes the heart work harder to pump blood.

♥ 20 minutes exposure=smoking a pack a day...

Twenty minutes of breathing secondhand smoke at levels similar to those measured in bars activates blood platelets involved in the clotting process as much as it does in pack-a-day smokers. These activated platelets increase the chances of heart attack or stroke. In the short term, activated platelets are more likely to form a blood clot (thrombus) in the blood stream. If this clot blocks an artery in the heart, it causes a heart attack. In the brain, it causes a stroke. Long term, activated platelets can also damage the artery lining in a way that leads to cholesterol buildup; narrowing the arteries in turn causes coronary heart disease, chest pain, and heart attacks.

♥ 30 minutes exposure= stiffened, clogged arteries...

Thirty minutes of secondhand smoke compromises a non-smoker's coronary arteries to the same extent as in smokers. A non-smoker's coronary arteries can dilate and boost flow to heart muscle better than a smoker's. After half an hour of secondhand smoke exposure, a non-smoker's arteries lose the ability to dilate to the same extent as a pack-a-day smoker's.

Thirty minutes exposure also compromises the ability of your blood to manage LDL ("bad") cholesterol by depressing anti-oxidant defenses—and the effect persists for several hours after exposure ends. These changes boost the risk of building up arterial fat deposits that lead to heart attack and stroke.

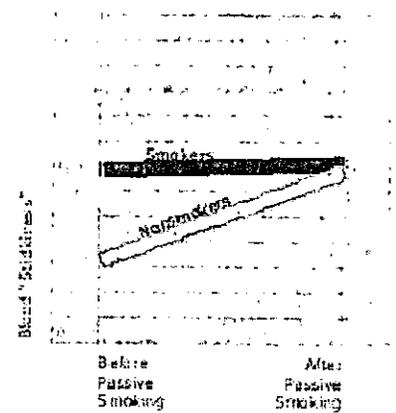
♥ 2 hours exposure=greater risk of irregular heartbeat...

Breathing secondhand smoke can also speed up your heart rate while, at the same time, reducing "heart rate variability"—small, random variations in heartbeat. While the mechanism is not yet fully understood, reductions in heart rate variability signal problems in the nervous system's control of the heart, increasing the chance of an irregular heart beat (arrhythmia) that can itself be fatal or trigger a heart attack.

All of these effects not only increase the long term risks of developing heart disease, but also increase the immediate risk of heart attack. And if someone suffers a heart attack while breathing secondhand smoke, it will likely be worse.

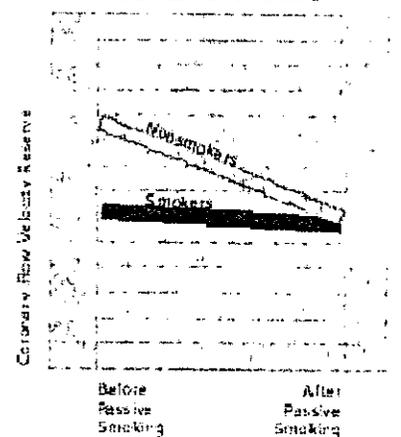
Helena Montana Emergency Room heart attacks decreased 60% when a city smoke-free policy was implemented. Contact us on how you can make your health count in your community.

Effect of Second Hand Smoke on Blood "Stickiness" of Smokers vs. Nonsmokers



Just twenty minutes of second-hand smoke exposure makes non-smokers' blood platelets as "sticky" as smokers' platelets.

Effect of Second Hand Smoke on Coronary Arteries' Ability to Increase Blood Flow of Smokers vs. Nonsmokers



Absent secondhand smoke, a non-smoker's coronary arteries can dilate and boost flow to heart muscle better than a smoker's. After 30 minutes of secondhand smoke exposure, a non-smoker's arteries lose the ability to dilate to the same extent as a pack-a-day smoker's.

Vining Oil & Gas, LLC

301 2nd Ave. NW
Jamestown, ND 58401

January 7, 2005

Rick Clayburgh
Tax Department
600 East Blvd 7th Floor
Bismarck, ND 58505-0599

I support the Smoke free work place act and am writing to ask that you do all you can to support any related measures.

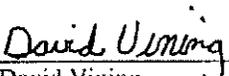
Every year, secondhand smoke kills 65,000 Americans. And every worker in North Dakota deserves to be protected from the dangers of second hand smoke, but the current legislation leaves several workers exposed to deadly toxins.

The Smoke free work act gives us a historic opportunity to change that. Workers in public places would no longer have to breathe second hand smoke in order to do their jobs. They would be more productive in a healthier workplace.

The new protections will save thousands of lives. If every workplace in the state is covered, there will be a level competitive playing field. Polls show that most North Dakotans support the measure and would patronize smoke free establishments.

It is time for every worker to be protected from second hand smoke. Support the smoke free workplace act.

Sincerely yours,


David Vining

Vining Oil & Gas, LLC
With locations at:
Jamestown
Carrington
Bowdon
Fessenden
Cando
Binford
Cooperstown
Kensal
Valley City
Daisy
Rogers
Litchville

D&J Enterprises
With Locations at:
Jamestown
Carrington
Washburn
Bismarck
Linton
Ellendale
Lisbon

As our community leaders move to enact stronger public health protections from second-hand smoke, it is important for the community to realize to what length the tobacco industry will work to defeat such protections. Why does the industry care so much about smoke free policies? Most smokers want to quit, and the industry's own research matches that of the health community in confirming that fewer cigarettes are smoked and more smokers are able to quit due to reduced smoking opportunities. Why should our community care? We are carrying the burden of health care costs associated with smoking, through higher health insurance and higher taxes.

Let's hope our community doesn't experience the same tobacco industry tactics as shared with us by Mr. Fogel:

TRANSCRIPT OF TESTIMONY
BEFORE THE NEW YORK CITY COUNCIL

My name is Barry Fogel. I own the Jacopo's Restaurant Group with establishments in Beverly Hills, West Hollywood, West Los Angeles, and Pacific Palisades (California). In 1988, Beverly Hills passed one of the first smokefree restaurant ordinances in the nation. It was rescinded 5 months later due to lobbying from the Beverly Hills Restaurant Association.

There was no Beverly Hills Restaurant Association before the smokefree ordinance. It was organized by the tobacco industry. The industry helped pay its legal bills in a lawsuit against Beverly Hills. The industry even flew some of its members by Lear Jet to Rancho Mirage, another California city considering similar smokefree restaurant legislation, to testify before Rancho Mirage's City Council in opposition. Tobacco Institute representatives also attended Association meetings.

The tobacco industry repeatedly claimed that Beverly Hills restaurants suffered a 30% decline in revenues during the 5 months that the smokefree ordinance was in effect. Figures from the State Board of Equalization using sales tax data, however, showed a slight increase in restaurant sales.

How do I know all this? I was president of the Beverly Hills Restaurant Association. I regret my participation with the tobacco industry.

***Note: Beverly Hills later re-passed smokefree workplace legislation as did the entire state of California.

***Note: This testimony was presented on June 6, 1994

didn't speak



531 Airport Rd. Suite D • Bismarck, ND 58504 • Phone: (701) 223-1385 • Fax: (701) 223-0575

SB 2300 Testimony
Senate Industry, Business & Labor Committee
February 9, 2005

Same given to the House on 3-14-05

The North Dakota Nurses Association supports SB 2300 to create smoke-free environments for all North Dakota citizens.

The dangers and health hazards associated with second-hand smoke are well documented. An estimated 3,000 lung cancer deaths and 35,000 coronary heart disease deaths occur annually among adult nonsmokers in the United States as a result of exposure to secondhand smoke. (*CDC Annual Smoking-attributable Mortality, 1995-1999*)

As we have heard from Dr. Robert Shepard, even short-term exposure to secondhand smoke, such as might be experienced by eating in a restaurant or drinking in a bar that allows smoking can increase the risk of a heart attack. We can all envision friends or family members or perhaps ourselves, innocently stopping at a local restaurant or bar and suffering a heart attack.

No one is immune from the effects of public buildings, businesses and work places that are polluted with secondhand smoke. CDC, The Centers for Disease Control & Prevention reports that approximately 60% of people in the United States show biological evidence of secondhand smoke exposure. (*Second National Report on Human Exposure to Environmental Chemicals: Tobacco Smoke, 2003*)

Each year secondhand smoke is associated with thousands of new cases of asthma, bronchitis and pneumonia in children under 18 months of age. (*EPA: Respiratory Health Effects of Passive Smoking, 1992*) Exposure to secondhand smoke is associated with an increased risk for respiratory infections, sudden infant death syndrome and chronic ear infections among children..

Smoke free policies in workplaces and public places have the potential to rapidly and effectively reduce secondhand smoke exposure. Certainly this would result in reductions in the prevalence of health conditions that have been linked with secondhand smoke exposure.

The North Dakota Nurses Association asks that you conscientiously consider the effects of secondhand smoke on your health, the health of your family members and friends and the overall well being of the citizens of North Dakota in your deliberations on SB 2300.

Sharon Moos, Executive Director
North Dakota Nurses Association
ndna@prodigy.net

TESTIMONY ON SB 2300
Industry, Business & Labor Committee
Wednesday, February 9, 2005
by Valerie Fischer, Director of School Health
328.4138
Department of Public Instruction

Chairman Mutch and members of the committee:

My name is Valerie Fischer and I am the Director of School Health for the Department of Public Instruction. I am here today in support of SB 2300, and on behalf of the 109,805 students attending school across the state, I ask the committee's consideration of two amendments.

The topic of many calls received by our office is one where parents complain that bus drivers smoke on the bus while waiting to pick up children – thus, children enter and remain in a smoke environment, many for up to one hour, twice a day. Many districts have policies in place which cover school owned vehicles and prohibit drivers from smoking on a [full or empty] school bus. Where there are no district policies, we've encouraged school administrators to adopt policies or request drivers refrain from smoking on school buses; but in the case of leased school buses, they often have little, if any influence.

I would like to point out two possible references where the bill language could include owned or leased school buses. On page 3, line 3, the existing language reads "...employer-owned vehicles". This could be changed to employer-owned or leased vehicles, including school buses. The other reference is found on page 3, line 16, which specifies "...public transportation facilities, including buses and taxicabs". Language could be added here to identify public transportation buses and school buses, owned or leased.

Unfortunately, it is currently **not** against the law to smoke on unloaded school buses; however, most district policies affect the majority of students. This amendment would ensure the estimated 39,000 (40% of K-12) students who ride buses would do so in a smoke free environment and require any bus driver who chooses to smoke, to do so off school grounds or outside rather than inside a school bus.

The second amendment we would ask the committee to consider deals with school grounds as a smoke free environment to include school parking lots, which is

currently not identified in the bill. On page 3, lines 1, 10, and 20 identify classrooms, educational facilities and school buildings, respectively; this does not imply school grounds or parking lots, where there is significant smoking by youth and staff alike. Your consideration of additional language which expands upon existing bill language to include school parking lots and grounds would deter smokers during school hours. Currently we have 76, or 20%, of all school districts reporting tobacco free school grounds.

Thank you for your consideration to these amendment requests. This concludes my testimony and I'd be happy to answer any questions.

Charmaine Boehler
Zap, North Dakota 58580
February 7, 2005

To Whom It May Concern:

My name is Charmaine Boehler and I live in Zap North Dakota, which is in the county of Mercer. I was diagnosed with Buergher's Disease about two years ago. For those of you that do not know what Buergher's Disease is, it a circulatory disease triggered by smoking or secondhand smoke.

When I first found out I had the disease I was working at a casino in Deadwood South Dakota. One day things were fine, the next day I was under extreme pain and had trouble walking on my right foot. Within a week I was visiting a local doctor and it was at that point that the term Buergher's Disease was introduced to me. Now two years later, I am without part of my right foot as well as teeth. I lost my teeth due to the intense medication that I had to take to get rid of the infection from my foot that spread into the rest of my body and got into my heart. Without this medication I would no longer be here.

I must admit that I was a smoker for approximately 20 years. Since I have been diagnosed with Buergher's Disease, I am proud to say I no longer smoke. However, being around secondhand smoke will also trigger symptoms that go along with my disease. I often hear people mention the fact that if I don't want to be around the secondhand smoke, I should go somewhere else. However, with the limited amount of jobs that are available in my area, I can't go somewhere else to work. I am currently an employee at MTI in Beulah which is a telemarketing firm. Fortunately, I do not have to work in an environment with smokers directly in the building. They smoke outside. However, when it comes to socializing after church on Sunday or whenever, I have to choose an environment which is totally smoke free. If my job was in a smoke filled environment, I could not work there. To supplement my income, I also was a Bingo Caller for Women's Action Resource Center at the Beulah Eagle's Club. Because this establishment allowed smoking indoors, I had to quit my job because of the effects the smoke was having on me. A loss of income that I hated to part with.

I know you have before you Senate Bill 2300 which would ban smoking from all worksites. I encourage you to pass this bill which will allow me the option of going into any business whether it would be a restaurant or a drinking establishment in order to socialize. This would also open a much larger work force environment than what I currently have.

Respectfully,



Charmaine Boehler

Hearing on Senate Bill 2300
Business, Industry & Labor Committee
Testimony presented by
Mary E. Muhlbradt
Wednesday, February 9, 2005

Good morning, Chairman Mutch and members of the Committee. I'm Mary Muhlbradt of Minot, a member of the Community Education staff at Trinity Health and a member of Minot's tobacco prevention coalition.

As the first North Dakota city to enact broad smoke-free legislation, Minot has a leg up when it comes to judging its impact on a community.

It was in 2001 that Minot voters upheld a smoke-free restaurant ordinance by a margin of 55% to 45%. The ordinance was implemented three years ago last month.

In those three years the impact of the law has been poked and prodded. We can say four things about Minot's smoke-free restaurant law. It's been highly popular, economically neutral, has posed few enforcement problems, and has had a positive impact on the health of the community.

Popularity. A random sample survey of Minot voters, conducted more than a year and a half after the ordinance took effect, found that 80% of voters support the smoke-free law. That's a 25-point gain from the ballot vote itself. (A frequent comment coming from Minoters is how lucky we are to have the pleasure of smoke-free dining. And when we eat out in other cities, we realize just how spoiled we are.)

Economic Impact. We know that clearing the air in our eateries did not clear them of patrons. Using objective data from the State Tax Department, Minot State University analyzed six years of sales tax receipts and concluded that there has been no economic effect or adverse change in restaurants sales due to the smoke-free ordinance.

Enforcement. As expected, Minot's smoke-free dining ordinance is self-enforcing. A study of restaurant compliance reveals a high 96% compliance rate. Ironically, the few problems that have occurred have all stemmed – not from the *removal* of smoking activity but from the ordinance's attempt to *accommodate* smoking. I'm speaking of exemptions. Minot's ordinance allows an option for separately enclosed and ventilated smoking rooms. Although most restaurants opted not to add smoking rooms, one restaurant did choose to invest substantial dollars in structural modification. Yet this single instance plunged the city council into months of debate over unproven ventilation systems, negative air pressure, questions as to what constitutes a door, and whether the

(more)

"nose test" is sufficient to judge acceptable air standards. If there's a single lesson to come out of Minot's experience, it is that exemptions aren't worth the trouble they generate for policy makers.

Health. By far the greatest benefit to our community relates to public health. While I have no scientific data on this point, common sense tells us that smoke-free policies have a positive impact on employees and customers. Anecdotally we hear reports that Minot wait staff now experience fewer headaches and fewer respiratory problems, not to mention relief from the very serious chronic conditions that show up over time, such as emphysema and cancer.

I sympathize with business owners who view with disdain the prospect of more government control in their business lives. But regulating the devastating effects of secondhand smoke is no different from controlling water purity or the temperature at which we cook our meat.

As part of Minot's survey on attitudes, surveyors found that some 61% of voters say they believe that people's right to breathe clean air outweighs a business owner's right to choose whether to allow smoking. Freedom stops abruptly at the point where smoking exposes others to air that will damage their health. This is especially true for workers, who must linger for hours in a smoky environment.

I applaud the sponsors of this measure for putting emphasis where it belongs – in the workplace. I urge passage of this bill. Thank you.

Testimony

Senate Bill 2300

Senate Industry, Business and Labor Committee

Wednesday, February 9, 2005; 9 a.m.

North Dakota Department of Health

Same testimony given to House

Good morning, Chairman Mutch and members of the Senate Industry, Business and Labor Committee. My name is Kathleen Mangskau, and I am director of the Division of Tobacco Prevention and Control for the North Dakota Department of Health. I am here today to provide testimony in support of Senate Bill 2300, which expands current protections from secondhand smoke. I will also provide information about the health effects of secondhand smoke and the economic impact of smoke-free laws.

The Department of Health believes no one should use tobacco and supports efforts to reduce nonsmokers' exposure to secondhand smoke. Senate Bill 2300 is an excellent vehicle to enhance current protections from secondhand smoke.

Health Effects of Secondhand Smoke

The health hazards of secondhand smoke are well documented. There is now broad consensus in the medical and scientific communities that exposure to secondhand smoke causes death and disease in nonsmokers. According to the U.S. Centers for Disease Control and Prevention, secondhand smoke (also known as environmental tobacco smoke) is a leading cause of preventable death in this country, killing 35,000 nonsmokers each year. (CDC, 2004) In North Dakota, between 80 and 140 adults, children and babies die from secondhand smoke each year. (CDC, 1996)

Secondhand smoke is a mixture of the smoke given off by the burning end of a cigarette, pipe or cigar and the smoke exhaled from the lungs of smokers. Secondhand smoke is also called environmental tobacco smoke, and exposure to secondhand smoke is called involuntary or passive smoking.

The U.S. Environmental Protection Agency and the U.S. Department of Health and Human Services National Toxicology Program report that smoke from the burning end of a cigarette contains more than 4,000 chemicals and more than 60 carcinogens, including formaldehyde, cyanide, arsenic, carbon monoxide, methane and benzene. The EPA has classified secondhand smoke as a "Group A" carcinogen – a substance known to cause cancer in humans. The EPA reports that there is no safe level of exposure to environmental tobacco smoke. (EPA, 1992) In 2000, the National Institutes of Health formally listed secondhand smoke as a known human carcinogen in its 9th Report on Carcinogens. The EPA estimates that secondhand smoke causes approximately 3,000 lung cancer deaths in nonsmokers each year. Besides the EPA

and the NIH, many other United States environmental health, occupational health and public health authorities have condemned secondhand smoke as a health hazard, including the National Toxicology Program (2000), the National Cancer Institute (1993, 1995), the Occupational Safety and Health Administration (1994), the National Institute for Occupational Safety and Health (1990), the Surgeon General (1986) and the National Academy of Sciences (1986). A listing of the key reports documenting the health effects of secondhand smoke and a summary of findings from major studies are attached.

Numerous studies have documented the health effects associated with exposure to secondhand smoke, including lung cancer and nasal sinus cancer, heart disease deaths, and eye and nasal irritation in adults. Health effects in children include acute lower respiratory tract infections, asthma induction and exacerbation, chronic respiratory symptoms, middle ear infections, and developmental effects such as low birth-weight and sudden infant death syndrome (SIDS). The toll of secondhand smoke on children is devastating, accounting for more than 26,000 low birth weight babies, 263 cases of SIDS, nearly 300,000 pediatric asthma cases and more than 99,000 cases of ear infection. Children who are exposed to secondhand smoke have, on average, 1.5 more lost school days per year than children who are not exposed. Each year in North Dakota, 56 low birth weight babies are attributed to secondhand smoke, costing \$378,247, as are 667 cases of asthma costing \$540,903 and 218 cases of ear infection costing \$107,778. Two of the 10 SIDS deaths each year in North Dakota are attributable to smoking exposure. (American Legacy Foundation, 2004) Restaurant and bar workers, who typically have greater exposure to secondhand smoke, are at 50 percent to 100 percent increased risk for lung cancer.

Recent studies assessing the association of secondhand smoke with heart disease show that exposure to secondhand smoke increases the risk of fatal and nonfatal coronary heart disease in nonsmokers by about 30 percent. Exposure to secondhand smoke for as little as 30 minutes can increase the formation of blood clots and restrict flow to the heart, causing a heart attack. A recent study in Helena, Montana, where a smoke-free law had been implemented, showed that heart attack admissions to the local hospital were reduced by 40 percent. The CDC states, "We now have a considerable amount of epidemiological literature and laboratory data on the mechanisms by which relatively small exposures to toxins in tobacco smoke seem to cause unexpectedly large increases in the risk of acute cardiovascular disease." (CDC, 2004)

Current Support for Smoke-Free Environments

There is growing support for smoke-free environments in North Dakota. A survey commissioned by the North Dakota Public Education Task Force on Tobacco in 2004 found that the majority of North Dakotans age 18 through 54 feel smoking should not be allowed in schools, public facilities, entertainment arenas, private businesses and restaurants. More than 86 percent of those surveyed feel that even though smoking is legal for individuals older than 18, nonsmokers have a right to breathe clean air. The study found that 97 percent believe smoking should not be allowed in elementary and

high school buildings, 89 percent believe smoking should not be allowed in public facilities, 85 percent believe smoking should not be allowed in entertainment arenas, 61 percent believe smoking should not be allowed in private businesses and other non-government work sites and 68 percent believe smoking should not be allowed in restaurants. The research also revealed that nearly 93 percent of North Dakotans would patronize restaurants in their community just as often or more often if they all went completely smoke free. Only 32 percent believe smoking should not be allowed in bars and cocktail lounges, but that percentage is up from 22 percent in 2002. A fact sheet on the study findings is attached.

Some may wonder why the U.S. Occupational Safety and Health Administration has not promulgated rules on secondhand smoke. Because of repeated Congressional admonitions that secondhand smoke is an issue best handled by states, federal regulatory agencies have been discouraged from undertaking rulemaking or research efforts to protect private-sector workers and the public. In 2001, OSHA withdrew its Indoor Air Quality Proposal and terminated the rulemaking proceeding. Since that proposal was first issued, a great many state and local governments and private employers have taken action to curtail smoking in public areas and in workplaces.

As of July 2004, 12 states had adopted state smoke-free workplace laws. Eleven states include restaurants in their smoke-free workplace laws, and seven states include bars. California and Utah were the first states to implement smoke-free laws in 1994. Ten additional states have implemented various combinations of 100 percent smoke-free provisions since 2002. Legislation is being considered in five additional states. A listing of the states with smoke-free workplace laws is attached.

California has the longest history of smoke-free workplace laws. Smoking prevalence has declined and California smokers are smoking fewer cigarettes. Accelerated reductions have been documented for heart disease deaths and lung cancer incidence rates. From 1988 through 1999, lung and bronchus cancer rates in California declined at nearly six times the rates of decline in the nation. In addition, six out of nine cancer types that have been linked to tobacco use had a lower incidence rate in California than in the rest of the United States in 1999.

Economic Impact of Smoke-Free Workplace Laws

Numerous studies have documented the economic impact of smoke-free policies. Well designed studies (1) are based on objective measures; (2) use data several years before and after implementation of the policy; (3) use appropriate statistical tests that test for significance, controlling for underlying trends and fluctuations in data; and (4) control for changes in economic conditions. Key findings from *A Summary of Studies Assessing the Economic Impact of Smoke-free Policies in the Hospitality Industry* by Scollo and Lal (VicHealth Centre for Tobacco Control, 2004) are quoted below.

- No negative economic impact from the introduction of smoke-free policies in restaurants and bars is indicated by the 21 studies where findings are based on

an objective measure such as taxable sales receipts, where data several years before and after the introduction of smoke-free policies were examined, where changes in economic conditions are appropriately controlled for, and where appropriate statistical tests are used to control for underlying trends and fluctuations in data. Just a few studies have found negative effects, and each of these studies is methodologically flawed.

- Studies concluding a negative economic impact have predominately based findings on outcomes predicted before introduction of policies, or on subjective impressions of estimates of changes rather than actual, objective, verified or audited data. These studies were funded primarily by the tobacco industry or organizations allied with the tobacco industry. Almost none of the studies finding a negative impact are published in peer-reviewed journals.

A study conducted in Minot, North Dakota, after implementation of the smoke-free restaurant ordinance showed no negative impact on business.

Ventilation

The tobacco industry's accommodation policy consists of the recent effort to push for ventilation standards instead of prohibitions on smoking. The Philip Morris *Options* program, for example, seeks to convince owners, operators and patrons of establishments that ventilation can alleviate the problems caused by secondhand smoke. However, there is no ventilation system guaranteed to completely eliminate the exposure of nonsmokers to secondhand smoke in a building where smoking is allowed.

According to the EPA, even minimal exposure to secondhand smoke increases the number of attacks and the severity of symptoms in children who have asthma. In addition, the EPA recognizes no safe level of exposure to Group A Carcinogens and has determined that secondhand smoke cannot be reduced to safe levels in businesses by high rates of ventilation. Even Phillip Morris USA carries a disclaimer on its website that states: "While not shown to address the health effects of secondhand smoke, ventilation can help improve the air quality of an establishment by reducing the sight and smell of smoke and by controlling the smoke drift."

The American Society of Heating, Refrigeration and Air Conditioning Engineers, ASHRAE, develops indoor ventilation standards. ASHRAE Standard 62, *Ventilation for Acceptable Indoor Air Quality*, applies only to nonsmoking areas because ASHRAE has determined that ventilation and air cleaning do not adequately remove secondhand smoke toxins from the air. Even companies that manufacture ventilation and filtration systems to remove secondhand smoke from the air state that the systems are designed only to decrease odors and increase comfort.

Legislation that relies on ventilation to protect people from the health hazards of secondhand smoke actually does nothing to protect the public's health, and gives

building owners and occupants the false impression that there is no health risk when the risk is still present. Ventilation is never fully effective in preventing smoke from penetrating to nonsmoking areas. Fact sheets on ventilation are attached.

Definitions

Well-defined terms and provisions are critical for ensuring that the interpretation, implementation and enforcement of the law accomplish the legislature's intent in enhancing the provisions of the law. The definitions of "place of public access," "places of employment," "restaurants" and "bars" raise the most questions. In Senate Bill 2300, key terms are precisely defined to prevent differing interpretations and to indicate the extent of coverage.

Conclusion

In conclusion, the effects of secondhand smoke are significant and well documented, as are the benefits of smoke-free laws. There is growing support for smoke-free laws in North Dakota. Finally, smoke-free laws have been shown to have no negative impact on businesses.

The *Surgeon General's Report on Reducing Tobacco Use* strongly recommends smoking bans and restrictions as an effective means to reduce nonsmokers' exposure to secondhand smoke. While the Department of Health would like to see no exemptions in this bill, we recognize that an incremental policy approach may be necessary to reach our ultimate goal of protecting all nonsmokers from secondhand smoke. However, exemptions to a comprehensive smoke-free law may create regulation and enforcement issues that may have a fiscal impact on our agency.

This concludes my testimony on Senate Bill 2300. I am happy to answer any questions you may have.

Key Reports Documenting the Health Effects of Secondhand Smoke

- Revised draft Report of the California Environmental Protection Agency (2003)
- Report of the International Agency for Research on Cancer (IARC) (2002)
- U.S. Department of Health and Human Services' *Ninth Report on Carcinogens* (2000)
- Report of the California Environmental Protection Agency (1997)
- Report of the U.S. Environmental Protection Agency (EPA) (1992)
- Report of the National Institute for Occupational Safety and Health (NIOSH) (1991)
- Report of the Surgeon General (1986)
- Report of the National Research Council of the National Academy of Sciences (1986)
- Report of the World Health Organization (1999)
- Report of the United Kingdom Scientific Committee on Tobacco and Health (1998)
- Report of the Australian National Health and Medical Research Council (1997)

Full References on Reports

California Environmental Protection Agency. *Proposed Identification of Environmental Tobacco Smoke as a Toxic Air Contaminant* (draft report updating previous Cal EPA report on environmental tobacco smoke). California Environmental Protection Agency, December 2003, <http://www.arb.ca.gov/toxics/ets/dreport/dreport.htm>

International Agency for Research on Cancer (IARC) *Monographs on the Evaluation of Carcinogenic Risks to Humans*, Volume 83: *Tobacco Smoke and Involuntary Smoking*, 2002, <http://monographs.iarc.fr/htdocs/indexes/vol83index.html>

National Toxicology Program. *9th Report on Carcinogens*, 2000. Research Triangle Park, NC: U.S. Department of Health and Human Services, National Institute of Environmental Health Sciences; 2000.
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California Environmental Protection Agency. *Health Effects of Exposure to Environmental Tobacco Smoke*. Office of Environmental Health Hazard Assessment, September 1997, www.oehha.ca.gov/air/environmental_tobacco/finalets.html.

Also published as: National Institutes of Health. National Cancer Institute. *Health Effects of Exposure to Environmental Tobacco Smoke: The Report of the California Environmental Protection Agency*. Smoking and Tobacco Control Monograph Number 10. NIH Publication No. 99-4645, Washington, D.C., USA, August 1999, <http://cancercontrol.cancer.gov/tcrb/monographs/10/index.html>

United States Environmental Protection Agency (EPA). *Respiratory Health Effects of Passive Smoking: Lung Cancer and Other Disorders*. Office of Research and Development, EPA/600/6-90/006F, Washington, D.C., December 1992, www.epa.gov/nceawww1/ets/etsindex.htm

Also published as: National Institutes of Health. National Cancer Institute. *Respiratory Health Effects of Passive Smoking: Lung Cancer and Other Disorders: The Report of the U.S. Environmental Protection Agency*. Smoking and Tobacco Control Monograph Number 4. NIH Publication No. 93-3605, Washington, D.C., August 1993.

National Institute for Occupational Safety and Health (NIOSH). *Environmental Tobacco Smoke in the Workplace: Lung Cancer and Other Health Effects*. Current Intelligence Bulletin 54, Washington, D.C., 1991. www.cdc.gov/niosh/91108_54.html

U.S. Department of Health and Human Services. *The Health Consequences of Involuntary Smoking. A Report of the Surgeon General.* U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control. DHHS Publication No. (CDC) 87-8398, 1986, www.cdc.gov/tobacco/sgr_1986.htm.

National Research Council of the National Academy of Sciences. *Environmental Tobacco Smoke: Measuring Exposures and Assessing Health Effects.* National Academy Press, Washington, D.C., 1986.

World Health Organization. Tobacco Free Initiative. *International Consultation on Environmental Tobacco Smoke (ETS) and Child Health: Consultation Report.* WHO Technical Document Number WHO/TFI/99.10. 1999, www5.who.int/tobacco/page.cfm?sid=50.

Department of Health. *Report of the Scientific Committee on Tobacco and Health.* The Stationery Office. London, United Kingdom, March 1998. www.archive.official-documents.co.uk/document/doh/tobacco/contents.htm.

National Health and Medical Research Council. *The Health Effects of Passive Smoking – A Scientific Information Paper.* Australia, November 1997, www.nhmrc.gov.au/advice/nhmrc/chap1/index.htm.

Note: The following report, while not an original report or an extensive review, provides a good summary of some of the reports above:

Ontario Tobacco Research Unit, University of Toronto, *Protection from Second-hand Tobacco Smoke in Ontario: A Review of the Evidence Regarding Best Practices.* Toronto, Ontario, May 2001. http://www.otru.org/pdf/special/special_ets_eng.pdf

SECONDHAND SMOKE

- Secondhand smoke contains more than 43 known carcinogens and 200 known poisons, including ammonia, formaldehyde, hydrogen cyanide, arsenic, carbon monoxide and benzene. (*National Cancer Institute 1999*)
- Secondhand smoke is classified as a Group A carcinogen. There is no safe level of exposure to Group A toxins. (*U.S. EPA 1992*)
- Every year, more than 53,000 nonsmokers die from exposure to secondhand smoke, making it the third leading cause of preventable death in the U.S. (*National Cancer Institute*)
- Lung cancer caused by exposure to secondhand smoke is responsible for an estimated 3,000 deaths per year among nonsmokers in the U.S. It is a confirmed cause of nasal sinus cancer in nonsmokers. (*National Cancer Institute, Health Effects of Environmental Tobacco Smoke, December 1999*)
- Exposure to secondhand smoke causes between 35,000 and 62,000 coronary heart disease deaths each year in the United States. (*National Cancer Institute 1999*)
- Nonsmokers exposed to secondhand smoke for just 30 minutes experience hardening of the arteries. (*Journal of the American Medical Association, 2001*)
- The risk of death from heart attack is 91 percent higher for nonsmoking women who are regularly exposed to secondhand smoke, and 58 percent higher for women occasionally exposed to secondhand smoke. (*American Heart Association Journal 1997*)
- Just as the science regarding the health risks of SHS has increased, so has public concern about SHS. According to a 2001 Gallup poll, 52 percent of American adults feel exposure to secondhand smoke is "very harmful," compared with just 36 percent in 1994. (July 2001 Gallup Poll www.gallup.com)
- Even half an hour of secondhand smoke exposure causes heart damage similar to that of habitual smokers. Nonsmokers' heart arteries showed a reduced ability to dilate, diminishing the ability of the heart to get life-giving blood. In addition, the same half hour of secondhand smoke activates blood platelets, which can initiate the process of atherosclerosis (blockage of the heart's arteries) that leads to a heart

attack. These effects explain other research showing that nonsmokers regularly exposed to SHS suffer death or illness rates 30 percent higher than that of unexposed nonsmokers. (Otsuka, R., et al. "Acute Effects of Passive Smoking on the Coronary Circulation in Healthy Young Adults," *Journal of the American Medical Association*, 286: 436-441, 2001)

Employees are at risk.

- Employees exposed to secondhand smoke on the job are 34 percent more likely to get lung cancer. (*U.S. CDC 1996*)
- People routinely exposed to a lot of secondhand smoke, such as restaurant and bar workers, can see their risk of lung cancer triple. (*International Journal of Cancer, 2001*)
- At least 4.5 million Americans experience great discomfort from secondhand smoke at work. (U.S. CDC 1996)
- Restaurant and bar workers have three to six times more exposure to secondhand smoke than do other workers. (*U.S. CDC 1996*)
- Food service workers, many of whom are under age 18, have a 50 percent higher risk of lung cancer than the general population. (*Corsun, Young, Enz. "Should NYC Restaurateurs Lighten Up?" Hotel and Restaurant Administration Quarterly: 1996*)
- Waitresses have the highest death rate of any female occupational group. They have a four times higher rate of death from lung cancer and a two and a half times higher rate of death from heart disease. (*M. Siegel, "Smoking and Restaurants: A Guide for Policy-Makers" September 1992*)
- Levels of secondhand smoke in restaurants are about 1.6 to 2.0 times higher than in office workplaces. Levels in bars are 4 to 6 times higher than in offices. (Siegel, M. "Involuntary Smoking in Restaurant Workplace: A Review of Employee Exposure and Health Effects." *Journal of the American Medical Association*, 270:490-493, 1993)
- Smoking restrictions in workplaces, restaurants, and other public areas are associated with dramatic declines in serum cotinine levels among nonsmokers, an

indication that smoke-free environments significantly reduce exposure to SHS. (Centers for Disease Control and Prevention, "Strategies for Reducing Exposure to Environmental Tobacco Smoke, Increasing Tobacco-Use Cessation, and Reducing Initiation in Communities and Health-Care Systems" *Morbidity and Mortality Weekly Report, Recommendations and Reports* 49(RR-12): 1-12, November 10, 2000)

- Smoking causes a great deal of discomfort in the workplace. For example, 59.2 percent of nonsmoking employees report suffering discomfort, and even 15 percent of smoking employees report some degree of discomfort from secondhand smoke. (CDC, *Morbidity and Mortality Weekly Report*, May 22, 1992)

Costs of Secondhand Smoke to Employers

- Smoking causes inefficiency, errors, eye irritation and lower attentiveness, which costs the employer. (*Action on Smoking and Health 1999*)
- Employers who have banned smoking reported a dramatic decrease in maintenance costs. (*Action on Smoking and Health 1999*)
- Fire risks and subsequent insurance costs decrease when a business goes smoke-free. (*Tobacco-Free Coalition 1999*)
- Workplace smoking increases an employer's potential legal liability. Nonsmoking employees have received settlements in cases based on their exposure to secondhand smoke. For example, a waiter in Sausalito, California, received an \$85,000 settlement in a workers' compensation case. Other nonsmokers have won unemployment compensation and disability benefits. (Sweda, E.L. *Summary of Legal Cases Regarding Smoking in the Workplace and Other Places*. Boston: Tobacco Control Resource Center, December 1997)
- Secondhand smoke harms the health and reduces the productivity of nonsmokers, costing employers money. Estimated costs associated with secondhand smoke's effects on nonsmokers range from \$56 to \$490 per smoker per year. (Kristein, "How Much Can Business Expect to Profit From Smoking Cessation?" *Preventive*

Medicine, 1983;12:358-381; Jackson & Holle, "Smoking: Perspectives 1985"
Primary Care, 1985; 12:197-216)

- More than 60 cities and counties with smoke-free restaurant ordinances have been studied for economic impact. All studies, based on sales tax data, show that there is no negative economic impact. (*Glantz 1999*)
- Scientific studies in North Carolina, Arizona, California, Colorado, New York, Massachusetts and Texas have all shown that ordinances banning smoking have had no negative economic effect.
- Bars and restaurants would likely see an increase in business if they implement smoke-free policies. (*Journal of Public Health Management and Practice 1999*)
- The National Restaurant Association polls show that if a restaurant goes smoke-free, 56 percent of patrons would eat at the restaurant more frequently, and only 26 percent would eat there less frequently. (*Tobacco-Free Coalition 1999*)
- Sales tax data consistently demonstrates that ordinances restricting smoking in restaurants have no effect on revenues. (*Glantz 1999*)

VENTILATION AND AIR FILTRATION: THE SCIENCE

December 2004

- A study published in the September 2004 edition of the *Journal of Occupational and Environmental Medicine* compared the indoor air quality of a casino, six bars, and a pool hall in Wilmington, Delaware, before and after the implementation of a smokefree law. The study found that the ventilation technology installed in these establishments did not protect the workers and the public, as secondhand smoke contributed 85-95% of the carcinogen PPAH, and 90-95% of the respirable particulate air pollution into the air. These contamination levels greatly exceed those encountered on major truck highways and polluted city streets.¹
- In less than two hours after New York's smokefree law went into effect and smoking stopped, the level of respirable particulate matter (PM) dropped to 15 percent of the level on a smoking night in restaurants and bars. Three months after the law became effective, the level of PM dropped by 90 percent in these venues. Prior to the smokefree law's implementation, New York hospitality employees working an eight hour shift, 250 days a year, were exposed to particulate matter levels seven times greater than the maximum level deemed as acceptable by the U.S. Environmental Protection Agency. In addition, PM dropped an average of 77 percent after the law went into effect in bowling alleys, pool halls, and bingo halls.²
- The 2002 Environmental Health Information Service's *10th Report on Carcinogens* classifies SHS as a Group A (Human) Carcinogen--a substance known to cause cancer in humans. There is no safe level of exposure for Group A toxins.³
- The 1986 Surgeon General's report on involuntary smoking concluded that, "the simple separation of smokers and nonsmokers within the same airspace may reduce, but does not eliminate, the exposure of nonsmokers to ETS [environmental tobacco smoke]."⁴
- Using current indoor air quality standards, ventilation rates would have to be increased more than a thousand-fold to reduce cancer risk associated with ETS to a level considered acceptable to federal regulatory agencies. Such a ventilation rate is impractical since it would result in a virtual windstorm indoors.^{5,6}
- "Separation of smoking areas does not protect the workers and occupants within the smoking area. When separation is properly done (and this is not common), it can reduce the exposure of occupants in the nonsmoking areas, but there is no quantitative assurance that the remaining exposure meets any current health standard or goal."⁷
- "[T]o be at all effective in reducing the concentration of smoke in a space, any air cleaner must process many room air volumes per hour.... [E]ven large, expensive air cleaners with efficiencies for captured particles are capable of reducing, but not eliminating the environmental tobacco smoke tar particles in room air, and are not at all effective for gases, which contain most of the irritants.... [E]ven expensive particulate air cleaners cannot remove enough tar particles in room air to eliminate the cancer risk from environmental tobacco smoke.

In general, filtration of indoor air to remove environmental tobacco smoke contaminants is futile – like trying to filter a lake to control water pollution.”⁸

- Ventilated smoking rooms leak smoke into the rest of the building, harming everyone in the building. A recent research study conducted by and published for the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) “showed that up to 10 percent of smoking room air enters non-smoking areas just by opening and closing of a swing type entry door.... With supply and exhaust air flow that are practical for small smoking rooms, leaving the smoking room door open results in a large flow of air to adjoining non-smoking areas. To prevent this, smoking room doors should be equipped with an automatic closure mechanism.”⁹
- “Changes in ventilation rates during smoking do not have a significant influence on the air concentrations of tobacco components. This means, in effect, that efforts to reduce indoor air pollution through higher ventilation rates in buildings and homes would hardly lead to a measurable improvement of indoor air quality.”¹⁰
- “[I]t is noted that the specific amount of additional ventilation cannot be determined until cognizant health authorities have determined an acceptable level of environmental tobacco smoke (ETS).... An appendix ... provides a method to allow designers to determine additional ventilation over what would be provided in a similar non-smoking area. However, this additional ventilation is for the purpose of odor control only.”¹¹
- “In managing workplace ETS risks, smoking policies such as separating smokers from nonsmokers in the same space or on the same ventilation system expose nonsmokers to unacceptable risk.”¹²

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- ² RTI International, “First Annual Independent Evaluation of New York’s Tobacco Control Program,” *New York State Department of Health*, November 2004. Accessed on November 29, 2004. Download at http://www.health.state.ny.us/nysdoh/tobacco/reports/docs/nytcp_eval_report_final_11-19-04.pdf.
- ³ Report on Carcinogens, Tenth Edition; U.S. Department of Health and Human Services, Public Health Service, National Toxicology Program, December 2002.
- ⁴ U.S. Surgeon General. *The Health Consequences of Involuntary Smoking*. Washington, DC: U.S. Department of Health and Human Services, 1986.
- ⁵ Repace, J., “Smoking in the workplace: ventilation. In: Smoking Policy: Questions and Answers, no. 5,” *Seattle: Smoking Policy Institute*, [n.d.].
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- ⁹ “ASHRAE Journal: Shutting the Door on ETS Leakage,” *ashrae.org*, July 2003.
- ¹⁰ Joint Research Centre, Indoor air pollution: new EU research reveals higher risks than previously thought. Brussels: European Commission. September 22, 2003.
- ¹¹ “ANSI Upholds Approval of ASHRAE Smoking Addendum,” *csemag.com*, September 29, 2003.
- ¹² Repace, J.L., “Risk management of passive smoking at work and at home,” *St. Louis University Public Law Review* 8(2); 763-785, 1994.

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**VENTILATION AND AIR FILTRATION:
WHAT AIR FILTRATION COMPANIES AND
THE TOBACCO INDUSTRY ARE SAYING**

December 2004

**COMPANIES AGREE THAT VENTILATION SYSTEMS DO NOT ELIMINATE HEALTH RISKS CAUSED BY
SECONDHAND SMOKE**

- **Allergy Control Products, Inc.:** "Allergy Control Products, Inc. does not claim that air cleaners offered in this catalog will protect people from potential health risks associated with secondhand smoke."¹
- **Allergy Buyers Club, Inc.:** "Improved ventilation and use of air purifiers may reduce, but will not completely eliminate, your exposure to secondhand smoke and the associated health risks."²
- **Brookstone:** "No air purifier can protect against the health hazards associated with secondhand tobacco smoke."³
- **Espitech Air Products:** "We make no medical or health claims whatsoever and it is not our intention to do so.... [The] goal or objective of [the] air purification systems that we sell, for use in a smoking environment, is to provide relief from the annoyance of the odour produced by tobacco smoke as well as some of the discomforts that the smoke (fumes) and odour causes. Espitech Air Products disclaims all warranties, implied or otherwise, that anyone (non-smoker or smoker) who installs our air purifiers, air cleaners, or air scrubbers as an alternative to seeking a smokefree environment will be protected from the health risks caused by exposure to second hand smoke."⁴
- **Honeywell:** "Honeywell has not in the past and does not make health hazard claims."⁵
- **IQAir North America:** "[Air filtration] doesn't remove the risk of secondhand smoke. It would reduce the amount of smoke in the air over an amount of time. In my opinion, air cleaners are not going to be a solution. Air cleaners can not reduce the initial exposure [to smoke] and that's where the risk is coming from."⁶
- **Peak Pure Air:** "Nowhere [sic] do we claim that our products eliminate all hazardous contaminants... No! ... not any product on earth will eliminate health hazards cause by exposure to second hand tobacco smoke. After one has been exposed, the damage is done.... In a perfect world we would not need to worry about secondhand tobacco smoke."⁷
- **Radio Shack:** "We make no claims that this product will protect people from second-hand smoke....The Environizer electronic air purifiers do not eliminate such [health] hazards....The Environizer will not help remove gases that are found in tobacco smoke."⁸
- **The Sharper Image:** "No air cleaner can protect against the harmful effects of secondhand tobacco smoke. Clean air begins with a smoke-free environment."⁹

- **Wein Products, Inc.:** “No air filtration or air purification system has been designed that can eliminate all the harmful constituents of secondhand smoke. A reduction of the harmful constituents of secondhand smoke does not protect against the disease and death caused by exposure to secondhand smoke. The U.S. Surgeon General has determined secondhand smoke to cause heart disease, lung cancer, and respiratory illness.”¹⁰

VENTILATION DOESN'T PROTECT YOUR HEALTH – THE TOBACCO INDUSTRY KNOWS IT

- **Philip Morris USA** carries a disclaimer on its web site under a section entitled “Policies, Practices and Positions – Public Place Smoking” that admits ventilation does not address health issues: “While not shown to address the health effects of secondhand smoke, ventilation can help improve the air quality of an establishment by reducing the sight and smell of smoke and by controlling smoke drift.”¹¹
- Although the Philip Morris-sponsored *atmospherePLUS*, a heating, ventilating and air conditioning consulting program, promotes “enhanc[ing] indoor air quality through ventilation,” a promotional brochure’s fine-print reads: “*atmospherePLUS* does not purport to address health effects attributed to smoking.”¹²
- **The Options**, Philip Morris USA web site stated: “Our programs are not intended to address the health effects attributed to secondhand smoke.”

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² [n.a.], “[Disclaimer re: Allergy Buyers Club],” *Allergy Buyers Club*, [n.d.]. Accessed on December 6, 2004. Download at <http://www.allergybuyersclubshopping.com/al40voc.html>.

³ [n.a.], “[Disclaimer re: Brookstone.],” *Brookstone Catalog*, Winter 2004.

⁴ Lito Espinosa, Sales Manager of Espitech Air Products, “[Espitech letter re: performance of air cleaners and health hazard claims on www.allerairsolutions.com],” *Espitech*, April 14, 2004.

⁵ Janell Siegfried, Honeywell representative, “[Honeywell letter re: performance of air cleaners and health hazard claims],” *Honeywell*, June 12, 2000.

⁶ Glory Dolphin-Hammes, Executive director of the air filtration company IQAir North America. Quoted in: “Filtration systems help, but can not eliminate smoke,” *Northwest Arkansas News*, July 21, 2003.

⁷ Edward L. Peacock, President of Peak Pure Air, “[Peak Pure Air letter re: performance of air cleaners and health hazard claims on www.peakpureair.net],” *Peak Pure Air*, April 9, 2004.

⁸ J. Christian Angle, Trademark/Corporate Attorney for RadioShack Corporation. “[RadioShack letter re: performance of air purifiers and health hazard claims on www.radioshack.com.]” *RadioShack Corporation*. May 26, 2004.

⁹ (n.a.) “[Disclaimer re: air purifiers do not protect against adverse health effects caused by secondhand smoke.]” The Sharper Image. Accessed on May 19, 2004. Download at http://www.sharperimage.com/us/en/catalog/pipmoreshell1_2.jhtml?sku=SI637SNX&pid=58036000.

¹⁰ Stan Weinberg, Chairman and CEO of Wein Products, Inc., “[Disclaimer re: air purifiers do not protect against adverse health effects caused by secondhand smoke.]” *Wein Products, Inc.* Accessed on April 28, 2004. Download at <http://www.weinproducts.com/smoke.htm>.

¹¹ [n.a.]. “Policies, Practices & Positions: Public Place Smoking, Reasonable Ways to minimize Secondhand Smoke,” *pmusa.com*. Downloaded: October 3, 2003.

¹² National Licensed Beverage Association. *AtmospherePLUS: How Ventilation Can Improve Customer Comfort and Profitability* (Brochure). Alexandria, VA: National Licensed Beverage Association, 2000.

Testimony

SB 2300

Senate Industry, Business and Labor Committee

Wednesday, February 9, 2005

Deborah Knuth

Government Relations Director, American Cancer Society

Good morning, Chairman Mutch and members of the Committee. My name is Deborah Knuth, and I am the Director of Government Relations for the American Cancer Society in North Dakota. I am here to request a "do pass" vote for Senate Bill 2300.

Local and state policy makers should enact comprehensive smoke-free public and workplace laws that protect all workers and all community members from the proven dangers of secondhand smoke. All workers have the right to breathe smoke free air regardless of the occupation they choose. The negative effects of secondhand smoke are not exclusive to any one industry or type of employee.

I have attached information for your perusal that may have already been covered by others in this morning's testimony.

Thank you for allowing my testimony this morning.

#10

Testimony

Senate Bill 2300

House Human Services Committee

Monday, March 14, 2005; 9 a.m.

same given to Senate

North Dakota Department of Health

Good morning, Chairman Price and members of the House Human Services Committee. My name is Kathleen Mangskau, and I am director of the Division of Tobacco Prevention and Control for the North Dakota Department of Health. I am here today to provide testimony in support of Senate Bill 2300, which expands current protections from secondhand smoke. I will also provide information about the health effects of secondhand smoke and the economic impact of smoke-free laws.

The Department of Health believes no one should use tobacco and supports efforts to reduce nonsmokers' exposure to secondhand smoke. Senate Bill 2300 is a good vehicle to enhance current protections from secondhand smoke.

Health Effects of Secondhand Smoke

The health hazards of secondhand smoke are well documented. There is now broad consensus in the medical and scientific communities that exposure to secondhand smoke causes death and disease in nonsmokers. According to the U.S. Centers for Disease Control and Prevention, secondhand smoke (also known as environmental tobacco smoke) is a leading cause of preventable death in this country, killing 35,000 nonsmokers each year. (CDC, 2004) In North Dakota, between 80 and 140 adults, children and babies die from secondhand smoke each year. (CDC, 1996)

Secondhand smoke is a mixture of the smoke given off by the burning end of a cigarette, pipe or cigar and the smoke exhaled from the lungs of smokers. Secondhand smoke is also called environmental tobacco smoke, and exposure to secondhand smoke is called involuntary or passive smoking.

The U.S. Environmental Protection Agency and the U.S. Department of Health and Human Services National Toxicology Program report that smoke from the burning end of a cigarette contains more than 4,000 chemicals and more than 60 carcinogens, including formaldehyde, cyanide, arsenic, carbon monoxide, methane and benzene. The EPA has classified secondhand smoke as a "Group A" carcinogen – a substance known to cause cancer in humans. The EPA reports that there is no safe level of exposure to environmental tobacco smoke. (EPA, 1992) In 2000, the National Institutes of Health formally listed secondhand smoke as a known human carcinogen in its 9th Report on Carcinogens. The EPA estimates that secondhand smoke causes approximately 3,000 lung cancer deaths in nonsmokers each year. Besides the EPA

and the NIH, many other United States environmental health, occupational health and public health authorities have condemned secondhand smoke as a health hazard, including the National Toxicology Program (2000), the National Cancer Institute (1993, 1995), the Occupational Safety and Health Administration (1994), the National Institute for Occupational Safety and Health (1990), the Surgeon General (1986) and the National Academy of Sciences (1986). A listing of the key reports documenting the health effects of secondhand smoke and a summary of findings from major studies are attached.

Numerous studies have documented the health effects associated with exposure to secondhand smoke, including lung cancer and nasal sinus cancer, heart disease deaths, and eye and nasal irritation in adults. Health effects in children include acute lower respiratory tract infections, asthma induction and exacerbation, chronic respiratory symptoms, middle ear infections, and developmental effects such as low birth-weight and sudden infant death syndrome (SIDS). The toll of secondhand smoke on children is devastating, accounting for more than 26,000 low birth weight babies, 263 cases of SIDS, nearly 300,000 pediatric asthma cases and more than 99,000 cases of ear infection. Children who are exposed to secondhand smoke have, on average, 1.5 more lost school days per year than children who are not exposed. Each year in North Dakota, 56 low birth weight babies are attributed to secondhand smoke, costing \$378,247, as are 667 cases of asthma costing \$540,903 and 218 cases of ear infection costing \$107,778. Two of the 10 SIDS deaths each year in North Dakota are attributable to smoking exposure. (American Legacy Foundation, 2004) Restaurant and bar workers, who typically have greater exposure to secondhand smoke, are at 50 percent to 100 percent increased risk for lung cancer.

Recent studies assessing the association of secondhand smoke with heart disease show that exposure to secondhand smoke increases the risk of fatal and nonfatal coronary heart disease in nonsmokers by about 30 percent. Exposure to secondhand smoke for as little as 30 minutes can increase the formation of blood clots and restrict flow to the heart, causing a heart attack. A recent study in Helena, Montana, where a smoke-free law had been implemented, showed that heart attack admissions to the local hospital were reduced by 40 percent. The CDC states, "We now have a considerable amount of epidemiological literature and laboratory data on the mechanisms by which relatively small exposures to toxins in tobacco smoke seem to cause unexpectedly large increases in the risk of acute cardiovascular disease." (CDC, 2004)

Current Support for Smoke-Free Environments

There is growing support for smoke-free environments in North Dakota. A survey commissioned by the North Dakota Public Education Task Force on Tobacco in 2004 found that the majority of North Dakotans age 18 through 54 feel smoking should not be allowed in schools, public facilities, entertainment arenas, private businesses and restaurants. More than 86 percent of those surveyed feel that even though smoking is legal for individuals older than 18, nonsmokers have a right to breathe clean air. The study found that 97 percent believe smoking should not be allowed in elementary and

high school buildings, 89 percent believe smoking should not be allowed in public facilities, 85 percent believe smoking should not be allowed in entertainment arenas, 61 percent believe smoking should not be allowed in private businesses and other non-government work sites and 68 percent believe smoking should not be allowed in restaurants. The research also revealed that nearly 93 percent of North Dakotans would patronize restaurants in their community just as often or more often if they all went completely smoke free. Only 32 percent believe smoking should not be allowed in bars and cocktail lounges, but that percentage is up from 22 percent in 2002. A fact sheet on the study findings is attached.

Some may wonder why the U.S. Occupational Safety and Health Administration has not promulgated rules on secondhand smoke. Because of repeated Congressional admonitions that secondhand smoke is an issue best handled by states, federal regulatory agencies have been discouraged from undertaking rulemaking or research efforts to protect private-sector workers and the public. In 2001, OSHA withdrew its Indoor Air Quality Proposal and terminated the rulemaking proceeding. Since that proposal was first issued, a great many state and local governments and private employers have taken action to curtail smoking in public areas and in workplaces.

As of July 2004, 12 states had adopted state smoke-free workplace laws. Eleven states include restaurants in their smoke-free workplace laws, and seven states include bars. California and Utah were the first states to implement smoke-free laws in 1994. Ten additional states have implemented various combinations of 100 percent smoke-free provisions since 2002. Legislation is being considered in five additional states. A listing of the states with smoke-free workplace laws is attached.

California has the longest history of smoke-free workplace laws. Smoking prevalence has declined and California smokers are smoking fewer cigarettes. Accelerated reductions have been documented for heart disease deaths and lung cancer incidence rates. From 1988 through 1999, lung and bronchus cancer rates in California declined at nearly six times the rates of decline in the nation. In addition, six out of nine cancer types that have been linked to tobacco use had a lower incidence rate in California than in the rest of the United States in 1999.

Economic Impact of Smoke-Free Workplace Laws

Numerous studies have documented the economic impact of smoke-free policies. Well designed studies (1) are based on objective measures; (2) use data several years before and after implementation of the policy; (3) use appropriate statistical tests that test for significance, controlling for underlying trends and fluctuations in data; and (4) control for changes in economic conditions. Key findings from *A Summary of Studies Assessing the Economic Impact of Smoke-free Policies in the Hospitality Industry* by Scollo and Lal (VicHealth Centre for Tobacco Control, 2004) are quoted below.

- No negative economic impact from the introduction of smoke-free policies in restaurants and bars is indicated by the 21 studies where findings are based on

an objective measure such as taxable sales receipts, where data several years before and after the introduction of smoke-free policies were examined, where changes in economic conditions are appropriately controlled for, and where appropriate statistical tests are used to control for underlying trends and fluctuations in data. Just a few studies have found negative effects, and each of these studies is methodologically flawed.

- Studies concluding a negative economic impact have predominately based findings on outcomes predicted before introduction of policies, or on subjective impressions of estimates of changes rather than actual, objective, verified or audited data. These studies were funded primarily by the tobacco industry or organizations allied with the tobacco industry. Almost none of the studies finding a negative impact are published in peer-reviewed journals.

A study conducted in Minot, North Dakota, after implementation of the smoke-free restaurant ordinance showed no negative impact on business.

Ventilation

The tobacco industry's accommodation policy consists of the recent effort to push for ventilation standards instead of prohibitions on smoking. The Philip Morris *Options* program, for example, seeks to convince owners, operators and patrons of establishments that ventilation can alleviate the problems caused by secondhand smoke. However, there is no ventilation system guaranteed to completely eliminate the exposure of nonsmokers to secondhand smoke in a building where smoking is allowed.

According to the EPA, even minimal exposure to secondhand smoke increases the number of attacks and the severity of symptoms in children who have asthma. In addition, the EPA recognizes no safe level of exposure to Group A Carcinogens and has determined that secondhand smoke cannot be reduced to safe levels in businesses by high rates of ventilation. Even Phillip Morris USA carries a disclaimer on its website that states: "While not shown to address the health effects of secondhand smoke, ventilation can help improve the air quality of an establishment by reducing the sight and smell of smoke and by controlling the smoke drift."

The American Society of Heating, Refrigeration and Air Conditioning Engineers, ASHRAE, develops indoor ventilation standards. ASHRAE Standard 62, *Ventilation for Acceptable Indoor Air Quality*, applies only to nonsmoking areas because ASHRAE has determined that ventilation and air cleaning do not adequately remove secondhand smoke toxins from the air. Even companies that manufacture ventilation and filtration systems to remove secondhand smoke from the air state that the systems are designed only to decrease odors and increase comfort.

Legislation that relies on ventilation to protect people from the health hazards of secondhand smoke actually does nothing to protect the public's health, and gives

building owners and occupants the false impression that there is no health risk when the risk is still present. Ventilation is never fully effective in preventing smoke from penetrating to nonsmoking areas. Fact sheets on ventilation are attached.

Definitions

Well-defined terms and provisions are critical for ensuring that the interpretation, implementation and enforcement of the law accomplish the legislature's intent in enhancing the provisions of the law. The definitions of "place of public access," "places of employment," "restaurants" and "bars" raise the most questions. In Senate Bill 2300, key terms are precisely defined to prevent differing interpretations and to indicate the extent of coverage.

Conclusion

In conclusion, the effects of secondhand smoke are significant and well documented, as are the benefits of smoke-free laws. There is growing support for smoke-free laws in North Dakota. Finally, smoke-free laws have been shown to have no negative impact on businesses.

The *Surgeon General's Report on Reducing Tobacco Use* strongly recommends smoking bans and restrictions as an effective means to reduce nonsmokers' exposure to secondhand smoke.

Senate Bill 2300 was amended to exempt hospitals, bars and fraternal organizations from smoke-free regulations. Although the department would prefer no exemptions, this bill is still a step forward in protecting nonsmokers from secondhand smoke.

This concludes my testimony on Senate Bill 2300. I am happy to answer any questions you may have.

TOBACCO Facts

North Dakotans Support Smoke-Free Environments

A 2004 study conducted by Winkelman Consulting of Fargo revealed strong public support for prohibiting smoking in most public places. The study was based on a random-sample telephone survey of 1,200 North Dakotans between the ages of 18 and 54.

▶ Nearly 61 percent of those surveyed believe smoking should not be allowed in private businesses and other nongovernmental work sites, and 10.6 percent of those would extend the ban to the grounds.

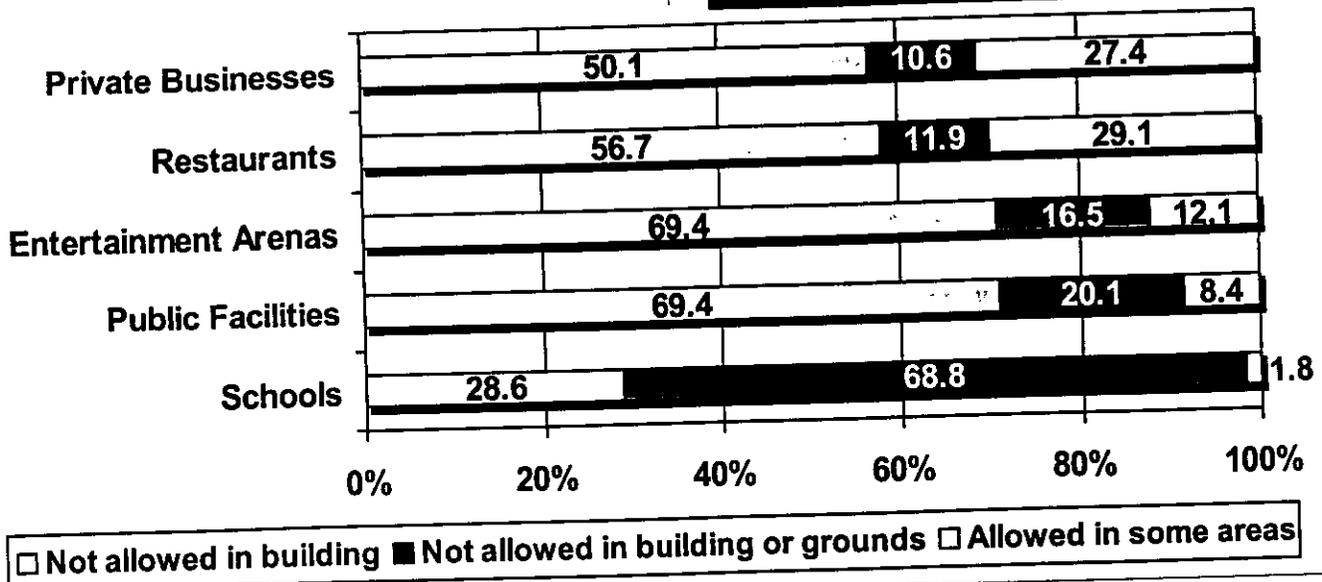
▶ More than 68 percent believe smoking should not be allowed in restaurants, and 11.9 percent of those would extend the ban to the grounds.

▶ More than 85 percent believe smoking should not be allowed in entertainment arenas, and 16.5 percent of those would extend the ban to the grounds.

▶ More than 89 percent believe smoking should not be allowed in public facilities, and 20.1 percent of those would extend the ban to the grounds.

▶ More than 97 percent of North Dakotans believe smoking should not be allowed in school buildings, and 68.8 percent of those would extend the ban to the grounds.

More than 86 percent of those surveyed feel that even though smoking is legal, nonsmokers have the right to breathe clean air.



For more information, contact:
 Division of Tobacco Prevention & Control
 North Dakota Department of Health
 600 E. Boulevard Ave., Dept. 301
 Bismarck, ND 58505-0200



701.328.3138 or 800.280.5512 / www.ndtobaccoprevention.net

5
Testimony SB 2300

Senator Ralph Kilzer

Good morning, Madam Chairman and ladies and gentlemen of the House Human Services Committee. I am Ralph Kilzer, State Senator from District 47 in Bismarck, speaking as the prime sponsor in favor of Senate Bill 2300, which is the smoking bill.

It's always a pleasure for me to appear before your committee because it is also my first committee when I was in the House a few years back.

You will note on this bill that there is no fiscal note, and by conservative estimates, the bill would reduce the mortality and morbidity caused by second-hand smoke. About 80 to 120 people die prematurely each year in North Dakota because of second-hand smoke; this is about the same number as are killed on our highways each year. Many hundreds of people have their asthma and other chronic lung disease progress much faster than normal due to second-hand smoke, so the morbidity is also very high.

The three main causes of death in North Dakota and the United States are cancer, heart disease, and stroke. Primary smoking and second-hand smoke contribute to the cause of death in all three of those listed causes of death. Cancer of the lung is highly correlated with working in a second-hand smoke environment. In addition, cancer of the mouth, throat, gastrointestinal system, female, breast, and cervix are all higher in people who work in a smoke environment, particularly when they have a spouse who

smokes. Smoke exposure also increases platelet cohesion and vascular spasm, which has been proven to cause heart attacks and strokes.

The main ingredients of second-hand smoke are carbon monoxide, coal tar, and nicotine. Smoke is very diffusible, and it's hard to get adequate ventilation to reduce the concentration in air. Smoke is measured in micrograms per cubic meter of carbon monoxide. Normal unpolluted air is in the low single digits. Heavy, bluish, hazy air in a poorly ventilated bar can run as high as 850 micrograms per cubic meter.

Eight other states, including New York and California, presently have this type of restriction in place so that smoking is not allowed in any restaurants or any bars. I like the bill in its present form. It comes from a scientifically sound public health perspective. It is not unduly punitive. It seeks to have a clean air environment for employees who work in confined spaces and for all people in places where they wish to work and play. It gives the places with the highest levels of smoke- the bars and restaurants- some time to make needed adjustments. It is ironic that Cuba has outlawed smoking in its restaurants and bars effective February 5, 2005. In addition, Kentucky has recently put into law an increase of cigarette tax from three cents up to 30 cents per pack, effective June 1, 2005. It will not be in place for the Derby, however, this year.

Engrossed Senate Bill No. 2300 Summary

Expands Current Government Regulation Regarding Smoke Free Health Protections

Senate Bill 2300 would revise chapter 23-12 to protect the public health and welfare by prohibiting smoking in public places and places of employment. The operative provision is on page 5, lines 1 through 5, which states smoking is prohibited in all enclosed areas of:

- 1) Public places, and
- 2) Places of employment.

To understand the areas included by public place and places of employment, it is necessary to look at how these two terms are defined. The definition of a place of employment begins on page 2, line 30. The definition of a public place begins on page 3, lines 4.

Public places and places of employment that are not required to be smoke-free are in the list of exemptions beginning on page 5 line 7:

- a. Private residents, except as operating as a child care facility.
- b. Hotel and motel rooms and other places of lodging.
- c. Retail tobacco stores.
- d. Outdoor areas of employment, except sports arenas.
- e. Owner-operator business having no other employees and that is not commonly accessible to the public.

The following exemptions were amended into the bill by the Senate:

- f. In or on the grounds of hospitals.
- g. Bars, where food service is incidental to the consumption of alcoholic beverages, with a delayed implementation of August 1, 2007.
- h. Public place owned, rented, leased or otherwise operated by a social, fraternal, or religious organization used solely by the organization members or their guests and families, with a delayed implementation of August 1, 2007.

The delayed implementation date for bars and social/fraternal/religious organizations will allow for the 2007 Legislative Session to revisit this issue before the requirements are mandated.

The final exemption is for smoking as part of a traditional American Indian spiritual or cultural ceremony.

This bill also repeals the requirement that no smoking signs be posted. Enforcement of the provisions is by complaint basis to local law enforcement or to specified state agencies.

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Testimony Supporting SB 2300
March 14, 2005
House Human Services Committee
Claire Sue Price, Chairman
By
Representative Lee Kaldor
District 20

Chairman Price and members of the House Human Services Committee, I am Representative Lee Kaldor, Representing District 20—all of Traill County and parts of Steele, Cass and Barnes Counties. I am here today to give testimony in support of SB 2300. There are others here today from the health community who will speak to the technical details of this bill as well as the health needs for controlling Environmental Tobacco Smoke (ETS), or what we commonly call “Second-hand smoke”. You will hear the evidence that exists to prove that ETS is unsafe for those who are exposed to it. You will hear of the evidence that demonstrates the need to make our workplaces and public places clear of ETS and safe for employees and clientele. I am here to focus on another aspect of this legislation. I want you to allow me to discuss with you the business concerns that this bill has generated.

There are those who suggest that such a strict measure will hurt business and impose unnecessary restrictions on business and people’s rights to smoke. This measure, so they say, will have a devastating effect on some businesses. I can’t deny that as our culture changes and our acceptance of smoke filled rooms declines that some businesses will be affected adversely. I suppose there was a time when taking Spittoons out of business places was considered a threat to the business’ regular clientele, but they adjusted and they made it. Today businesses all across North Dakota are changing to smoke free environments and they are finding that not only is it not hurting their business, but in fact, improving their businesses in many different and understandable ways. Smoke free businesses are spending less money on cleaning, ventilation

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maintenance, insurance, sick leave and workers compensation claims. In addition they have happier and more customers who prefer a smoke free place to do business.

The Senate has modified this bill to provide a two year exemption for stand-alone bars and clubs. This will provide a period for evaluation and consideration of the benefits of a smoke free work environment. Unfortunately, the employees in these exempt places will not be protected.

Finally, this is a public health issue. It is not about smoker's rights. It is about the rights employees have to a safe work environment. A uniform measure such as SB 2300 will make enforcement easier and less confusing for employers. It also levels the playing field in that all establishments will be smoke free. Loyal clientele will likely patronize their favorite bar or restaurant as in the past because all facilities are smoke free. Not only that, but businesses will be surprised to see new customers who have avoided their places in the past because of the presence of smoke.

As we continue to learn more about the effects of ETS, it is imperative that we react to the new information and take action as a state to protect our workers, our children and our citizens and their right to breathe clean air. The right to breathe clean air is as fundamental a right as ensuring that we have clean water supplies. How is it that we can expect anything less?

Chairman Price and Committee members, I hope that you give this legislation the favorable consideration it deserves. Act boldly in the interests of all of those who work in polluted environments. Give them a chance to breathe clean air. Thank you.

#8

Hearing on Senate Bill 2300
House Human Services Committee
Testimony presented by Kelly Buettner-Schmidt
Monday, March 14, 2005

Good morning, Chairman Price and members of the Committee. I'm Kelly Buettner-Schmidt, an Assistance Professor of Nursing and Project Director of the Tobacco Education, Research and Policy Program at Minot State University.

My testimony will focus on three separate but related topics. First will be brief comments on a published summary of studies that have assessed the economic impact of smoke-free laws. Secondly, I will share the various assessments of North Dakota's first smoke-free ordinance implemented in Minot and thirdly, I will share some anecdotal stories from the Minot business community.

Economic Impact of Smoke-Free Laws

The first topic concerns economic impact studies of smoke-free laws. Multiple studies have documented the economic impact of smoke-free policies. These studies were analyzed with the results published in 2003 by Scollo and Lal with the analysis updated in 2004.

It is important to note that well designed studies (1) are based on objective measures; (2) use data several years before and after implementation of the policy; (3) use appropriate statistical tests that test for significance, controlling for underlying trends and fluctuations in data; and (4) control for changes in economic conditions.

The 2 key findings from Scollo and Lal are below. (Scollo, M. & Lal, A. (2004) *A Summary of Studies Assessing the Economic Impact of Smoke-free Policies in the Hospitality Industry*, VicHealth Centre for Tobacco Control, April 2004, <http://www.vctc.org.au/tc-res/Hospitalitysummary.pdf>, accessed January 2005.)

- No negative economic impact from the introduction of smoke-free policies in restaurants and bars is indicated by the 21 studies where findings are based on an objective measure such as taxable sales receipts, where data points several years before and after the introduction of smoke-free policies were examined, where changes in economic conditions are appropriately controlled for, and where appropriate statistical tests are used to control for underlying trends and fluctuations in data. Just a few studies have found negative effects and each of these is methodologically flawed.
- Studies concluding a negative economic impact have predominately based findings on outcomes predicted before introduction of policies, or on subjective impressions of estimates of changes rather than actual, objective, verified or audited data. These studies were funded primarily by the tobacco industry or organizations allied with the tobacco industry. Almost none of the studies finding a negative impact are published in peer-reviewed journals.

Assessments of Minot's Smoke-Free Restaurant Ordinance

The second topic is a review of the assessments conducted on the Minot smoke-free restaurant ordinance. In 2001 the Minot City Council passed the law and a subsequent opposition led referendum resulted in the law being upheld by the Minot voters by a margin of 55% to 45%. That ordinance took effect three years ago last January.

Three years later we can demonstrate three things about Minot's smoke-free restaurant law. The public support of the law has increased since enactment of the law, it has posed few enforcement problems, and it is economically neutral. These findings are detailed in the accompanying folder.

1. **Public Support.** A random sample survey of Minot voters, conducted more than a year and a half after the ordinance took effect, found that 80% of voters support the smoke-free law. That's a 25-point gain from the referendum ballot vote itself.
2. **Economic Impact.** Using objective data from the State Tax Department, Minot State University analyzed six years of sales tax receipts (five years before and one year after the ordinance was implemented) and concluded that there has been no economic effect or adverse change in restaurants sales as a whole due to the smoke-free ordinance.
3. **Enforcement.** Minot ordinance is self-enforcing. A study of restaurant compliance reveals a high 96% compliance rate.

Health. We can also infer that by far the greatest benefit to our community relates to public health. Although no scientific data has been gathered specifically on Minot, other published studies conclude that smoke-free policies have a positive health impact on workers and patrons.

Right to Breathe Clean Air Valued. Additionally, as part of Minot's survey on attitudes, researchers found that some 61% of voters say they believe that people's right to breathe clean air outweighs a business owner's right to choose whether to allow smoking.

Anecdotal Information From The Minot Business Community

The third and final topic is anecdotal information from the Minot business community.

A recent letter from the Minot Convention and Visitor's Bureau reinforces the findings of the Minot State University economic impact study. Regarding the smoke-free law the letter states "...*there seems to have been no negative effect on the convention industry in Minot*" and "...*several (hotel and convention facility) managers felt that it has made a positive impact, even to the point of saying that it has increased their business.*"

Keith Glatt, owner of Kroll's Diners in Fargo, Bismarck, and Minot, could not be here today, but asked that I distribute his written testimony. He reports sales in the Minot store have shown double-digit increases in sales in the past two years, and wants to see the smoke-free environment expanded statewide stating its "...*just a matter of time*" and he doesn't see "...*any reason to delay the inevitable.*"

Dean Aberle, owner of Homesteaders Restaurant in Minot, echoes Kroll's positive experience commenting: (1) "...the increase in business was noticeable," (2) "Wait staff comments also were very favorable," and (3) "It's proven to me that success in the restaurant business isn't about smoking or not smoking, it's about providing high-quality food and high-quality service on a consistent basis."

In your folder you'll also find a page of comments from other Minot business owners.

To quickly recap my testimony, we first looked at a summary of economic impact studies with the conclusion of no negative economic impact from smoke-free laws is indicated where findings are based on objective well designed studies. Secondly, we looked at assessments of Minot's ordinance showing high public support, self-enforcement, improvement in health, the right to breathe smoke-free air valued, and a neutral economic impact. Lastly, we reviewed anecdotal information from the Minot business community. Thank you, Chairwoman Price and members of the committee.

Hearing on Senate Bill 2300
House Human Services Committee
Written Testimony By
Keith Glatt, Owner, Kroll's Diners in North Dakota
Monday, March 14, 2005

Ms. Chairman and members of the committee, my name is Keith J. Glatt. I am the owner of Kroll's Diner restaurants across the state.

I am in favor of SB2300 prohibiting smoking in all public places and places of employment.

Our stores in Minot and Fargo have not shown any loss of revenue due to city ordinances prohibiting smoking. In fact, our Minot store has shown double digit increases in sales the past two years.

I believe that if the state would create a statewide smoke-free law, it would create a level playing field for everyone. Thus, there would be no fear of a competitive advantage to driving across the river to another town to smoke. I think it's just a matter of time before all workplaces will have to be smoke-free anyway. I don't see any reason to delay the inevitable.

Finally, one goal of the state of ND should be to protect the safety and well-being of all it's citizens; for this reason SB 2300 law needs to be passed.

Keith J. Glatt
District 47 constituent

Hearing on Senate Bill 2300
House Human Services Committee
Written Testimony By
Dean Aberle, Owner, Homesteaders Restaurant, Minot, ND
Monday, March 14, 2005

*Same
testimony
given to
The Senate*

Mr. Chairman and members of the Committee. I'm Dean Aberle, owner of Homesteaders Restaurant, family restaurant located in Minot, North Dakota.

Homesteaders voluntarily went smoke-free in June of 2001, one month before Minot's smoke-free restaurant ordinance was approved by voters and six months before the ordinance took effect.

From the moment we implemented our smoke-free policy, the increase in business was noticeable. Complaints overall were few and far between. During our first month, many customers came up to me personally and thanked me, telling me how much they appreciated the healthy environment. Some even sent flowers.

Wait staff comments also were very favorable. They included reports of fewer headaches and respiratory problems, which they attributed to no longer having to breathe the secondhand smoke.

Since then, the response has been nothing but positive. It's proven to me that success in the restaurant business isn't about smoking or not smoking, it's about providing high-quality food and high-quality service on a consistent basis.

As a restaurant owner, I am proud to provide a smoke-free setting for our staff and customers. It reflects my commitment to the health of our community.

Testimony
Senate Bill 2300

House Human Services Committ
Monday, March 14, 2005

June Herman
Senior Advocacy Director, American Heart Association

Good morning, Chairman Price and members of the House Human Services Committee. My name is June Herman, and I am the senior director of advocacy for the American Heart Association. I am here today to testify in support of establishing smoke free public health protections, and I encourage the committee to extend those protections to all North Dakota workers.

It is very appropriate for this committee to address this bill as it is at its core a public health matter. Knowing that you have already received information on the hazardous workplace employment, and the public health threat of second hand smoke, I am going to focus my comments to the dynamics of community dynamics of passing smoke free policies.

You may find that smoke free policy development will sort into two key policy areas – public health protection and business regulation. If you approach this bill as a public health issue, given the science provided to you today, how could one group of workers be asked to work in an unsafe environment while others are protected? Worker safety protections have always been applied as extensively as possible. For this worksite health issue, the only proven protection is 100% smoke free air. Those who seek to exempt a sector of the workforce often represent the least likely sector to provide any type of health coverage for their employees. So not only do we place those workers at risk, their health care becomes the responsibility of government health programs, or other employers.

If you approach this bill as a business regulation issue, the debate will quickly become one of why one worksite must comply, and others don't. The recent Fargo, W. Fargo, and Moorhead smoke free policy work is a good example of how hard it is in a competitive hospitality environment to draw a fair, clean line of exemptions. The city commissioners of those communities all asked of me why the state could not enact a policy that crossed all political subdivisions and make establishment of a level playing field for all businesses. The struggle of drawing a fair, clean line of exemptions is why the Fargo City commission was ready to move with a 100%, comprehensive policy, and why Moorhead did the same. Unfortunately, their work unraveled with one hospitality venue seeking exemptions, then another, then another. Even though the majority of voters in both West Fargo and Fargo voted for 100% coverage, other options receive slightly more. And while more people in those communities are protected, several hospitality sites are realizing how important a level playing field of 100% smoke free policy is in such a competitive market.

You will find granting exemption for one sector to be a slippery slope, as bar/grill establishments seek to compete with "bar" establishments, and restaurants compete with bar/grill establishments, business restaurants with clubs and organizations. And they all have one thing in common -- workers exposed to environment poisons that threaten their health.

In North Dakota, a greater number of hospitality sites now understand the health impact to their workforce, and realize the liability they can face in exposing their workers. What many of them seek is a common workplace health policy that levels the playing field for all. Attached to my testimony I've attached a copy of a letter on this matter from a Jamestown truck stop owner who encourages that every work place is covered with your policy.

Whether a public health policy, or a business regulation issue, the fairest approach for all is requiring smoke free protections of all worksites.

#12

*Same
given to
Senate*

**American Lung Association of North Dakota: Testimony
SB No. 2300
Monday, March 14, 2005**

Good morning, Madame Chair and members of the Committee. My name is Janel Schmitz, and I am the executive director of the American Lung Association of North Dakota. I am here to request a "do pass" vote for Senate Bill 2300.

I am here today because too many North Dakotans are dying from smoking, and smoking related illnesses. This bill is before you because you have the opportunity to impact the health and well-being of North Dakotans for generations to come. It is time to recognize the health of every North Dakotan is more important than any possible argument that can be conjured against smokefree air.

You have heard many statistics this morning. In my work, I hear stories of our friends and neighbors. I hear from employees who are unable to visit with upper management about a smoke-free policy at their workplace for fear of retribution. I listened to the pregnant woman who was told by her physician that she would have to give up her office job and its benefits because of the second hand smoke and its impact on her unborn child. I hear families share their frustrations when one family member has asthma. It restricts the activities of an entire family, often forcing them to avoid facilities where smoke will be present.

I am here today because this is an issue that requires a law. We protect workers in our state – through a variety of labor laws that govern working conditions. We have laws so ten-year olds can't work in factories, so people have adequate light and heating in their work area, so people don't have to work lengthy hours without a break, and without adequate compensation. All of these laws are in place because somewhere along the line, some business owners didn't protect their workers.

As you have heard, secondhand smoke contains numerous chemicals that are medically proven to cause cancer, heart disease, and respiratory illness. At this time, an estimated 60,000 North Dakota adult workers, or 1 in 5, are not protected by a smoke-free policy in their work area. This number does not include the thousands of young North Dakotans aged 15-21 who work in these environments.

The choice for the non-smoker to avoid smoking environments in their work is not realistic- there aren't enough jobs to be found. The 60,000 North Dakotans who work in smoke-filled environments need you as legislators to stand for them, and protect them from secondhand smoke.

Other industries have recognized the need. I would suspect most of you remember when smoking was allowed on airplanes. At that time, the airline industry received numerous complaints from Congress members who were frequent fliers, and from the airline employees. The airline industry went smoke-free. Today, it seems ludicrous to think of someone smoking on an airplane.

The same is true for the movie industry. How strange it would be today to have someone light up next to you while you watched the latest Julia Roberts flick. People who smoke manage to sit through a two-hour movie or endure a four-hour flight without a cigarette. It makes sense that they could do the same in other environments until an appropriate break time, and outside of the workplace.

Other state legislatures have taken on this same issue – and have chosen to protect all workers in their states. Currently, smoking is prohibited in all workplaces in six states - California, Connecticut, Delaware, Maine, Massachusetts, and New York.

In North Dakota, we take pride in caring for our neighbors. There is rarely a spring planting season that goes by when we don't hear of a group of farmers helping an ailing neighbor. In this tradition, I ask you to extend our sense of community caring to include protection of all workers to breathe smoke-free air.

When I started, I said I was here because too many North Dakotans were dying from smoking. Smoke-free workplaces help create the environment that makes it easier for people to quit smoking. Philip Morris' own documents state that when workplace environments are smoke-free, "smokers consume 15% fewer cigarettes and quit at a rate that is 84% higher than average." This law, with the proposed amendments, will help create the environment needed to help smokers beat their addiction to cigarettes.

This concludes my testimony. I will be happy to take any questions you may have.

March 10, 2005

Dear Committee Members:

Thank you for considering my views on SB2300, a bill that eliminate the problem of second hand smoke from most public places. I am a member of the Sargent County Board of Commissioners. As a County Commissioner, I am also a member of the Sargent County Social Services Board and have oversight over the County's public health unit and emergency medical services. As a member of these boards, I have become well aware of the financial burden smoking and smoking related illnesses place upon our social services and healthcare budgets. It is immense, as you are well aware, and the problem must be addressed at the source. Eliminating second hand smoke from public places will go a long way toward ridding our society of the health and social burdens associated with tobacco use. You have already received a mountain of scientific, medical and statistical evidence which supports the elimination of tobacco smoking in public places as an action that is both desirable and necessary to protect and promote the health of the citizens of this State. That evidence is clear and overwhelming. I will not bore you with more. I Do, however, ask that you consider my personal experience with smoking and second hand smoke as you make your deliberations.

In December of 1971 I returned to my home town, Rutland, North Dakota, following 3 years of military service which included a tour of duty as a Marine Corps infantry platoon commander in Viet Nam. For a short period after my return, I resided in the home of my parents, in Rutland. I was then a heavy smoker - 2 to 3 packs each day. I had begun smoking during my Senior year in high school, back in 1963, had continued the addiction through my college years and military service. My father, Earl Anderson, had been a smoker for about 30 years, until he kicked the addiction in 1966. Even though he had stopped smoking, though, everywhere he went, at work, at public gatherings, even at his frequent pinochle games in the local pool hall, there was smoking going on. Every time he was around me, he was subjected to my second hand smoke, too, and we were together a lot. My father was a community leader, active in his church, a successful businessman and a political activist. If you wanted to make sure that something got done, he was the man you went to. He was an innovator. He saw possibilities for housing, businesses and public facilities in the rural communities of Sargent County that were not apparent to others, and he brought them to reality. As you can tell, I admired my father. In January of 1977, he was diagnosed with cancer. The cancer had started in his lung and mestastasized to his brain. In 7 months he was dead. A man of vision, with the ability, energy and courage to make that vision reality, prematurely dead at age 61, lost to his family, to his friends, to his community and to his State. As the

information about the health effects of second hand smoke has become known, I have often wondered what part my own smoking may have played in my father's illness and death. Three months before my father was diagnosed with cancer, I had stopped smoking, but I had inflicted second hand smoke upon him, with all of its cancer causing components, for 5 years. There is little doubt that smoking tobacco, and the second hand tobacco smoke that he was exposed to at work, in public places and even in his own home, caused the cancer that prematurely killed my father. The bill before you does nothing about second hand smoke in the home, but it does eliminate second hand smoke from most public places. If, as a result of this bill, the life of even one person is spared, it will have been worth your effort. But this bill will do much more than that. I know, you know and the people of North Dakota know that it is a necessary measure to protect the health of the people of this State. I know, you know and the people of North Dakota also know that eliminating the scourge of second hand tobacco smoke from the air we breathe will ultimately save the public treasury millions of dollars in health care costs avoided. SB2300 is a good bill. It deserves to become law. I ask that you support it.

Respectfully submitted,

Bill Anderson
Sargent County Commissioner
PO Box 100
Rutland ND 58067



North Dakota Society for Respiratory Care

March 14, 2005

The Honorable Clara Sue Price and Members of the Human Services Committee
North Dakota State Capital
600 East Boulevard
Bismarck, North Dakota 58505

Dear Madam Chair Price and Members of the Committee:

The North Dakota Society for Respiratory Care supports Senate Bill 2300. If passed, this bill will protect the health of all workers in North Dakota.

Research has shown that secondhand smoke causes lung cancer and heart disease in healthy nonsmokers. Approximately 53,000 non-smoking Americans die from secondhand smoke each year and the primary source of that exposure for adult non-smokers is the workplace. Restaurant workers are at particular risk. According to the National Cancer Institute (NCI), food service workers rank last among the Census Bureau's list of major occupation groups in terms of smoke-free worksite protection.

Comprehensive workplace smoking laws have shown to be effective in reducing exposure to secondhand smoke, increasing the number of people who quit, and discouraging children from starting to smoke.

As Respiratory Therapists, we see the effects smoking has on individuals on a daily basis. We know the threat it poses not only to those who smoke, but to those surrounding them. This is a public health and safety issue.

On behalf of the North Dakota Society for Respiratory Care, we urge your support of Senate Bill 2300.

Sincerely,

Michelle Walker
NDSRC Secretary



*Script given
to Senate*

March 14, 2005
Testimony SB 2300



Chairman Price and Members of the Human Services Committee:

As members of the Healthy North Dakota coalition of more than 150 agencies, organizations and businesses, we urge you to pass SB 2300 to protect the health of our citizens.

The 280 members of the North Dakota Dietetic Association, with a mission to support the public through the promotion of optimal health and nutrition, strongly support efforts to ensure clean air in public places. North Dakota has some of the cleanest outdoor air in the country; it would benefit everyone living in, working in, or visiting our state to be able to experience clean indoor air, as well.

As employees and employers, we believe that **everyone has the right to live and work in a healthy environment and that includes one that is free of secondhand smoke.**

As members of healthcare teams who care for those who suffer from heart disease, cancer and diabetes – diseases that account for two-thirds of total deaths in North Dakota – we believe that cleaning up the air can help to prevent these diseases and/or reduce the complications that cigarette smoke can cause.

Karen K. Ehrens, LRD

Karen K. Ehrens, LRD (Licensed, Registered Dietitian)
Legislative Chair, North Dakota Dietetic Association and Partner in Healthy North Dakota

SB2300
Testimony in Favor
Keith Johnson, R.S.
ND Public Health Assn. & ND Environmental Health Assn.
#380

Good morning, ladies and gentlemen of the Committee. My name is Keith Johnson, and I represent the 250 + members of the ND Public Health and Environmental Health Associations.

By now, you and I both know that tobacco is harmful, in all its forms. Smoke, spit, secondhand – it is all harmful. I think you've been convinced, and so I will spend no more time on that subject.

SB2300 is an honest bill, because it takes the direct approach of recognizing the danger inherent in tobacco, and removes it from public and workplace venues where the habits of a few can harm the health of many. It simply says that, if you are in a place where other patrons or fellow workers breathe the same air, you do not have the privilege of lighting small fires to tarry substances so that everyone is forced to breathe in the smoke. That sounds reasonable to me.

You will hear the argument that this is an individual rights issue, that an owner of a public place or workplace can allow someone to light small fires in his or her public place, and that we can separate the people who don't want to breathe in the smoke so that they don't smell it. This guarantees the individual rights of everyone except the people trying to avoid the smoke from the small fires that have been lit elsewhere. Yes, they have the right to leave. The Serbs gave that individual right to the Bosnians, too, but the world did not consider that to be a right. They considered it to be the tyranny of a few abusing the rights of a majority. Owners of workplaces protect their workers from other environmental hazards – hardhats, eye protection, earmuffs and steel toed boots are all very common in the workplace. It stands to reason that clean air to breathe should reasonably be among those protections.

Society has set rules that prevent injury to the many by a few since before the days of common law. SB2300 is another one of those rules. I urge a Do Pass.

#13

#10 opposition - handed out
Rep Wrengham

OPINION

A16 Sunday, March 13, 2005

The Forum

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A Pulitzer Prize-winning newspaper

William C. Marcell
Publisher

Jack Zaleski
Editorial Page Editor
(701) 241-5521
jzaleski@forumcomm.com

OUR OPINION

Exempt bars from smoke ban

A statewide workplace smoke ban being contemplated by the North Dakota Legislature should make an exception for free-standing bars where food service is incidental. This is especially important for small-town North Dakota, where the bar business is marginal already; a smoking ban could be enough to tip those bars into going out of business.

Senate Bill 2300 will be heard in committee Monday. The bill calls for reasonable exceptions, including bars and certain clubs until Aug. 1, 2007, when a ban would affect them, too. The sunset should not apply to free-standing bars or clubs that are not open to the general public.

As we've said in the past, bans based on the proven hazards of workplace smoke will be imposed incrementally — as society's attitude about smoking becomes less and less tolerant. But a few exceptions to ease the inevitable transition are reasonable.

Forum editorials represent the opinions of Forum management and the newspaper's Editorial Board

#14

#2 - opposition

*ND's Restaurant, Lodging &
Beverage Association*



P.O. Box 428 • Bismarck, ND 58502 - Phone: 701-223-3313 • Fax: 701-223-0215
e-mail: ndha@btinet.net • www.ndhospitality.com

ND Hospitality Assn. Testimony
House Human Services Committee
SB 2300

Madam Chairwoman and members of the committee, my name is Bill Shalhoob and I represent the ND Hospitality Assn. We are appearing in opposition to SB 2300 and will be offering several amendments. The amendments are summarized on the last page of my testimony and I will be referring to them throughout my testimony.

As much as this is being forwarded as a public health or employee health issue, it is equally a property rights issue to our owners and operators. There is a meaningful and substantial difference between publicly owned buildings and privately owned buildings open to the public. Property ownership rights and the control of a persons property is among our most basic rights as Americans. It has also been argued that we already submit to health inspections in order to protect the public. I would point out that these inspections are focused on the back of the house which a consumer has no opportunity to inspect during a visit. Our customers cannot evaluate cooler temperatures, food handling and storage procedures, cooking times, kitchen condition or cleanliness and the health department performs that function on their behalf. They are able to make a personal decision to patronize an establishment based on food quality, presentation, consistency, service, atmosphere, price-value relationship and yes, smoking policy. The marketplace

3/13/2005

and our operators are already responding to the demand for smoke free facilities. These changes are based, as they should be, on customer demand and the business interests of each individual property owner. As noted in the Bismarck Tribune, the last two major restaurants to open in Bismarck have started as smoke free facilities and most others like the Seven Seas, East Forty, and Ground Round limit smoking to the bar area. I went to Red Lobster for dinner on Friday night and heard the hostess tell customers "we no longer have a smoking section." As demand continues to increase so will the ongoing rush to non-smoking facilities and workplaces. The marketplace is a wonderful place that responds quickly to customer demand. As an illustration we are providing lists of smoking and non-smoking facilities from Bismarck and Grand Forks, two cities that have not enacted a local non-smoking ordinance. Our members are business people whose job is to generate sales and profits. The fast food hamburger is a great business concept. If the smokeless bar were an equally good concept don't you think we'd have opened them by now.

Likewise our employees are in our establishments by choice, not by force. Indeed, many are smokers who choose to work in one of the few workplaces where they can smoke. If this bill is passed an owner and one employee who both smoke and do not get any visitors to their business will have to go outside to do so. Does that really make any sense?

Our other objections are based on the bill itself and what it does. All of us compete for finite amount of income that is spent on food and beverage in our market area. In college management courses they use an anacronym that seldom fails to get or hold student attention, SUCA, or sustainable, unfair, competitive advantage. Simply put, Bill Gates and Microsoft have a sustainable, unfair competitive advantage in the way they have developed and restricted use of Windows that have allowed them to dominate the market and Mr. Gates to amass a personal fortune of \$46.5 billion dollars. An owner of a

gravel pit or cement plant that is 20 miles closer to a large construction project has a sustainable, unfair competitive advantage that a competitor cannot overcome if all other factors are equal. He can always sell his product for less and there is nothing illegal involved.

SB 2300 creates several SUCA areas among our members. We are offering amendments to address some of them and will try to point out the problems where we do not think a solution other than killing the bill will do. Keep in mind throughout this discussion that revenue neutral does not mean revenue neutral for all businesses, just that the total sales may be the same. There will be winners and losers among the competitors as a result of this bill. Gary Grandbois of the Ramada Plaza Suites has a lobby bar that is not enclosed and cannot allow smoking. He told me he will lose \$30,000.00 in sales this year because of the restriction. The first amendment goes to the definition of a bar. We believe the current definition will restrict smoking to bars like Borrowed Bucks, that is those places whose sole business is to sell drinks. Our amendment will add self contained bars in restaurants and hotels. In Fargo the recent non-smoking vote allowed the bar in the Holiday Inn to remain smoking and the owners have installed additional HVAC equipment to handle the extra business that was created. SB 2300 further restricts the Fargo ordinance in a way the voters did not approve of for hotels and restaurants, like the Holiday Inn, that do have a separate enclosed area. This will not solve the problem for places with lobby bars like the Ramada Plaza Suites or restaurants like East Forty, Bistro, Green Mill or Buffalo Wild Wings unless they completely close off their bar area somehow. Many will not be physically or financially able to do so and SUCA will be created by the State among the competitors. We are also passing out a study conducted one year following the state wide smoking ban in New York. Conducted by Ridgewood Economic Associates, it disputes the theory that a ban does not affect total revenue for

bars, taverns, or clubs.

Our second amendment goes to the exemption for "social, fraternal, or religious organizations," replacing it with language that applies to all restaurants. While it may have been different 20 or 30 years ago, today these establishments are open to the public and compete with the private sector. The VFW ad we passed out is the norm. "You do not need to be a member. Just come and be our Guest." I did not get a health pass with my Elks membership card and neither did any other member. Creation of this special class of restaurant will create SUCA in relation to all of their competitors, one that many of our members feel they will not be able to overcome.

The third amendment eliminates the two year sunset on the exemption. Changes can be made during the next session without forcing the issue as this language does. No business should face this kind uncertainty as they make plans for upgrades, expansions or sales.

The fourth amendment deals with banquet and meeting rooms in hotels and restaurants. Provided that it is separate and enclosed control of smoking status should be left with the function planner. This is currently the policy of all of our members and we believe it makes sense to continue operating this way.

In North Dakota we must be mindful that one size does not fit all. Our unique combination of urban and rural settings and seasonal weather changes does not lend itself to this all or nothing approach. We believe smoking restrictions should be decided at the local level. The voters of Dickinson rejected a smoking ban. The voters of Minot approved one that is different from Fargo and West Fargo. In fact, Fargo voters had a choice of three differing ordinances to choose from and in an election chose the ordinance that best suited them. I would point out that SB 2300 takes the smoking ban further the citizens in all three of these localities, effectively negating their electoral process.

Madame Chairwoman and members of the committee, we urge a DO NOT
PASS on SB 2300. Thank you for your consideration and I would be happy to answer
any questions.

SB 2300
Amendments

- 1) page 2, line 11 after "beverages" add including bars located within hotels or restaurants that are not licensed primarily or exclusively to sell alcoholic beverages that are located in a separate enclosed area vented directly to the outdoors."
- 2) page 5, line 20 replace "h" with "Any separate enclosed smoking area in a place of public access or a publicly owned building which is:
 - a) located in a food establishment, hotel or motel; and
 - b) vented directly to the outdoors."
- 3) page 5, line 19 - delete *the sunset date*
- 4) page 5, add "i" - Any place of public access rented or leased for private functions from which the general public is excluded and arrangements for the function are under the control of the function sponsor."

Bismarck Chamber Members 3 or More Employees	Phone1	Smoking Anywhere	Designated Smoking Area	Outside of Building	Nowhere on grounds
A G Edwards & Sons, Inc.	258-9888			X	
A. R. Audit Services, Inc.	255-7752			X	
A-1 Welding Products Inc.	255-1799			X	
AAA Travel/AAA of North Dakota	223-6660			X	
Aaction Movers	223-5535			X	
Aakers Business College	530-9600			X	
ABRA Auto Body & Glass	255-2272			X	
Abused Adult Resource Center	222-8370			X	
Acme Electric Motor, Inc.	258-1267			X	
Advanced Business Methods of Bismarck, Inc.	258-0210			X	
Advanced Engineering & Environmental Services	221-0530			X	
Advanced Mechanical, Inc.	222-0352			X	
Advanced Office Solutions	250-0597			X	
Advanced Surgical Arts Center, P.C.	530-8450			X	
Advanced Truss Fabricators Inc.	663-2331			X	
Aetna	221-1080			X	
AFLAC Regional Office	258-6040			X	
Agency MABU	250-0728			X	
Aid Incorporated	223-9150			X	
Air Wisconsin Airlines Corporation	223-0475			X	
Alerus Financial	250-0908			X	
All Pets Veterinary Clinic	255-7387			X	
Amcon Distributing	258-3618		break rm		
American Insurance, Inc.	222-3303			X	
America's Home Loans LLC	222-0100			X	
AmericInn Lodge & Suites	250-1000		pool		
Ameripride Linen & Apparel	258-6505			X	
Amvets Club	258-8324	X			
Anderson & Associates P.C.	258-2049			X	
Anderson Western, Inc.	222-3550			X	
Antique & Coin Exchange	222-8859			X	
Apple Creek Country Club	223-5955			X	
Applebee's Neighborhood Grill & Bar	222-1018		X		
Applied Engineering	255-1137			X	
APT, Inc.	224-1815			X	
Arby's Restaurant	255-2987			X	
Arrow Service Team of Professionals	223-9249			X	
Arrowhead Cleaners & Laundry, Inc.	223-3311			X	
Arrowhead Plaza Drug	223-8806			X	
Assoc. Pool Builders/Associated Builders	258-6012			X	
Associated General Contractors of ND	223-2770	X			
Atlas, Inc.	223-5480		shop		
Attitudes, Inc.	221-2112			X	
AVI Systems	258-6360			X	
Avis Rent A Car	255-0707			X	
AWBW - Bismarck, P.C.	258-3116			X	
B & J Tesoro	223-5434			X	
Badlands Environmental Consultants, Inc.	223-7335			X	
Bank Center First	258-2611			X	
Bank of North Dakota	328-5674			X	
Baptist Home, Inc.	223-3040			X	
Barlow's Miracle Mart/Bismarck	224-0037			X	
Bartlett & West Engineers, Inc.	258-1110			X	
Basin Electric Power Cooperative	223-0441		lunch rm		
Beazley Engineering, P.C.	258-6680			X	
Becker Plastic & Reconstructive Surgery Ctr.	530-3333			X	
Ben Franklin Crafts	258-7272			X	
Benco Equipment Co.	221-4250			X	

Bismarck Chamber Members 3 or More Employees	Phone1	Smoking Anywhere	Designated Smoking Area	Outside of Building	Nowhere on grounds
Best Western Doublewood	258-7000		lounge		
Best Western Ramkota Hotel	258-7700		X		
Big Boy/ Prarie Chicken, NO ANS	223-4125				
BioLife Plasma Services	355-0848			X	
Bis-Man Appraisal & Investments	222-1684			X	
Bis-Man Transit Board	258-6817			X	
Bismarck Bobcats Hockey	222-3300			X	
Bismarck Clinic of Chiropractic	223-6613			X	
Bismarck Funeral Home & Crematory	223-4055			X	
Bismarck Heating & Air Conditioning	223-2338			X	
Bismarck Honda-Nissan-Hyundai	258-1944			X	
Bismarck Lumber	223-2145			X	
Bismarck Parks & Recreation	222-6455			X	school
Bismarck Public Schools District #1	355-3054				X
Bismarck State College	224-5430			100 ft.	
Bismarck Tire Center	223-1722			X	
Bismarck Title Company	222-4247			X	
Bismarck Veterans Memorial Public Library	222-6403			X	
Bismarck-Mandan Convention & Visitors Bureau	222-4308			X	
Bismarck-Mandan Development Association	222-5530			X	
Bismarck-Mandan Elks Lodge 1199	255-1199	X			
Bis./Man. SCORE Chapter, NO ANS	328-5861				
Bismarck-Mandan Symphony Orchestra	258-8345			X	
Bistro	224-8800		smoking sec		
Bitz Auction & Realty	258-0343			X	
Blue Cross & Blue Shield	223-6348			X	
BNC Insurance, Inc. - Bismarck	223-6465			X	
BNC National Bank	250-3355			X	
BNI Coal, Ltd.	222-8828			X	
Bobcat/Ingersoll-Rand	222-5867	X			
Border States Electric Supply	258-6060			X	
Borrowed Buck's Roadhouse	224-1545			X	
Brady, Martz & Associates, P.C.	223-1717			X	
Brendel's Collision & Paint/Lawn Sprinkling	258-9571			X	
Brock White Company	222-3010			X	
Brown & Brown Insurance	223-2233			X	
Brown & Saenger	530-9500			X	
Brunsomman, Mattern, & Martinson	223-1474			X	
BTInet	255-5151			X	
Bucklin, Klemin & McBride, P.C.	258-8988			X	
Builders Supply Co.	223-7212		mgr.office		
Bumper to Bumper	258-8755	X			
Burger King	258-5032			X	
Burger King	255-2737			X	
Burleigh County	222-6718			X	
Burleigh County Housing Authority	255-2540			X	
Burleigh-Morton Chapter American Red Cross	223-6700			X	
C & H Glass Co. Inc.	258-6800			X	
C.H. Carpenter Lumber Co.	223-3025		cubical		
Capital City Construction, Inc.	255-4002			X	
Capital City Restaurant Supply, Inc.	255-4576			X	
Capital Consulting	258-4540			X	
Capital Credit Union	255-0042			X	
Capital Electric Cooperative, Inc.	223-1513			X	
Capital R.V. Center, Inc.	255-7878			X	
Capital Trophy, Inc.	223-5670			X	
Capitol City Welding, Inc.	255-0124		shop		
Capitol Lanes Plaza, Inc.	222-3200	ex. Yth bowl			

Bismarck Chamber Members 3 or More Employees	Phone1	Smoking Anywhere	Designated Smoking Area	Outside of Building	Nowhere on grounds
Captain Jack's Liquor Land	223-6546			X	
Captain Meriwether's Landing & Pasta Co.	258-0666		X		
Cash Wise Foods	223-8771			X	
Cathedral School	223-5484			X	
CCCS, Inc./Bismarck Transition Center	222-3440			X	
Cedric Theel Inc.	223-2190			X	
Cellular One	255-1824			X	
Cenex Bismarck/Mandan	223-8707		back rm		
Cenex Convenience Store	255-3810		back door		
Centennial Homes	223-5030			X	
Central Dakota Radiologists, P.C.	530-8575			100ft	
Central Plains Distributing, Inc.	221-3283			X	
Century 21 Landmark Realty - Bismarck	222-1234			X	
Century 21 Morrison Realty, Inc.	223-6654			X	
Charles Hall Youth Services	255-2773			X	
China Garden Restaurant REFUSED	224-0698				
Chuppe Chiropractic Clinic	258-0029			X	
Citi Financial, Inc.	255-0813			X	
City Air Mechanical Inc.	223-3775		X		
City Looks Salon	222-8140			X	
City of Bismarck	222-6473			X	
Clausnitzer Dentistry, P.C.	255-0586			X	
Clearwater Communications	355-4458			X	
Coca-Cola Bottling Co. of Bismarck	222-1200			X	
Cofell's Plumbing & Heating, Inc.	258-6500		not in office		
Coffees & Kitchens, Inc.	323-9800	X			
Cold Stone Creamery	222-2522			X	
Collection Center Incorporated	258-7734			X	
Comfort Inn	223-1911		X		
Comfort Suites	223-4009			X	
Comfort Zone Massage & Wellness	258-1199			X	
Comfort Zone Massage & Wellness	258-1199			X	
Comfort Zone Massage & Wellness	258-1199			X	
Comfort Zone Massage & Wellness	258-1199			X	
Communications Unlimited Inc.	255-2032			X	
Community Access Television, Inc.	258-8767			X	
Community Homes of Bismarck, Inc.	255-2540			X	
Computer 1	250-0055			X	
Computer 1	250-0055			X	
Computerland	255-3882			X	
Congress, Inc.	223-1748			X	
Congressman Earl Pomeroy	224-0355			X	
Conlin's Furniture	223-4282			X	
Connecting Point	258-6689			X	
Cook Sign Co.	255-1800		shop		
Cooling & Heating Unlimited	223-8260			X	
Corwin Churchill Appliance, Inc.	223-1173			X	
Corwin Churchill Motors	223-1170			X	
Cost Cutters Family Hair Care	258-6707			X	
Country House Deli	258-0459			X	
Country Suites	258-4200		mnt room		
Country Travel	224-0108			X	
Country West MVP Store	255-1216			X	
Country West Real Estate	255-0803			X	
Coventry Health Care	250-5404			X	
Cracker Barrel	223-2785		break rm		
Credit Bureau of Bismarck, Inc.	223-7730			X	
Credit Collections Bureau	250-1390			X	

Bismarck Chamber Members 3 or More Employees	Phone1	Smoking Anywhere	Designated Smoking Area	Outside of Building	Nowhere on grounds
Cross Country Courier	222-8498			X	
Cumulus Broadcasting, Inc.	250-6602 Ext. 129			X	
Custom Designers & Builders/Electronic System	222-3902 Ext 101			X	
Cystic Fibrosis Association of ND	222-3998			X	
D & E Supply	255-4755			X	
Dacotah Foundation	223-4517			X	
Dacotah Paper Company	255-0959			X	
Dairy Queens of Bismarck	258-4438(North)		break rm		
Dakota Appraisal & Consulting, Ltd.	255-3181			X	
Dakota Awards	222-0827			X	
Dakota Boys Ranch - Western Plains	224-1789			X	
Dakota Carrier Network	250-1307			X	
Dakota Collectibles	255-2409			X	
Dakota Collision & Glass	255-7471			X	
Dakota Communication Services, Inc.	223-9581	X			
Dakota Community Bank - Bismarck	255-9000			X	
Dakota Farms Restaurant	663-7322		MANDAN		
Dakota Fence	258-9095		shop/break rm		
Dakota Fire Insurance Company	223-8986			X	
Dakota Gasification Co.	221-4401			X	
Dakota Music Inc.	223-7588			X	
Dakota Pharmacy	255-1881			X	
Dakota Properties R E, Inc.	224-9531			X	
Dakota Ready Mix, Inc.	223-0530			X	
Dakota Screen Arts, Inc.	224-9879			X	
Dakota Sound Systems NO ANS.	222-0064				
Dakota Supply Group	255-7112			X	
Dakota Surgery and Laser Center	222-4900			X	
Dakota Taxidermy	323-0537			X	
Dakota West Contracting, Inc.	255-0004			X	
Dakota Zoo	223-7543			X	
Dan's Super Market, Inc.	258-2127			X	
Dave's Auto	255-1194		shop		
Days Inn	223-9151			X	
DDS & Partnership/McDonald's Restaurants	224-0350			X	
Dealer Development Systems, Inc.	255-6100			X	
Dean Foods North Central	223-3180			X	
Deatons Mailing Service, NO ANS	250-0509				
Del-Mar Vending Co.	223-1102			X	
Denny's Restaurant	223-2015		break rm		
Design Wizards Graphics & Data	224-1000			X	
DFC Consultants Ltd.	223-8647			X	
Dickinson State University	224-5631			100 ft	
Digital Insight, Inc.	255-5985			X	
Domino's Pizza-Bismarck	255-7924			X	
Don's Electric	258-8892	X			
Dr. Mike Goebel, DDS	258-8509			X	
Drs. Honkola - Honkola, P.C.	258-5220			X	
Duemelands Commercial LLLP	221-2222			X	
Dutch Mill Florist	224-1902 or 224-1908			X	
Early Childhood Learning Center	224-1449			X	
East 40 Chophouse & Tavern	258-7222			X	
Eastgate Funeral Service, Inc.	223-7322			X	
Eckroth Music	223-5320			X	
Edgewood Vista, L.L.C.	258-7489				X
Edling Electric, Inc.	255-2831		shop		
Eide Bailly LLP	255-1091			X	
Eide Ford Mercury-Lincoln, Inc.	222-3500			X	

Bismarck Chamber Members 3 or More Employees	Phone1	Smoking Anywhere	Designated Smoking Area	Outside of Building	Nowhere on grounds
Electric Systems Inc.	223-6210		shop		
Enable, Inc.	255-2851			X	
Energy Tech Services, Inc.	222-2999			X	
Enterprise Rent-A-Car	258-8000			X	
Enterprise Solutions, Inc.	224-9655			X	
Epic Cycle & Sport	221-9833			X	
Executive Air Taxi Corp.	258-5024			X	
Experience Works	258-8879			X	
Expressway Amoco	224-8483			X	
Expressway Inn	222-2900		smoking rms		
Expressway Personnel Inc.	222-0071			X	
Expressway Suites	222-3311			X	
Extend America	255-9500			X	
F.E.K. Addo MD	323-9900			X	
Face and Jaw Surgery Center	258-7220			X	
Fairfield Inn - North	223-9077			X	
Fairfield Inn - South	223-9293		X		
Family Foot & Ankle Clinic	258-8120			X	
Family Vision Clinic	222-1420			X	
Fantastic Sams	221-9692			X	
Fargo Glass	255-0882			X	
Farm & Ranch Guide	255-4905			X	
Farmers Livestock Exchange	223-6550	refused			
Federal Express Corp.	463-3339			X	
Ferrellgas	223-1262			X	
Fiesta Villa Restaurant & Lounge	222-8075		smoking sec.		
Finish Line Truck & Auto Accessories, Inc.	355-4556			X	
Fireside Office Plus	258-8586			X	
First Community Credit Union	258-2751			X	
Flash Printing	258-2727			X	
Fleck, Mather & Strutz, Ltd.	223-6585			X	
Fleck's Furniture & Appliance	323-0891			X	
F-M Forklift, Inc.	258-8331			X	
Focus Chiropractic & Lifestyle Coaching	258-5058			X	
Front Street Mill Works MGR NOT AVAIL.	255-1636				
Fronteer Personnel Services, Inc.	258-9848			X	
Frontier Electric, Inc.	222-8893			X	
Frontier Precision Inc.	222-2030			X	
Garske Produce	223-3656			X	
Garsten/Perennial Mgmt. Corp.	222-4406			X	
Gartner's Capital Shoe Hospital	223-0407			X	
Gate City Bank	223-3450			X	
Gateway Pharmacy Bismarck	224-9521			X	
General Equipment & Supplies	223-9700		X		
Genie-Watt Credit Union	258-6141			X	
Gilchrist Financial	250-5126			X	
Girl Scouts of Sakakawea Council	223-4525			X	
Good Shepherd Lutheran Church	255-1001			X	
Grand Theatres	222-1607			X	
Graphic Traffic Design & Interactive	258-3866			X	
Great Lines, Inc.	222-0899	X			
Great Plains Pharmacy	530-6999			X	
Green Mill Restaurant	258-0040		X		
Grizzly's Grill N' Saloon	258-5840		X		
Ground Round	223-0000		X		
Guardian And Protective Services, Inc.	222-8678			X	
H.A. Thompson & Sons, Inc.	223-3393		shop		
Hagemeyer North America	222-3005			X	

Bismarck Chamber Members 3 or More Employees	Phone1	Smoking Anywhere	Designated Smoking Area	Outside of Building	Nowhere on grounds
Hair Hospital Body Clinic Inc.	224-1561			X	
Happy Joe's Pizza	355-1146		car wash		
Harlow's Bus Sales & Service, Inc.	224-1767			X	
Hawktree, Inc.	355-0995			X	
Heart & Lung Clinic Primecare	530-7500			X	
Heartland Pella	255-1198			X	
Heartview Foundation	222-0386			X	
Hedahls Auto Parts - Bismarck	221-4250			X	
Heritage Pharmacy	530-6050			X	
Hertz Rent A Car	223-3977			X	
Heyer & Loos Engineering	221-3286			X	
High Plains Consortium, Inc.	255-6080			X	
Hoskins-Meyer Floral Inc.	223-3110			X	
House of Color, Inc.	223-2381			X	
Houston Engineering, Inc.	323-0200			X	
Hubbard Feeds MGR NOT AVAILABLE	223-4065				
I. Keating Furniture World	250-6357			X	
IBM Corporation	224-9103			X	
Ideal Concrete Contractors, Inc.	255-3545			X	
Image Printing, Inc.	222-4000		shop		
Independent Community Banks of North Dakota	258-7121 Ext.311			X	
Independent Practitioners of America, L.L.C.	255-2252			X	
Industrial Contractors, Inc.	258-9908		X		
Industrial Enterprises, NO ANS.	258-1652				
iNet Technologies Inc.	222-2242			X	
Inland Truck Parts	258-6655			X	
Instant Printing & Signs	255-4322			X	
Institute of Facial Surgery	255-4000			X	
Interiors by France of Bismarck, Inc.	223-8818		break rm		
International Brotherhood of Elect. Wkrs.	258-6370			X	
Interstate Batteries	221-2400			X	
Interstate Brands Corp.	223-7338			X	
Investment Centers of America, Inc.	250-3300			X	
J & R Vacuum & Sewing Inc.	258-5619			X	
JC Penney Co. Inc.	258-9300			X	
Jim Ressler Trucking	258-3550		shop		
Jiran Architects & Planners, P.C.	258-7771			X	
J-Mar Enterprises	222-4518			X	
Job Service North Dakota	328-5040			X	
Jobbers Moving & Storage	222-1111			X	
Joe Vetter Construction, Inc.	258-9394			X	
Johnsen Trailer Sales, Inc.	255-0480		shop		
Kadrmars, Lee & Jackson, Inc.	355-8400			X	
KBMY-TV	223-1700			X	
Keen Travel Agency, Inc.	223-7410			X	
Keller Specialties/Hardwood Floors	258-1330			X	
Kelly Inn/Minerva's	223-8001		X		
Kelly Temporary Services	223-2831			X	
Ken's Flower Shop	255-1130			X	
Kentucky Fried Chicken - Gateway	222-4125			X	
Kentucky Fried Chicken - Kirkwood	224-0125			X	
KFYR-AM	258-5555			X	
KFYR-TV	255-8235			X	
Kirkwood Bank & Trust	258-6550			X	
Kirkwood Mall	223-3500			X	
Kirkwood Tesoro	255-3198			X	
K-Mart	223-0074			X	
Knife River Corporation	223-1771			X	

Bismarck Chamber Members 3 or More Employees	Phone1	Smoking Anywhere	Designated Smoking Area	Outside of Building	Nowhere on grounds
Knowles Jewelry	223-5118			X	
Kramer Agency	255-4502			X	
Kranzler Kingsley/K2 Interactive	255-3067			X	
Krumm & Associates, CPA	222-8256			X	
KXMB-TV	223-9197			X	
Labor Ready	258-9800			X	
Lady J's Catering, Inc.	221-6836			X	
Lafarge Dakota Inc.	222-8400			X	
Lahr & Lahr Real Estate, Inc.	223-8488			X	
Landstar Construction, Inc.	258-1318			X	
Lee's Hallmark	255-4821			X	
Leo's Transmission	258-4288	X			
Lewis & Clark CommunityWorks	255-4591			X	
Liberty Tax Service	222-1824			X	
Liechty Homes	255-1705			X	
Lignite Energy Council	258-7117			X	
Lions Eye Bank of North Dakota	250-9390			X	
Live Response, LLC	221-9191			X	
Logan Hill Realty/Better Homes & Gardens	224-9992			X	
Longevity Auto Care	224-1934			X	
LTM Business Concepts Inc.	224-1657			X	
Mac's, Inc.	221-0654			X	
Magi-Touch Carpet & Furniture, Inc.	255-1932			X	
Main Street Tire	222-0000			X	
Main Tesoro	223-8222			X	
Mandan Steel Fabricators	663-0321			MANDAN	
Mann Signs & Service Inc.	255-1960			X	
Mann's Automotive Supply	223-1003		X		
Markwed Excavating, Inc.	258-2633	X			
Marshall Fields	255-5401			X	
Martin Luther School	224-9070			X	
Mathison's	258-5060			X	
Maxwell's Books	222-4332			X	
McLeodUSA	250-0777			X	
McQuade Distributing Co., Inc.	223-6850			X	
Medcenter One College of Nursing	323-6271			100 ft	
MedCenter One Health Systems	255-1125			100 ft	
Mental Health Association in ND	255-3692			X	
Meritcare Healthcare Accessories	530-0200			X	
Metro Collision Center	222-8952			X	
Mid America Steel, NO ANS	258-9600				
Mid Dakota Clinic Primecare	530-6000			X	
Midcontinent Communications	224-0897 Ext. 151			X	
Midwest Business Systems	222-2222			X	
Midwest Doors, Inc.	223-7664			X	
Midwest Motor Express, Inc.	223-1880			X	
Midwest Testing Laboratory, Inc.	258-2833			X	
Mid-Western Real Estate & Mortgage Co.	255-4570			X	
Miller Insulation, Inc.	258-4323		warehouse		
Minuteman Press	223-8485			X	
Missouri Slope Areawide United Way	255-3601			X	
Missouri Slope Lutheran Care Center, Inc.	223-9407			X	
Missouri Valley Family YMCA	255-1525			X	
Missouri Valley Insurance, Inc.	221-2300			X	
Mitzel Builders, Inc.	224-8083		not in office		
Modern Hair Works	222-1032			X	
Montana Dakota Utilities Co.	221-4330			X	
MortgageMax, Inc.	255-0295			X	

Bismarck Chamber Members 3 or More Employees	Phone1	Smoking Anywhere	Designated Smoking Area	Outside of Building	Nowhere on grounds
Motel 6 Operating L.P. #0173	255-6878			X	
Napa Auto Parts	223-2681			X	
ND Aeronautics Commission	328-9650			X	
ND Association of Soil Conservation Districts	223-8575			X	
ND Dept. of Commerce - ED & F	328-5300			X	
ND Long Term Care Association	222-0660			X	
Nelson Family Dentistry, PC	222-4746			X	
Nelson International, NO ANS	223-7676				
Newman Signs, Inc.	255-0070		shop		
Nexus Innovations, Inc.	258-7072			X	
Nitro-Green Professional Lawn & Tree Care	223-0981			X	
Nordstrom Eye Center	224-0661			X	
Norland Fitness Industries, Inc.	258-9309			X	
North American Coal Corp.	222-7590			X	
North American Steak Buffet	223-1107			X	
North Dakota Association of Counties	328-7300			X	
North Dakota Community Foundation	222-8349			X	
North Dakota Concrete Products Co.	223-7178			X	
North Dakota Credit Union League	258-5760			X	
North Dakota Education Association	223-0450			X	
North Dakota Game & Fish Department	328-6345			X	
North Dakota Grocers Association	223-4106		toms office		
North Dakota Guaranty & Title Co.	223-6835			X	
North Dakota Healthcare Association	224-9732			X	
North Dakota Medical Association	223-9475			X	
North Dakota Newspaper Association	223-6397			X	
North Dakota Republican Party	255-0030			X	
North Dakota University System	328-2963			X	
Northbrook Amoco	222-0188			X	
Northbrook Professional Ctr./Goldmark Prop. M	255-6056			X	
Northern Capital Trust Co.	250-1113 Ext.14			X	
Northern Highlights Hair & Nail Salon	258-9135			X	
Northern Improvement Co.	223-6695		shop		
Northern Plains Ballet	530-0986			X	
Northern Plains Plumbing, Heating & Air	222-2155		shop		
Northern Water Works Supply	258-9700			X	
Northwest Airlines	255-4427			X	
Northwest Contracting	255-7727			X	
Northwest Development Group/Realty Group	258-4800			X	
Northwest Tire Inc.	223-9535			X	
Northwest Tire Inc. - North	223-8516			X	
Northwest Tire Inc./Truck & Farm Store	221-2513			X	
Oaktree LLP, Realtors	223-7422			X	
O'Brian's Sports Tavern	258-5700	X			
Odney Advertising Agency	222-8721			X	
Odyssey Research Services	250-7355			X	
Office Depot	255-7997			X	
Office Systems, Inc.	223-6033			X	
OK Tire Store	255-0822			X	
One Source Lighting Inc.	258-4400			X	
Papa's Greenhouse & Pumpkin Patch	222-1521			X	
Paradiso	224-1111		X		
Party Universe	222-2292			X	
Peacock Alley, Inc.	255-7917		X		
Pearle Vision Center	221-9580			X	
Performance Audio				X	
Perkin's Restaurant - North	222-2746		X		
Perkin's Restaurant - South	221-3112		X		

Bismarck Chamber Members 3 or More Employees	Phone1	Smoking Anywhere	Designated Smoking Area	Outside of Building	Nowhere on grounds
Perry Funeral Home, Inc.	223-8990			X	
Pet Connection Humane Society	222-2719			X	
Petro-Hunt, L.L.C REFUSED	258-1557				
Pirates of the Lost Cove	250-5263	X			
Pizza Hut - Broadway	223-2300		X		
Pizza Hut - North	258-1100		X		
Pizza Hut - South	224-1047		X		
Plant Perfect Garden Center	258-1742			X	
Pneumos Lung & Critical Care Institute	323-9900			100FT	
Polar Package Place/Lucky's Bar & Lounge	258-8770	NO ANS			
Porter Brothers Corp/Bismarck-Mandan Division	223-0339			X	
Prairie Chicken, Inc.	258-4125			X	
Prairie Engineering, P.C.	258-3493			X	
Prairie Public Broadcasting	224-1700			X	
Prairie Rose Construction Supply	255-2420			X	
Praxair	223-8255			X	
Premium Beverages, Inc.	258-6330		warehouse		
Presort Plus, Inc.	224-1699			X	
Pride Inc.	258-7838 Ext.122			X	
Prime Cities Broadcasting, Inc.	355-0026			X	
PRO FORMS	222-1212			X	
Pro Radio	255-1234				
Professional Contractors Inc.	223-7072		X		
Progressive Consulting, Inc.	223-4124			X	
Progressive Maintenance	255-3194		break rm		
Prudential Financial	223-3322			X	
Prudential Financial	224-0660			X	
Quality Asphalt, NO ANS	258-5355				
Quality Printing Service	255-3900			X	
Qwest Corporation	222-6833			X	
Qwest Dex	258-3000			X	
Radisson Hotel	255-6000		X		
Rainbow Gas Company	255-7970			X	
Ramada Limited Suites	221-3030			X	
RCC Western Wear	224-0505			X	
RDO Equipment Co.	223-5798		lunch rm		
Red Carpet Carwash	221-9236			X	
Red Lobster	222-2363		X		
Rent- A-Center	222-6355			X	
Richard J. Hieb, D.D.S., PC	222-0033			X	
Richtman's Printing	258-6201			X	
Riddle's Jewelry	222-4421			X	
Rigging & Tools, Inc.	224-1122			X	
Ritterbush-Ellig-Hulsing P.C.	223-7780			X	
River City Sports, Inc.	223-9003			X	
Robert Knutson Photography	258-0738			X	
Roberts Floral	258-8311			X	
Rodgers Appliance	223-3155			X	
Roshau Chiropractic & Sports Injury Center PC	221-2600			X	
RoughRider Industries	328-6161			X	
Roughrider Speed Center, Inc.	258-3994			X	
Route 94	258-2885			X	
Roy H. Dietz and Sons	223-7741			X	
Royal Fork	222-0501			X	
Rudnick Construction	255-7585			X	
Ruth Meiers Hospitality House	222-2108			X	
Saks News, Inc.	223-0818			X	
Satrom Travel & Tour-Bismarck	258-5000			X	

Bismarck Chamber Members 3 or More Employees	Phone1	Smoking Anywhere	Designated Smoking Area	Outside of Building	Nowhere on grounds
Sattler Homes, Inc.	255-7628			X	
Scheels Sports	255-7255			X	
Schlotzsky's Deli	221-2446			X	
Schmidt Insurance/SIA Marketing, Inc.	258-5894			X	
Schulz Lervick Geiermann & Bergeson Law Offic	223-1986			X	
Schwan Pontiac - GMC, Inc.	663-7484			X	
Securian Financial Advisors of ND, Inc.	663-8401			X	
Seifert Electric, Inc.	223-5367			X	
Select Inn	223-8060			X	
Semi-Trailer Sales & Leasing Inc.	221-5832			X	
Senger, Mahlum & Goodhart, P.C. - Bismarck	222-4100			X	
ServiceMaster/Merry Maids/Outdoor Services	258-2246			X	
SGO Designer Glass, NO ANS	224-0051				
Sherwin-Williams Co.	223-3882			X	
Shiloh Christian School	221-2104			X	
Shirt Shack Inc.	223-5250			X	
Sidelines Sports Bar/Sportspage	223-1520			X	
Skeels Electric Company	223-5440			X	
Smith Barney	222-7553			X	
Smokemasters, REFUSED	223-9244				
Spa D' Athena	222-2244			X	
Space Aliens Grill & Bar	223-6220		X		
Sparling Construction, Inc.	222-0783			X	
Specialized Cleaning & Restoration	258-3777	X			
Spiffy Biffs	224-0856			X	
Spine And Pain Center	255-4595			X	
SPS Company	223-8507	X			
St. Alexius Medical Center Credit Union	530-7180			X	
St. Alexius Medical Center Primecare	530-7602			100 ft	
St. Mary's Central High School	223-4113				X
St. Vincent's Care Center	223-6888			X	
Stamart #16	223-1949		south booth		
Stamart Travel Centers	222-1675		smoking booth		
Stan Puklich Chevrolet, Inc.	223-5800			X	
Staples	223-1069			X	
Star Restaurant Equipment & Supplies	255-7729			X	
Starbucks - South	221-2072			X	
Starion Financial NO ANS	250-1405				
State Bar Association of North Dakota	255-1404			X	
State Historical Society of ND	328-2666			X	
Stephen L. Gross, DDS PC	223-8262			X	
Storhaug Ault P.L.L.P	222-2525			X	
Strata Block & Masonry	250-1669			X	
Strata Corporation	250-1669			X	
String Bean Music & Coffee	250-8699			X	
Subway	400-1457			X	
Sunrise, A Senior Community	223-9505		smoking rm		
Super 8 Motel	255-1314			X	
Super Valu Retail Support Center	222-5607			X	
Support Systems, Inc.	255-6503			X	
Swenson, Hagen & Co.	223-2600			X	
Sykes Enterprises Inc.	221-0700			X	
Sylvan Learning Center	223-0010			X	
T&M Electric NO ANS	258-6170				
Target	222-8500			X	
Taxi 9000	223-9000		X		
Taylor Dakota/The Restaurant Outfitter	223-2350			X	
Team Laboratory Chemical Corp.	255-3796			X	

Bismarck Chamber Members 3 or More Employees	Phone1	Smoking Anywhere	Designated Smoking Area	Outside of Building	Nowhere on grounds
Terry Barnes Auto Glass, Inc.	222-8646			X	
TGI Friday's	223-0999		X		
The Bismarck Tribune	250-8299			X	
The Bone & Joint Center, P.C.	530-8698			X	
The Consensus Council, Inc.	224-0588 Ext. 101			X	
The Elbow Room	222-2140	X			
The Eye Clinic of North Dakota	255-4673			X	
The Floor to Ceiling Store	255-1859			X	
The Greeter	223-5648 Ext. 127			X	
The Printers	255-3422			X	
The Salvation Army	223-1889			X	
The Smile Center	258-1321			X	
The Village Family Service Center	255-1165			X	
Tires Plus	224-8880			X	
TL Enterprises, Inc.	221-0652			X	
TMV Properties/Performance Audio	222-8383	out of service			
Tom Reim Agency	258-6163			X	
TrimLife, Inc.	223-3841			X	
Truck Collision Center	250-6597			X	
Trucks of Bismarck, Inc.	223-5235			X	
True Value Hardware	223-3054			X	
Truss Systems, Inc.	222-1353			X	
Tschider & Smith, Attorneys	258-4000			X	
Tvenge Associates Architects & Planners, P.C.	258-1600	NO ANS			
TWL Medical Supplies	323-7941			X	
U. S. Army Recruiting Station	223-5455			X	
U.S. Bank	222-6286			X	
Ulteig Engineers, Inc.	258-6507			X	
UND Family Practice Center	328-9950			X	
Unicom	258-1500 Ext. 300			X	
Unicom	258-1500			X	
Unisys	221-7000			X	
United Accounts, Inc.	223-2852			X	
United Blood Services	258-4512			X	
United Parcel Service	742-5877			X	
United Printing/Spit 'n Image, Inc.	223-0505			X	
United Rentals	222-1040			X	
United Rentals Highway Technologies, Inc.	258-4770			X	
United States Postal Service	221-6530			X	
United Tribes Technical College	255-3285			X	
University of Mary	355-8100			X	
US Food Service/GFG Division, NO ANS	223-0486				
USDA, Rural Development	530-2037			X	
Valley Sport & Marine	258-9223			X	
Verizon Wireless	222-8687			X	
Vintage Guitar, Inc.	255-1197			X	
Vision Technology, Inc.	222-3009			X	
Voelele Appraisal Service, NO ANS	258-0924				
Vogel Law Firm	258-7899			X	
W. T. Butcher & Associates, Ltd	224-1541			X	
Wachter Development - Microvest, Inc.	222-4441			X	
Wagner Law Firm, PC	530-9410			X	
Wallwork Truck Center	224-1026			X	
Wal-Mart	223-3066			X	
Warford Orthodontics	255-1311			X	
Warren & Benning Financial Services	222-3268			X	
Waste Management of N.D., Inc./Bis-Mdn	223-2295			X	
Waterford on West Century	221-2020			X	

Bismarck Chamber Members 3 or More Employees	Phone#	Smoking Anywhere	Designated Smoking Area	Outside of Building	Nowhere on grounds
WBI Holdings, Inc.	530-1501			X	
Wells Fargo Bank North Dakota-Bismarck	222-5137			X	
Wells Fargo Financial Services, Inc.	255-0384			X	
Wentz Isuzu, Inc.	223-8554			X	
West Central Human Service Center	328-8888			X	
WESTCON Industries	222-0076			X	
Western Engineered Solutions, Inc.	258-1097		shop		
Western Steel & Plumbing, Inc.	223-3130		break rm		
Wheeler Wolf Law Firm, P.C.	223-5300			X	
Wild Things Gallery	258-9570			X	
Wilhelm, Inc.	223-2944		service shop		
Wold Engineering	258-9227			X	
Women & Technology	223-0707			X	
Woodmansee's, Inc.	223-9595			X	
Woodworking Innovations, Inc.	224-8828			X	
Workforce Safety & Insurance	328-3856			X	
Yellow Book NO ANS	250-0022			X	
Zuger Kirmis & Smith	223-2711			X	
Dr. Bjork	222-1286			X	
Jasperson Orthodontics	224-1558			X	

The Economic Impact of the New York State Smoking Ban on New York's Bars

Prepared for the
New York Nightlife Association
Empire State Restaurant and Tavern Association

This document was prepared on
May 12, 2004

by

REA
Ridgewood Economic Associates, Ltd.
77 Walthery Avenue
Ridgewood, New Jersey 07450
(201) 444-4196 fax (201) 670-4835

About REA and its Founder, Brian O'Connor, Ph.D.

Brian O'Connor, formerly IBM's director of U.S. economics, is credited with creating a database combining elements of macroeconomics, industry and regional forecasting to gauge the impact of the economy on the company's business. He established an internal consulting practice to serve the planning needs of IBM U.S. and many of its key clients.

Brian's doctorate, at the University of Maryland, was in input/output analysis and econometric modeling. He served as technical consultant to the Federal Trade Commission in the late 1960's, where he designed a quantitative system to support the agency's enforcement mission.

Brian came to IBM in 1969 to develop an input/output model for forecasting the industrial composition of the United States. He took over the running of IBM's quarterly econometric model in 1975 and was responsible for all U.S. macroeconomic forecasting: assessing current conditions, evaluating public policy and providing IBM senior management with economic forecasts to run its domestic operations.

For twenty-five years, he has worked with IBM and customer executives to help them assess the impact of economic conditions on their businesses, to anticipate developments in their markets and to track their performance against potential.

In 1993, Brian founded Ridgewood Economic Associates (REA), a consulting firm, dedicated to helping business clients meet the challenge of today's competitive environment. Its primary focus is on the development of economic databases and a system of interlocking forecasting models designed to improve operating and strategic planning systems.

For the last few years, Brian has held the position of Senior Technical Consultant to Texas Perspectives, Inc., an economic consulting firm based in Austin, Texas which specializes in regional economic and public policy analysis.

The Economic Impact of the New York State Smoking Ban on New York's Bars

I. Executive Summary

Since its passage in July 2003, a significant amount of anecdotal evidence has suggested that New York's statewide smoking ban has negatively affected bars, clubs and taverns across New York State. Countless media accounts have described a dramatic drop in customers for bars throughout the state, as

well as a steep decline in bar revenue and significant job losses.

To date, the only statistical evidence put forth to gauge the ban's economic impact has analyzed the combined revenue and job totals from both restaurant and bar industries. The following economic study is the first detailed economic analysis focused exclusively on the economic effects of the state smoking ban on New York State's bars. This report measures the direct and indirect economic impact of the New York smoking ban on bars, taverns and clubs*.

The major findings are that the passage of the state smoking ban in 2003 has directly resulted in a dramatic loss in revenue and jobs in New York's bars, taverns and clubs.

Specifically, the following statewide economic losses have occurred in New York's bar and tavern industry as a direct result of the statewide smoking ban:

- 2,000 jobs (10.7% of actual employment)
- \$28.5 million in wages and salary payments
- \$37 million in gross state product

In addition, there are indirect losses to other businesses which supply and service the state's bars and taverns:

- 650 jobs
- \$21.5 million in labor earnings
- \$34.5 million in gross state product

In summary, the enactment of the New York State smoking ban has had a dramatic negative impact on the bar and tavern business and related businesses. The total economic impact is:

- 2650 jobs
- \$50 million in worker earnings
- \$71.5 million in gross state product (output)

**This analysis, defines bars, taverns and clubs using the following North American Industry Classification System (NAICS) definition: "This industry comprises establishments known as bars, taverns, nightclubs, or drinking places primarily engaged in preparing and serving alcoholic beverages for immediate consumption. These establishments may also provide limited food services."*

Direct Economic Impacts

The main focus of the economic analysis is on industry employment. While industry revenue would be a preferred indicator of industry economic health, these data are normally not available at the regional level on a consistent basis over time. In these instances, economists tend to study industry employment patterns. An industry employment function was estimated separately for the bar/tavern and restaurant industries. A multiple regression approach was used to explain the number of employed workers in each industry as a function of personal income, an industry price factor and proxy variables to capture the impacts of anti-smoking regulations and the transitional recovery from the 2001 attack on the World Trade Center. These functions were estimated at the state level, using a log - log format (see Appendix II for the regression results).

The employment function for the bar/tavern industry exhibited strong statistical properties. The coefficient of the price deflator is negative, reflecting the normal inverse relationship that exists between price and sales volume and, in a derived manner, with employment. Adjusting the estimated price

impact from the regression by industry labor productivity, the price elasticity of demand (customer sensitivity to changes in product price) is -1.9. The magnitude of the number puts the elasticity in the elastic zone, indicating a relatively high price sensitivity of bar/tavern patrons to prices. The income elasticity (the responsiveness of product demand to changes in consumer income) derived from the employment function is estimated to be 1.65, indicating that the bar/tavern industry provides products that economists call "normal" goods. These types of products respond positively to income gains. Both elasticities are consistent with the existing body of research literature.

Employment losses from the anti-smoking regulations are estimated by comparing two versions of industry employment predictions. The first estimate of employment comes from the fitted regression with the ban-coverage proxy variable coded to reflect the current status of these regulations. The alternate estimate uses the same regression parameters, but sets the proxy variable to zero to simulate the removal of all anti-smoking rules. The difference between these two estimates indicates that approximately 2,000 jobs (10.7% of actual employment) were lost in New York State last year.

Using data from the New York State Department of Labor, the average wage per employed worker in 2003 was approximately \$14,175 per year. Combining the job loss with the average annual worker compensation estimate, lost wage and salary payments amounted to \$28.5 million in 2003. These 2,000 workers would have added nearly \$37 million to constant-dollar Gross State Product (output) in New York State.

A similar approach was used to calculate loss jobs in the restaurant industry. The price elasticity of restaurant meals is quite similar to the price sensitivity of bar/tavern patrons (-1.8 versus -1.9 for bars). However, in contrast, the income elasticity in this segment of the hospitality industry is significantly greater than for bars/taverns. Based on the fitted regression, the elasticity is approximately 2.1 (versus 1.65 for bars/taverns). This difference is a major reason why the recent employment pattern in the restaurant industry is substantially stronger than for bars/taverns. The upturn in general economic conditions, combined with the increase in State tourism following 9/11, have added significant income to the local economy. Also, the data analysis suggests that the impact of the anti-smoking regulations is smaller on restaurants than on bars/taverns.

Indirect Economic Impacts

These direct output/employment/earnings effects are only the first wave of economic change. In addition to the direct economic impacts, there are indirect and induced changes to the local economic landscape. A system of regional input/output multipliers was used to assess these total changes. These effects are: (1) the change in output for a given industry needed to meet the initial dollar change in spending by final users (customer purchases at bars/taverns); (2) changes in the output of all industries to meet the direct requirements of a given industry; (3) changes in the output of all industries to meet the changes in production in (2) above; and (4) the regional production required to meet changes in demand by final users created by higher local income generated by the first three effects. These regional impact factors were developed by researchers at the U.S. Bureau of Economic Analysis, U.S. Department of Commerce. These output, employment and earnings multipliers provide the basis for translating the estimated direct impacts on the bar or restaurant industry into total economic change.

The New York State employment multiplier for the bar and tavern industry is 1.33. This factor implies that for each job created in the bar industry, the ultimate change in employment across all industries in New York State is 1.33 jobs. The direct loss of slightly more than 2,000 workers from the 2003 smoking ban regulations means a total reduction in job count of more than 2,650 jobs across the State.

The local regional earnings multiplier is 1.76, indicating a decline of \$1.76 dollars for each dollar lost in the bar/tavern industry. The direct earnings loss of \$28.5 million by workers in the bar/tavern industry would result in a total change of labor earnings of \$50 million. When the indirect impacts are taken into account, the \$37 million loss in gross state product by the bar industry would translate into a total decline in production of slightly more than \$70 million. These losses are occurring in the context of the current weakness in local job markets and the lack of strong growth in the State's economy.

Conclusion

New York State's public smoking ban has resulted in dramatic economic losses in bars and taverns across the state. This reduction translates into a negative overall economic impact in 2003 of more than \$70 million in economic activity, \$50 million in lost wages, and the elimination of more than 2,650 jobs statewide. These dramatic economic losses to the state should be factored into the public policy debate going forward.

II. Background

Overview

Restrictions on the time, place and manner in which public smoking may occur have been increasing over the last several years. While the early focus of anti-smoking initiatives was on consumer education and industry advertising restrictions, over past two decades, smoking opponents have increasingly taken their battle to state and local governments, seeking prohibitions on smoking in a wide variety of public establishments. Advocates of these bans claim to be protecting the nonsmoking public and workers from the adverse health effects of secondhand smoke. Opponents of smoking restrictions dispute the existence and/or severity of these adverse consequences and claim that bans have the unintended consequence of hurting business.

State and Local Smoking Ordinances Nationwide

Nationwide, the number of local communities implementing full or partial bans on smoking in public facilities --including worksites, bars and restaurants -- has increased more than eight-fold over the past two decades. More than 200 U.S. municipalities had local clean indoor air laws in effect during 1985; by April 2004, over 1,700 communities had enacted such laws.[1] Almost one-third of the U.S. population now is subject to some type of smoking restriction, with various combinations of constraints being imposed.

Some smoking laws are less restrictive than others. Many provide for full or partial bans on smoking; some apply only to workplaces, restaurants, or bars, or a combination of these three.

A total of 80 out of 291 municipalities with 100% smoke free provisions apply that restriction to all three target environments - workplaces, restaurants, and bars, more than four times the number of communities with such full-scale bans in effect in the year 2000. Approximately one-third of the U.S. population is estimated to live in areas covered by these ordinances and laws providing for 100% smoke free workplaces, restaurants and bars.

While these 80 municipalities are scattered across 15 states, Massachusetts (with 45 such areas) and California (with 11) account for 70 percent of the total. Eight states have only one municipality within their borders that has this blanket prohibition. The first such comprehensive ban was enacted just over 11 years ago, and the movement did not grow rapidly, reaching a total of just 20 localities over seven

years by 2000. Sixty more municipalities have signed on to full-scale bans since then.

Statewide Bans

While every state except Alabama has some kind of clean indoor air legislation or policy in effect, only a handful have enacted complete smoking bans in workplaces, restaurants, or bars. Proposed anti-smoking regulations failed to pass in at least 21 states during 2003.

As of April 2004, a total of eight states had enacted 100% smoke free bans in workplaces, restaurants, or bars. In most cases, these laws are more stringent than any local ordinances that preceded them, creating potential conflicts between local and state requirements.

California and Utah initiated the process, with laws banning all smoking in restaurants that took effect January 1, 1995. Three years later, California extended this prohibition to all free-standing bars in the state.

At the time it implemented the statewide ban in restaurants, California was at the tail end of a recessionary period, with the economy exhibiting essentially zero growth. Nevertheless, eating establishments that do not serve alcohol had increased sales of about 11.7 percent in the four years leading up to the ban, while restaurants and bars increased sales by just 1.2 percent. Following the ban, taxable sales statewide increased by 31.9 percent in the following five years, but restaurants and bars were well below this figure, and more than a thousand went out of business.[2]

More than seven years passed before another state, South Dakota, implemented a smoking ban. South Dakota's ban applied only to workplaces, exempting alcohol-serving restaurants and bars. One of the interesting and unanticipated consequences of this legislation was the surge in applications for liquor licenses by restaurants that had previously been dry. The law exempted restaurants that served alcohol, and many business owners felt it necessary to begin serving alcohol so that their patrons could continue to smoke and their revenue streams would be safeguarded.

Delaware's ban was signed into law in November 2001. Delaware's law included a pre-emption provision under which municipal governments couldn't implement their own anti-smoking policies. Similar preemption laws are included in state laws in 18 other states. The Delaware smoking ban was modified in March 2003. Among other things, the amendment permitted smoking in bars, casinos that install air systems, and nursing homes.

About a year later, Florida banned smoking in workplaces and restaurants. In contrast to most other states where bans have been put into place, the issue was settled by voter referendum (November 2002), rather than enacted as legislation by state lawmakers.

Connecticut banned smoking in restaurants effective October 1, 2003, and extended the ban to bars on April 1, 2004. Workplaces remain free of state restrictions. The ban exempts private clubs and the state's two casinos. While an analysis of the impact of this law has not yet been prepared, some Connecticut bar owners claim to have seen a drop of 60 percent in revenues as smokers flock to places where they can still light up while they drink, and these owners are forming an alliance to fight for repeal of this measure.

Maine implemented full bans on smoking in restaurants and bars at the beginning of 2004, keeping workplaces free of state intervention. Within weeks of the ban's effective date, the Associated Press reported that many restaurant and bar patrons were driving across the border to New Hampshire or

Canada in order to avoid standing out in the winter cold if they wished to light up. An unusual degree of opposition has arisen in Maine, with one former state representative going so far as to advise bar owners to file a class-action suit against the measure.

New York Smoking Policy

In August of 2002, New York City Mayor Michael Bloomberg signaled his intention to prohibit smoking in establishments that had been exempted from the City's earlier smoking ban enacted in 1995. Free-standing bars, smaller restaurants, pool halls, bingo parlors and bowling alleys were now to be required to implement smoke free policies and environments. Predictably, there was much acrimony in the months that followed, as representatives of the city's 13,000 bars and smaller restaurants that had allowed smoking complained businesses would suffer, while public health advocates pushed the case for protecting the tens of thousands of customers and workers in those establishments from second-hand smoke.

By the end of the year, however, New York City had adopted its new law and businesses had three months to prepare their facilities and clientele for a smoke free environment by the end of March 2003. Many bars and smaller restaurants took advantage of those three months to construct separate smoking areas and install costly ventilation systems that they anticipated would qualify them for exemptions from the ban, as had been negotiated.

However, just days before the New York City ban was scheduled to go into effect, the New York State Legislature approved a statewide smoking ban in workplaces, including bars and restaurants, that was considerably more stringent than the City ordinance and superseded most of the exemptions that had been included in the City version. New York joined just five other states - California, Delaware, Utah, Vermont and Maine - that had implemented smoking bans at that time, and the severity of its provisions was only surpassed by the original Delaware law (which was subsequently weakened with respect to bars).

Comprehensive economic evidence is difficult to assemble with respect to assessing the impact of this new law. In early December of 2003, eight months after the City's ban went into effect, International Communications Research (ICR) released an impact study^[3] claiming that:

- One-third of New York City bars, hotels and nightclubs have reduced staffing by an average of 16 percent since the ban took effect, and three-fourths of them cited the ban as the cause.
- Three-fourths of all affected bars and restaurants have experienced a decline in patronage averaging 30 percent, and almost 80 percent of businesses claim to have been negatively affected by the bans.
- Bars and nightclubs that do not offer food reported a reduction in alcohol sales approaching 20 percent.

But the City and Mayor remain upbeat about the consequences of the ban. One year after the ban went into place, four City departments released a joint report^[4] asserting that:

- Business tax receipts in bars and restaurants had grown almost 9 percent.
- An additional 10,600 jobs had been created in these establishments.

- 150,000 fewer New Yorkers were exposed to second-hand smoke on the job.

Each of these analyses has been subjected to criticism from the opposition, generally either because it is overly anecdotal or overly aggregated.

The Status of the Bar and Restaurant Industries in New York

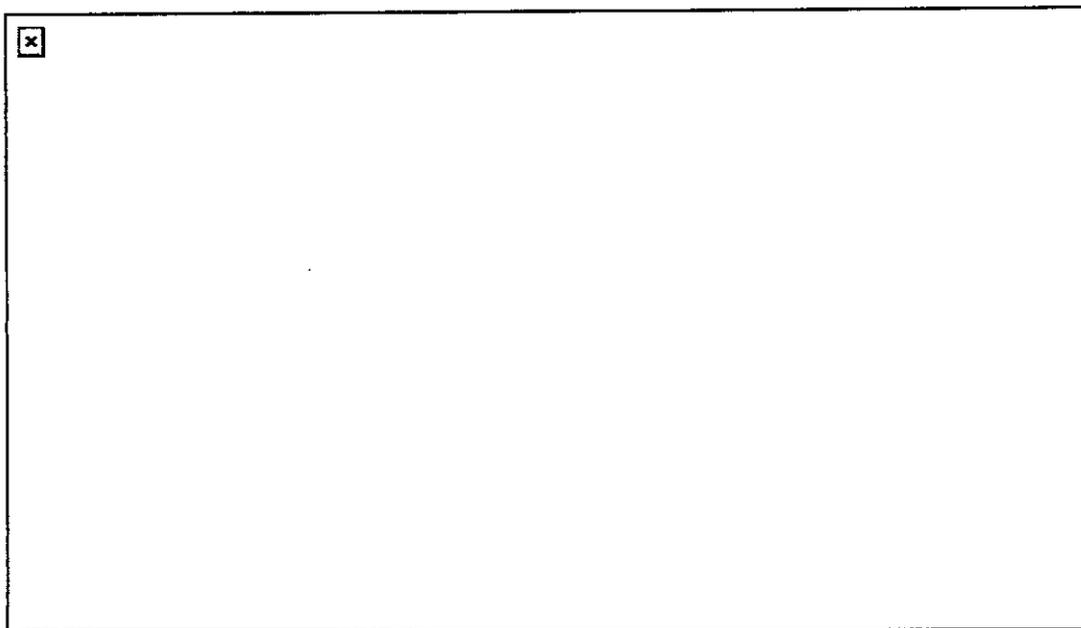
Historically, the financial performance of eating and drinking establishments has tended to track the overall economy, as economic growth creates disposable income which is spent at New York's bars and restaurants. However, the recent past has seen a deviation from the long-term trend, as bars have reduced payrolls more sharply in the last two years than restaurants and the overall economy.

In terms of structure, bars and restaurants are somewhat different, as bars tend to employ far fewer people per establishment. As Figure 1 indicates, nearly 75% of all bars employ less than 5 people, while the comparable figure for restaurants is 41%. Overall, average bar employment across New York is 5 workers, while restaurants average over 15 employees per establishment statewide. Within the alcoholic beverage sector, bars and restaurants account for a rising share of liquor licenses, with the vast majority of those licenses authorizing the sale of beer, wine, and liquor. See Figures 2 and 3 for more details.

Figure 1: Distribution of New York Establishments by Number of Employees (2001)

Figure 2: 2004 Bar and Restaurant Share of Total New York state Liquor licenses

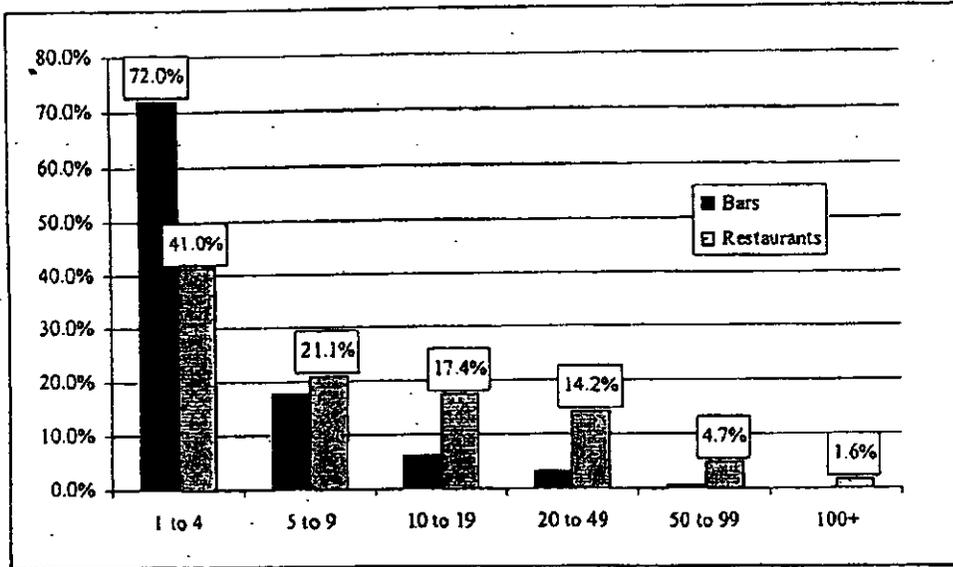
Figure 3: 2004 Distribution of New York Bar and Restaurant Liquor Licenses by Type



Source: New York State Liquor Authority

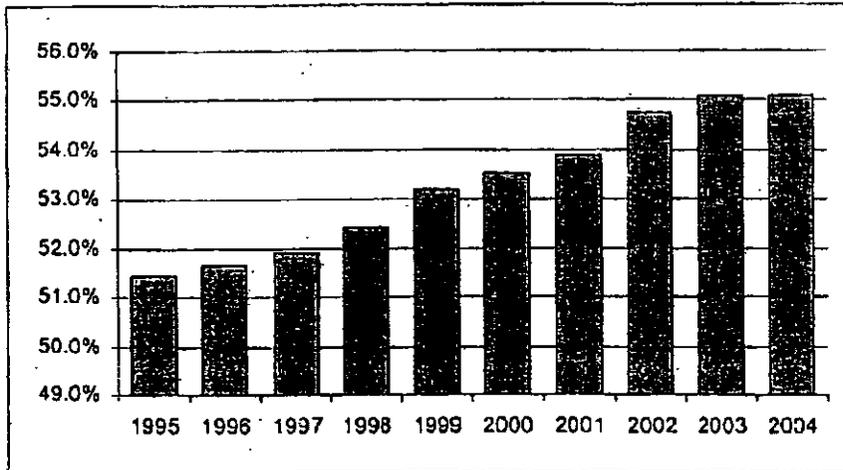
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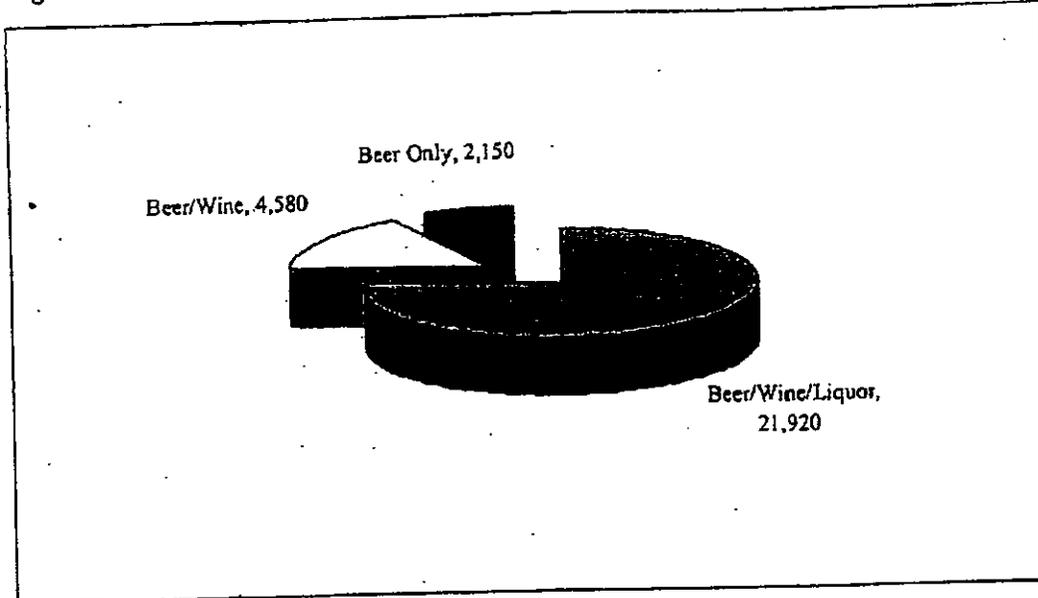
Source: County Business Patterns

Figure 2: 2004 Bar and Restaurant Share of Total New York Liquor Licenses



Source: New York State Liquor Authority

Figure 3: 2004 Distribution of New York Bar and Restaurant Liquor Licenses by Type



Source: New York State Liquor Authority

Appendix I

Table 1: 2002 Employment and Establishment Profile

	NAICS 7224 (Bars)		NAICS 7221 (Restaurants)	
	Employees	Establishments	Employees	Establishments
New York State	19,158	3,831	222,541	14,328
Bronx	400	114	2,945	324
Kings	611	186	6,672	781
Manhattan	4,602	518	64,542	3,375
Queens	928	327	8,528	977
Richmond	119	47	2,124	188
Nassau	940	231	18,193	1,024
Suffolk	1,043	253	15,109	1,000
Rest of State	10,515	2,155	104,428	6,659

Table 2: New York Bar Employment

	NY State	NY City	Bronx	Queens	Kings	Manhattan	Richmond	Long Island	Nassau	Suffolk	Rest of State
1975	19,232	7,926	924	1,604	1,407	3,695	296	2,196	1,201	995	9,110
1976	19,355	7,672	865	1,543	1,301	3,712	251	2,238	1,179	1,059	9,445
1977	19,504	7,364	774	1,522	1,225	3,595	248	2,276	1,224	1,052	9,864
1978	19,491	7,130	702	1,437	1,133	3,629	229	2,391	1,310	1,081	9,970
1979	20,170	7,242	653	1,384	1,065	3,915	225	2,556	1,413	1,143	10,372
1980	21,275	7,638	653	1,390	1,109	4,260	226	2,864	1,537	1,327	10,773
1981	21,057	7,351	631	1,378	1,038	4,087	217	2,837	1,579	1,258	10,869
1982	21,138	7,166	613	1,398	974	3,992	189	2,923	1,645	1,278	11,049
1983	21,081	6,853	613	1,328	914	3,808	190	3,109	1,709	1,400	11,119
1984	21,056	6,731	578	1,325	868	3,759	201	3,254	1,721	1,533	11,071
1985	20,892	6,747	548	1,267	837	3,869	226	3,146	1,636	1,510	10,999
1986	19,954	6,485	559	1,207	801	3,708	210	2,876	1,541	1,335	10,593
1987	19,852	6,501	592	1,239	729	3,715	226	2,917	1,501	1,416	10,434
1988	19,989	6,379	577	1,274	707	3,603	218	2,904	1,446	1,458	10,706
1989	20,193	6,417	581	1,251	693	3,665	227	2,911	1,426	1,485	10,865
1990	20,433	6,446	583	1,290	746	3,595	232	2,828	1,329	1,499	11,159
1991	19,261	5,781	580	1,220	725	3,022	234	2,669	1,301	1,368	10,811
1992	18,536	5,415	517	1,117	630	2,911	240	2,599	1,238	1,361	10,522
1993	18,268	5,524	448	1,078	642	3,153	203	2,469	1,131	1,338	10,275
1994	18,220	5,677	419	932	581	3,549	196	2,302	1,065	1,237	10,241
1995	18,136	5,853	409	912	589	3,758	185	2,174	1,067	1,107	10,109
1996	18,009	6,074	370	937	578	4,003	186	1,967	943	1,024	9,968
1997	18,095	6,271	402	922	655	4,111	181	1,907	897	1,010	9,917
1998	18,113	6,362	425	907	628	4,243	158	1,890	858	1,032	9,861
1999	18,750	6,532	453	999	625	4,340	115	2,010	867	1,143	10,208
2000	19,905	6,832	448	1,039	645	4,591	139	2,183	1,024	1,159	10,890
2001	19,867	6,975	425	1,025	644	4,740	141	2,095	982	1,113	10,617
2002	19,158	6,662	400	928	612	4,602	120	1,983	940	1,043	10,513
2003	18,757	6,586	395	845	601	4,635	110	1,881	850	1,031	10,290

Table 3: New York Restaurant Employment

	NY State	NY City	Bronx	Queens	Kings	Manhattan	Richmond	Long Island	Nassau	Suffolk	Rest of State
1975	126,642	54,657	1,709	6,544	5,427	40,190	787	18,636	11,901	6,735	53,349
1976	133,587	56,466	1,853	6,685	5,499	41,507	922	20,884	13,359	7,525	56,237
1977	138,749	57,163	1,880	6,779	5,528	41,979	997	21,759	13,606	8,153	59,827
1978	145,671	59,218	1,934	6,950	5,621	43,664	1,049	22,435	13,859	8,576	64,018
1979	151,671	60,968	1,784	6,796	5,507	45,786	1,095	23,744	14,710	9,034	66,959
1980	152,161	60,819	1,623	6,793	5,431	45,857	1,115	24,185	15,113	9,070	67,157
1981	153,258	61,370	1,681	6,766	5,378	46,435	1,110	24,558	15,399	9,159	67,330
1982	154,334	60,469	1,651	6,561	5,297	45,610	1,350	25,317	15,471	9,846	68,548
1983	161,672	62,845	1,632	6,845	5,535	47,508	1,325	26,400	16,093	10,307	72,427
1984	171,283	66,329	1,754	7,224	5,829	50,040	1,482	27,816	16,740	11,076	77,138
1985	178,650	68,843	1,849	7,338	5,858	52,310	1,488	28,570	17,083	11,487	81,237
1986	187,297	70,715	1,823	7,580	5,980	53,608	1,724	29,252	17,142	12,110	87,330
1987	191,812	71,970	2,141	7,809	6,238	53,957	1,825	28,865	16,849	12,016	90,977
1988	194,666	72,541	2,221	8,281	6,281	53,937	1,821	28,691	16,958	11,733	93,434
1989	197,548	73,191	2,069	8,367	6,445	54,435	1,875	28,811	16,711	12,100	95,546
1990	196,728	71,592	2,001	8,445	6,321	53,079	1,746	27,930	15,624	12,306	97,206
1991	189,389	65,608	1,951	7,641	5,888	48,561	1,567	27,321	15,179	12,142	96,460
1992	186,580	64,307	1,961	7,727	5,653	47,435	1,531	27,160	15,092	12,068	95,113
1993	188,393	64,689	2,095	7,596	5,642	47,797	1,559	27,389	15,129	12,260	96,315
1994	193,494	67,459	1,999	7,800	5,899	50,148	1,613	28,000	15,366	12,634	98,035
1995	197,886	69,839	2,089	7,936	5,862	52,224	1,728	28,749	15,759	12,990	99,298
1996	200,003	72,656	2,173	8,753	6,005	53,909	1,816	28,415	15,491	12,924	98,932
1997	204,093	76,396	2,314	8,876	6,155	57,147	1,904	28,762	15,740	13,022	98,935
1998	208,856	79,871	2,419	9,066	6,352	60,079	1,955	29,262	16,195	13,067	99,703
1999	215,625	81,585	2,674	8,710	6,526	61,505	2,170	29,982	16,484	13,498	104,058
2000	220,144	86,834	2,682	8,582	6,606	66,821	2,143	30,833	17,200	13,633	102,477
2001	220,484	87,227	2,815	8,529	6,871	66,903	2,109	31,927	17,643	14,284	101,330
2002	222,561	84,810	2,945	8,528	6,671	64,542	2,124	33,302	18,193	15,109	104,449
2003	222,979	85,045	2,715	8,120	6,865	65,230	2,115	32,910	17,975	14,935	105,024

Table 4: 2001 Bar Establishment Size by Number of Employees Distribution

	1 to 4	5 to 9	10 to 19	20 to 49	50 to 99	100+
New York State	72.0%	17.8%	6.3%	3.3%	0.5%	0.1%
Bronx	91.1%	7.3%	1.6%	NA	NA	NA
Kings	82.0%	15.8%	1.8%	0.4%	NA	NA
Manhattan	48.8%	24.8%	14.6%	9.3%	2.2%	0.3%
Queens	83.5%	13.6%	2.0%	0.9%	NA	NA
Richmond	79.3%	19.0%	1.7%	NA	NA	NA
Nassau	81.2%	10.9%	4.6%	2.9%	0.4%	NA
Suffolk	81.2%	12.4%	4.9%	1.5%	NA	NA
Rest of State	72.5%	18.7%	5.7%	2.7%	0.3%	0.1%

Table 5: 2001 Restaurant Establishment Size by Number of Employees Distribution

	1 to 4	5 to 9	10 to 19	20 to 49	50 to 99	100+
New York State	41.0%	21.1%	17.4%	14.2%	4.7%	1.6%
Bronx	59.9%	24.5%	8.3%	5.7%	1.3%	0.3%
Kings	56.8%	24.3%	11.7%	5.5%	1.2%	0.5%
Manhattan	36.9%	21.8%	19.2%	12.9%	6.2%	3.0%
Queens	60.5%	20.7%	11.0%	6.3%	1.1%	0.4%
Richmond	46.3%	21.6%	19.1%	7.5%	5.0%	0.5%
Nassau	37.9%	22.7%	17.2%	14.2%	5.7%	2.3%
Suffolk	41.3%	20.7%	16.5%	15.3%	4.6%	1.6%
Rest of State	37.7%	20.0%	18.6%	17.6%	4.8%	1.3%

Table 6: New York Liquor Licenses by Type

	Total	Bars/Restaurants	Other Licenses
1995	48,544	24,966	23,578
1996	48,607	25,117	23,490
1997	48,249	25,041	23,208
1998	48,670	25,515	23,155
1999	48,587	25,848	22,739
2000	49,178	26,319	22,859
2001	49,135	26,478	22,657
2002	50,261	27,514	22,747
2003	52,775	29,080	23,695
2004	52,000	28,650	23,350

Table 7: New York Bar & Restaurant Liquor Licenses by Type

	Beer/Wine/Liquor	Beer/Wine	Beer Only
1995	19,831	3,372	1,763
1996	19,782	3,497	1,838
1997	19,708	3,490	1,843
1998	19,853	3,712	1,950
1999	20,325	3,640	1,883
2000	20,694	3,748	1,877
2001	20,545	3,991	1,942
2002	21,192	4,256	2,066
2003	22,245	4,650	2,185
2004	21,920	4,580	2,150

Appendix II

Price Elasticity

The price elasticity of demand is the percentage change in quantity demanded in response to a given change in product price, all other conditions held constant. Price elasticity is normally a negative number, reflecting the inverse relationship between price and quantity in the demand function. Price elasticity is often characterized in reference to its numerical value, dropping the negative sign. A price elasticity coefficient greater than one would indicate strong sensitivity to price changes; a value less than one, weak price sensitivity. An elasticity of zero would indicate complete indifference to market price. Customer preferences, the prices of other goods and the number and quality of substitutes all have a major impact on price elasticity. The relative price of a product will itself influence price sensitivity. Because the purchase of a lower-cost product would deplete less of household income than a higher-cost alternative, inexpensive products are generally less price-sensitive than expensive ones. Products that have few close substitutes will be less price-sensitive, while goods that have many alternatives will tend to be highly elastic.

The estimated demand functions for employment in the bar and restaurant industries used a modified definition of price elasticity. Instead of focusing on the sensitivity between price changes and purchase volume changes, the employment functions estimated the linkage between shifts in price and changes in the number of employed industry workers. However, this concept can be converted to the more standard definition of price elasticity by taking into account industry labor productivity. For example, an estimated price elasticity with respect to employment of -0.5 , in an industry which has an average annual labor productivity gain of 1.5% , would yield a price elasticity of demand (output change relative to a price change) of approximately -2.0 . Based on research conducted by the U.S. Department of Labor, Bureau of Labor Statistics, productivity gains (output per worker) in the bar/tavern and restaurant industries average approximately 1.5% per year.

Income Elasticity

The income elasticity of demand measures the response of demand for a product to changes in money income. For the vast majority of products in the economy, this elasticity measure is positive. That is, the demand for a product is directly related to changes in buyer income. These types of products are called "normal" goods. A minority of products in the marketplace have an inverse relationship between demand and money income (a negative income elasticity). These latter products are called "inferior" goods.

The estimated income elasticity in the employment demand functions for the bar and restaurant industries reflect the same procedure as discussed above for the price elasticity. That is, the estimated income elasticity measures the change in industry employment in response to a change in money income. Adjusting for industry labor productivity, these estimated elasticities can be converted to the standard definition.

Industry Employment Demand

A multiple regression was fit, in log - log terms, to estimate the impact of changes in money income, industry prices and the imposition of smoking-ban regulations on industry employment. Individual functions were estimated for the bar/tavern and restaurant industries. In each case, industry employment was regressed against state personal income, an industry price deflator, and "dummy" variables to capture the effects of anti-smoking regulations at the local/state levels and to handle transitional issues associated with the terrorist attack on the World Trade Center.

Regression of Ln (NYS employment in the bar industry) on the following:

	coefficient	t-value
intercept	9.54044	15.394
Ln (NYS personal income)	0.1542	1.35
DummyB	-0.24276	-2.687
Dummy2	0.11653	2.394
Ln(industry price)	-0.37411	-1.805
Ln(emp-1 / emp-3)	0.61591	3.668

r-square = 0.7148

r-bar square = 0.6435

where

- NYS personal income - household income in millions of dollars adjusted one year forward 1978-2003
- industry price - price deflator for the bar industry (2000=100.0) 1978-2003
- DummyB - category variable coded to reflect industry coverage of 1995 NYC ban and 2003 NYC/NYS bans 1978-2003
- Dummy2 - category variable to capture transitional period following the WTC attack 1978-2003
- emp-1 / emp-3 - ratio of industry employment (lagged one period) divided by industry employment (lagged three periods) included for statistical estimation reasons 1978-2003

The estimated coefficient of the State personal income variable, adjusted by industry labor productivity, implies an income elasticity of approximately 1.65. This estimate is consistent with other research studies. The bar/tavern industry is seen as a "normal" good industry by economists. The positive sign of this coefficient supports this theoretical "a priori" view. However, the magnitude of the coefficient strongly suggests that consumers do not view this industry's product as a necessity - the further away from zero, the more the good is deemed a non-necessary or "luxury" good. On the other hand, the income elasticity in this industry is significantly less than for many high-end, super-luxury goods, such as BMWs, yachts, etc.

The price elasticity of demand for the bar/tavern industry is estimated to be approximately -1.9, after adjusting the regression price coefficient by industry labor productivity. While the demand for alcoholic beverages is inelastic (less than -1.0), the consumption of these drinks in a bar or tavern environment has been found by other researchers to be significantly more price sensitive. The magnitude of the estimated price elasticity puts the measurement in the elastic zone, implying relatively high price sensitivity by bar patrons.

The negative coefficient for the smoking-ban "dummy" variable indicates a statistically significant detrimental impact on industry employment which dates back to the earlier initiative by New York City in 1995 and worsened by the NYC/NYS action in 2003.

A similar function was fit for the restaurant industry. A log - log employment demand equation was estimated linking restaurant industry employment to personal income, an industry price deflator and dummy variables for the WTC attack transition and the introduction of smoking-ban regulations. The anti-smoking ban dummy was customized to reflect the coverage impact on the restaurant industry, distinct from the bar/tavern industry

Regression of Ln (NYS employment in the restaurant industry) on the following:

	coefficient	t-value
intercept	6.00247	8.626
Ln (NYS personal income)	0.5761	5.231
DummyR	-0.14156	-6.585
Dummy2	0.04052	2.48
Ln(industry price)	-0.30538	-1.798
Ln(emp-1 / emp-3)	0.73679	7.525

r-square = 0.9914

r-bar square = 0.9893

where

- industry price - price deflator for the restaurant industry (2000=100.0) 1978-2003
- DummyR - category variable coded to reflect industry coverage of 1995 NYC ban and 2003 NYC/NYS bans 1978-2003

The income elasticity for the restaurant industry is estimated to be 2.1. Like the bar/tavern industry, this industry provides products that are viewed as "normal" goods by its customers. The magnitude of the elasticity is somewhat larger than that of the bar/tavern industry, suggesting a bigger industry response to changes in general economic conditions. Other studies have found the income elasticity for the restaurant industry in the 2.0 - 3.0 range.

The price elasticity of demand is similar to that estimated for the bar/tavern industry. An elasticity of -1.8 puts the price sensitivity of restaurant meals in the elastic range, indicating a high degree of customer sensitivity to price changes.

The coefficient of the smoking-ban variable in this equation shows a statistically significant negative impact on industry employment. However, the magnitude of this impact is smaller for restaurants than for bars/taverns. While the regression results do not offer an explanation for this difference in response, the statistical results may likely reflect the differing demographic characteristics of each market's customer set.

Regional Input/Output Multipliers

An input/output (I/O) model is used to estimate the implications for economic activity in different industries. Because of the interdependencies among the industries, the growth of any single industry cannot be studied in isolation. The I/O approach is best suited to take explicit account of the direct as well as indirect relationships among all industries.

The basic parameters of any I/O model are derived from a set of identities known as the transaction tables. These tables show the flows of goods and services among different industries and the flows to each industry's final users (households, businesses, exporters, importers, and governments). These identities also show the link between the broad GDP components and the demand for individual industry products. Industries buy in one range of markets and sell in another set.

Every firm can be examined from two points of view: first, as a producer of the output it sells to other firms and to the final users of its product, and second, as a user of the inputs it buys from other firms and the primary factors of production it purchases (labor, land, capital, etc.). If all business firms, households and governments are grouped into industries, the same two-fold market structure holds. Industries buy in one range of markets and sell in another set. The I/O transaction tables show these dual market relationships among all industries in the economy.

Each row of the main transaction table shows the sales distribution of a given industry's output to every other industry and to each of the major final users (households, businesses, exporters, importers and the public sector) in the economy. Meanwhile, each column of the table shows the distribution of a given industry's purchases of materials from other industries and the use of primary factors of production.

This study employed the use of regional input/output multipliers to assess the total (direct, indirect and induced) changes associated with a change in economic activity in the bar or restaurant industry. The direct effects are only the first wave of economic changes. There are four separate effects that collectively account more fully for the regional economic repercussions of producing a dollar's worth of output in a given industry. These effects are: (1) change in output for a given industry needed to meet the initial dollar change in spending by the final users; (2) changes in the output of other

industries to meet the direct requirements of a given industry; (3) changes in the output of all industries to meet the changes in production in (2) above; and (4) the regional production required to meet changes in demand by final users created by higher local income generated by the first three effects.

These regional impact factors, which were used to capture the total economic effects by industry, are based on research conducted by the U.S. Bureau of Economic Analysis. Researchers at the U.S. Department of Commerce have developed regional I/O models called RIMS II (Regional Input/Output Modeling Systems) that capture the specific industrial composition of the local economy. This study used three impact multipliers from this body of research - output, employment and earnings multipliers. The output multiplier represents the total constant dollar change in the output of all industries for a dollar change in final demand in the bar or restaurant industry. The earnings multiplier represents the total dollar change in earnings of households employed by all industries for each additional dollar of earnings paid directly to workers employed in the bar or restaurant industry. In a similar manner, the employment multiplier represents the total change in the number of jobs in all industries for each additional job in the bar or restaurant industry.

#15

#3
opposition

Madam Chairperson and Committee members:

My perspective as the General Manager of Oxbow Country Club, Fargo in regard to SB 2300 is this: The Club business is about community and catering to the specific wants, wishes and needs of its membership. It is a big job to keep everyone happy, but that's what we do.

There doesn't seem to be an issue between smokers and non smokers. Our smoking and non smoking areas are accommodating and the ventilation is appropriate. There is also reasonable balance of consideration and tolerance on behalf of the membership.

We keep a pulse on member sentiment constantly and in many ways. We currently have an operational and facilities survey out to our membership and in it are seeking specific input in regard to our present smoking policies.

What I am saying is that as an Organization, we work out solutions that are as amicable to everyone as possible. The smoking issue can be handled internally just fine. We would like the opportunity to continue to work on our own solutions and not have the State mandate what is best for our members.

Thank You, Michael Reek

Re:
Mike O'Brien

THE BRASS RAIL, INC.

110 2nd ST NW
PO Box 779
Jamestown ND 58402-0779
Phone (701)-253-4907

March 10, 2005

ND Hospitality Association
Attn: Janet or Nicki
PO Box 428
Bismarck, ND 58502-0428

Re: Tobacco Bill

To all ND State Representatives and Senators:

Regarding the Tobacco (smoking) bill in front of you, could you answer a couple of questions?

1. Why does the federal government subsidize the tobacco growers?
2. If the cigarettes are so bad for the population, why not ban them from the market?

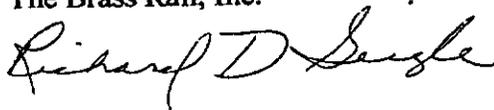
Some people believe they are a health hazard and cause death. If so, stop growing tobacco and selling cigarettes. They are now legal to use.

If the public or a person does not want to be near these products—stay away. If you don't like to bowl, you don't go to a bowling alley. If you don't buy pizza, you don't go to a pizza shop. If you don't like smoke or alcohol, don't go to a place where they allow it. Why make laws that make no sense...what happened to common sense?

We all have rights, why limit them if the government doesn't?

Vote NO to regulate tobacco

Richard D. Geigle
President
The Brass Rail, Inc.





WILLISTON CONVENTION
AND
VISITORS BUREAU

10 MAIN
WILLISTON, NORTH DAKOTA 58801-6017
(701) 774-9041

March 10, 2005

Madam Chairperson and Committee Members:

I am writing to voice my opposition to Senate Bill #2300. I oppose this bill for the following reasons:

- 1 If convention facilities are included in this measure it will have a detrimental economic impact on our community. For example, this year Williston hosted the ND State Dart Tournament at the Airport International Inn. The Airport International Inn's courtyard is the only facility in our community large enough to house this event. If this facility is forced to become smoke-free this event will not come back to Williston. The dart tournament can move out of state, the Airport International Inn cannot move.
- 2 If sports arenas, including outdoor facilities, are included in this measure it would seem to me that the effect of this measure is to outlaw smoking, period.

I personally don't smoke and I encourage my children not to smoke, but we already have laws on the books which are not enforced regarding underage smoking. I don't believe we need new laws which cannot be enforced to regulate adult behavior regarding smoking.

I encourage you to vote no on Senate Bill 2300

Sincerely,

Jeff Altizer
Executive Director
Williston Convention & Visitors Bureau

Bill Shalhoob

From: "Nicki Weissman" <nicki.ndha@btinet.net>
To: "Bill Shalhoob" <bill@selectinnbismarck.com>
Sent: Monday, March 07, 2005 2:29 PM
Subject: Fw: Smoking ban bill

----- Original Message -----

From: "Wrangham, Dwight R." <dwrangham@state.nd.us>
To: "Rick LaFleur" <rclafleur@gondtc.com>; "Nicki Weissman" <nicki.ndha@btinet.net>; "Dakota Music" <sales@dakmusic.com>
Sent: Monday, March 07, 2005 11:40 AM
Subject: FW: Smoking ban bill

-----Original Message-----

From: mclareweaver1@juno.com [mailto:mclareweaver1@juno.com]
Sent: Monday, March 07, 2005 10:00 AM
To: Williams, Clark D.; Wrangham, Dwight R.; Zaiser, Steve L.
Subject: Fw: Smoking ban bill

My name is Mary Weaver and I am a small business owner in Grand Forks. I am not in the restaurant/bar business, but the proposed smoking ban legislation disturbs me, and has prompted me to write today.

I cannot disagree that we are indeed talking about a health issue. However what you believe is the seriousness of the issue depends on which set of statistics you have before you. There are many sets. For instance, the EPA report is what is referred to as a meta-study, which means one that has compiled its data from other hand-picked reports. Can that be said to be without bias? The World Health Organization has a report based on first-hand material. Its conclusions are different from the EPA report. There are also studies which have been funded in whole or in part from the Robert Wood Johnson Foundation, which, because it owns a huge amount of Johnson and Johnson stock, profits immensely from the sale of smoking-cessation pharmaceuticals. Can those studies be said to be without bias?

There are many toxic/carcinogenic materials in our everyday world, some within our own homes, and many in businesses we frequent, such as wood dust, acetone (fingernail polish remover), mineral oil, alcohol, sunshine, tanning bed lamps, and so on. We use these prudently, and realize that in life, many factors contribute to poor health or lead to disease, and that there is not always agreement as to their severity, but that the choices are up to the individual.

3/10/2005

In North Dakota, we have given businesses the opportunity to profit from the sale of alcohol and gambling. Some people say that these harm no one but the user, whereas, they say, smoking harms others. I disagree with that, because each of us has been touched in some way by alcohol and gambling use/abuse; these have an infectious effect on families and contribute heavily to physical and mental ailments for the user, the families, and the community. Our own North Dakota traffic fatality statistics are shameful: We have ranked at or near the top in alcohol-related traffic fatalities for the last 5 years.

In Grand Forks, the issues of more venues and longer hours for drinking and gambling have been considered for some months, and it seems likely that these will be implemented. We are not only sanctioning them, but promoting them. These sorts of decisions are based on economics and the sense that the business owners are capable of making decisions based on what is best for their businesses, regardless of negative consequences. The sense is that the business owner and the customers have CHOICES, and the various levels of government have left these choices up to the individual.

I think that decisions regarding smoking should be handled in the same way. I think the smoking ban puts the government in the position of micromanaging private businesses and individual behavior. This does not promote a business-friendly climate, and those businesses which will be hurt the most by this ban are, for the most part, small businesses. Aside from that, it sets a double standard for activities within confined spaces which are legal: drinking and gambling are ok, smoking is not.

I did a survey in Grand Forks via the telephone, to find out just how extensive our "problem" is, considering that some have stated that they can't find a place to go eat without encountering smoke. I started with a list from Public Health which listed 61 smoke-free bars/restaurants in Grand Forks alone, and then I extended the list to the 115 I found, and called the rest on the phone. What I found was that fully 80 "eateries" are smoke-free (70%); 35 allow smoking, and of those, 25 also serve alcohol. This list includes bars which have menus and kitchens and to which people go to eat. Some of the "eateries" are smoke-free family restaurants, yet serve alcohol in front of children--so much for bad role-modeling. (The presence of gambling opportunities even in grocery and convenience stores could also be said to be bad role-modeling.)

It has been stated that the new law is needed to protect people from the acts of others, and that it is the same as a law that protects people from physical assault. It has been further stated that this is a fight between private property and health. I believe that is a false dichotomy, and that the true fight is between local control and government control. I believe Grand Forks is probably very typical of any city or town in the state, in that the vast majority of bars/restaurants are already smoke-free. The bottom line is that NO ONE, be they employees or patrons, is COERCED into entering these establishments. We each have freedom of choice, as we do when it comes to violence on tv (on-off buttons, changing the channel), entering "porn shops", and so on. When 70% of the "eateries" in Grand Forks are

already smoke-free by the decision of the business owner and response to patrons, there is quite a bit of choice as to where to work or eat.

I urge you to consider very seriously the proposed smoking-ban bill which would take freedom of choice away not only from customers, but also from business owners. I believe this is something which government should not interfere with, beyond those laws and ordinances already in existence is the Century Code and in respective municipal codes.

Sincerely, Mary Weaver, 509 Cherry St., GF 746-5090, 775-4566

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Nicki Weissman

From: "JOHN TWETEN" <jtweten@invisimax.com>
To: "Nicki Weissman" <nicki.ndha@btinet.net>
Cc: "Harry Bushaw" <hbnow@GRA.MIDCO.NET>
Sent: Wednesday, March 09, 2005 4:49 PM
Subject: SB 2300 Testimony

Dear Representatives;

Please consider this before voting on **SB 2300**.

We in Grafton are voting on this Issue April 19at a special election.

Even the kids that started this had enough brains to exempt bars. Not just till 2007!
 3 bars in Grafton took the same poll the kids took. It came out 108 against a smoking ban in bars. 8 favored it.
 If this passes, it's telling me I have 2 years to sell my bar, because I know none of us will last 2 months.

Manitoba banned smoking last year. I was in Winnipeg last week. I asked them how it affected them. Their answer was
 They would be CLOSED if they didn't have privatized VLT's a.k.a. video lottery terminals / video poker.
 If you would like to amend the bill to allow 12 slots per bar so we can still make a living, I would go along with a smoking ban.
 My friends and I spent 50 percent of our time outside smoking. That equals 50 percent less sales. Believe me. No bar in Grafton can
 stay in business
 If they lose that. And probably no other small town bar could either.

Minnesota just killed their smoking bill, saying enough government. Maybe if we should say the same.

I'm tired of special Interest groups pushing their agenda down our throats, with taxpayers dollars.
 The bottom line for me is, if people don't like the smoke, go elsewhere.

For your info.

I'm the third generation owner of this business.
 We are celebrating 72 years in business at the same location.
 Please give us a chance to go another 72.
 I urge you, **VOTE NO on SB 2300**

Than You;

John Tweten
 Polly's Lounge
 Grafton ND

Cell Phone 701-520-0150

I have attached testimony from the West Fargo VFW where they already have a smoking ban.

Richard Benson- West Fargo VFW phone 701-282-4728

a) First Month of Smoking Ban

Sales Revenues were down \$178,000
 Bar & Restaurant receipts down \$32,000
 Gaming Revenues Down approx \$ 150,000

b) Business had been steadily improving over the last few years.
 It had been up 14% year over year prior to smoking Ban

c) Benefits West Fargo VFW provided to the community.

Over the last 3 years they gave approximately \$500,000 to the Community
 They will be lucky if they can provide \$50,000 to the Community this year
 Previously provided free pool for the Community
 They may now have to begin charging residents for its use,
 Took care of Legion Baseball Team
 Purchased Fire trucks for city of West Fargo
 They will no longer be able to provide for these as well as numerous other activities which benefited the community and the tax payers.

We have Veterans overseas risking their lives protecting our freedom, and then we have the audacity they can't smoke in their own club. Obviously we have a righteous few who feel they don't have the maturity to decide if they wish to enter a smoking

environment or not. When will we quit trying to legislate adult behavior?

Should we really be worrying about what consenting adults do especially when they have many other options available to them? Maybe time would be better spent protecting children from smoking adults in their automobiles.

Carbon Monoxide is much more dangerous to a person's health than smoking. Maybe we should not allow anyone within 25 feet of any carbon monoxide emission. That would go along way to preventing pollution and aid tremendously in the global warming problem.

I don't think most of us voted for our council men based on health issues, especially those which are well within our ability as adults to control. The National Center for Disease Control claims 400,000 Americans a year die from obesity. Maybe the next thing we should consider is mandatory menu planning for all area residents.

Madam Chairperson and Respected Committee Members

I am Susanne White. My husband, children and I, own and operate the Lone Steer in Steele, ND for the past 25 years. We also own and operate 2 bars in small communities.

I believe this smoking bill is a waste of tax payers money and time.

It has become very obvious to anyone that has a increased awareness and intelligence that we have already policed ourselves. A large percentage of restaurants do not allow smoking. You don't smoke in grocery stores, public govt. or state buildings. Actually the only places we allow smoking is in rest.'s and bars. The public has let us know what they want.

As a business owner, in a FREE America, I do believe if I have purchased and paid for and built my business....I should be the person deciding who I want to do business with in the future. We have 1000s of people that will only go in smoking facilities. The same is true for non-smoking. Do we need the government to make a decision for us as to where we need to eat out at. All intelligent non-smoking people can make that decision on their own. We have non-smoking motel rooms-non smoking bars-non-smoking restaurants-WE HAVE POLICED OURSELVES. We do not need to be monitored.

Who will pay for the policing? I know now that every complaint to the State Health Dept. needs to be followed up on no matter how unbelievable it may be. Who will pay for those costs? Who will compensate for the cigarette tax we lose when we decide to ban the sale of tobacco products if you decide to ban smoking? Trust me-a large group of people will attack the entire industry-I think many anti smoking people will be out of work to their own surprise!.

This bill will absolutely wreck a huge amount of business for us. We have a lot of truckers and laborers and they smoke. Our coffee drinkers and locals smoke. We provide a non-smoking area.

My biggest question is this. If this bill was written to protect peoples health.....????? Why are we amending it to allow smoking in supposed private non-profit clubs. Everyone of you on this committee knows that we do not have PRIVATE clubs any longer. They do not police the door or follow any of the Charter rules. Again you will be policing them like you have never dreamed because Clubs are already undercutting the private entrepreneur and nothing has been done about it. The time will be ripe to clamp down on EVERY open door policy. You can bet I will be one of the many people making the state enforce OPEN DOOR POLICY if I have to compete against another unfair law. We are already on an unfair playing ground and I will not stand back and allow it anymore. It looks as though the person writing this bill could possibly be a smoker but a member of a club, protecting his little domain.

Let's spend time growing ND, not trying to enforce something that is already being handled by intelligent business owners. This is as crazy as banning perfume-I am allergic to it. Or how about banning all bee co.'s from our state. My son is allergic to bees. The list can get mighty large and we will be in your backyard next!!!!!! Please leave this alone and let the business people create the atmosphere that they need to do business in. Thank you.

Nicki Weissman

From: "Gary Grandbois" <ggrandbois@ramadafargo.com>
To: "Nicki Weissman" <nicki.ndha@btinet.net>
Sent: Friday, March 11, 2005 4:54 PM
Subject: RE: Smoking bill 2300

Dear Nicki, It will be impossible for me to make it...Sorry..

Greetings The Ramada Plaza Suites estimated loss in December for Classic's Lounge is estimated at \$3,800. Based on 5 year average. January down \$1900.00 Feb off 2300.00. The no smoking law in Fargo has certainly changed the way guests are relaxing and enjoying a beverage of their choice. We are forced to have all guest step outside of the facility for a smoke...There is absolute truth to the fact that the smoking ban has disrupted revenue in the Fargo Ramada Plaza Suites. There is no way to recoup lost revenue to this law....
Gary Grandbois

F
Testimony on SB2300
Lowell Thomas

Chairman Price and members of the Human Services Committee

My name is Lowell Thomas and I am President of the North Dakota Tournament Association which has over 20,000 pool and dart members who compete on a weekly basis ----in small towns all over ND. I am also the Past President of the Coin machine operators association. I am owner of Modern Coin in Minot and operate coin machines in north central ND. I am here today testifying on my own behalf.

For a little background I owned bars in Minot, was a partner in a bowling alley and built a pool hall. Have spent the last 35 years in the bar environment. The fact is the majority of the steady customers that keep the bars, pool and dart leagues operating quite simply smoke.

What if numerous farmers and ranchers in ND were debating on selling their farms and ranches and suddenly the value of their property just declined 35 per cent after all the years of struggle and hard work and – they hadn't even done anything illegal. That is what Senate Bill 2300 is doing to the bar industry. It is cutting the legs out from underneath them. The equity they had built up all these years for retirement just got decimated. To the bar industry this would be like an air force base closing or the oil rigs moving on once the boom was over.

I don't feel this bill is fair and the steady customers that support this industry are not the ones who want this passed. At the very least this industry should be exempt.

Thank You For Your Time And Consideration

#17

I adamantly oppose SB 2300.

The ND legislative body has been cruelly unfair to the ND Charitable gaming industry. By limiting games and wagers, that have been freely allowed for years at Reservation casinos, we have been playing on a slanted field, and continuously losing ground. Senate Bill 2300 would completely strip the field from us, as it cannot prohibit smoking in casinos. By disallowing smoking at Clubs and bars, YOU are taking away our jobs by sending our customers to the non-affected casinos. Take a step back and study or just take a quick glance to see which gaming, charitable or casino, adds more to ND state's coffers.

I don't believe anyone who has approved this bill has given it lengthy thought or even enough thought to attach a fiscal note to it. The reality is that it will impact tremendously on the expected income from tobacco, related vices and state income taxes to mention just a few. Although I can't quote any exact numbers, I would like to attach my version of a fiscal note.

Your "sin" tax on tobacco paid to the state will decrease drastically. Many people, who don't smoke much at home or work, enjoy smoking with their beer or cocktail at liquor establishments. Most staff persons who work in the liquor and gambling sector smoke. If they can't smoke in a bar or club, down dips the expected tobacco tax. These staff persons won't have to be smoke-free for long, as the impact on the volume of business will decrease so sharply, that lay-offs will start immediately. That will pillage the unemployment compensation from a sector that rarely collects. The "sin" tax on alcohol will also be negatively affected. The gaming tax and bingo sales tax will take a steep nose-dive also. Finally as each Club's or bar's business goes downhill, it will appear as if prohibition has returned. There will be bankruptcies, foreclosures and vacant commercial real estate that can never recover. Non-smokers have a choice of which facilities they patronize. Allow the smokers the same courtesy.

I love my job as the AMVETS gaming manager and I am good at it. Personally, this bill dooms my job and professionally, it threatens the entire industry. I implore you, do not allow this tragedy to take place. Oppose SB 2300, and let the clubs and bars make their own decisions concerning smoking and non-smoking. Oppose SB 2300, and save hundreds of jobs, including mine.

Vicki Wagner (258-1857)

Vicki Wagner

ND Council of Veterans, Fraternal and Charitable Organizations Secretary
AMVETS Gaming Manager

9A

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March 11, 2005

Senate given same

North Dakota House Human Services Committee:

Two years ago I visited Bismarck and Fargo to speak about proposed smoke-free laws in those cities. Now you have an opportunity to bring that issue before the entire state.

As a public affairs representative for the California Restaurant Association I spent 14 years dealing with the restaurant smoking issue. Initially we fought smoking bans due to fear of economic harm and wanting to protect business owner's rights. Then in 1994 we switched sides and supported and passed a statewide ban.

I was most concerned about the impact it would have on the bars. A month into the ban we had bar owners saying things were so bad they'd be "living out, of their cars in two weeks," etc. Yet even our most boisterous woe criers today are still in business. There was an adjustment period for a minority of operators to be sure a few weeks for some restaurants, a few months for some bars.

Yet the adjustment went quickly enough that by the time actually sales taxes were reported, all restaurants and bars had improved sales of between four and eleven percent no matter how you slice or dissect the figures.

If you get tired of hearing statistics, look at the wisdom of the industry itself. Here in Placer County where I live liquor licenses on the open market sold for an average of \$26,000 each when we went smoke free. Five years later they were selling for \$250,000. Would operators be willing to pay a ten-fold increase if they were not still making money on liquor sales? Of course not. I have also attached a news clip from Massachusetts, new smoking ban. It's been the same for every other state that has gone smoke free.

Sincerely

Paul McIntyre
President & CEO

Smoking ban worries turn to ashes: State tax figures show more people are eating out since law went into effect

By **TOM BENNER**
Patriot Ledger State House Bureau

BOSTON - By the best measures available, Massachusetts restaurants have seen business go up - not down - since a statewide ban on smoking in restaurants and bars went into effect July 5.

There had been predictions that the ban on smoking in all workplaces would drive people out of restaurants when they could no longer light up.

Restaurants collect a 5 percent tax on all meals, and the amount collected from the meals tax is the most frequently cited measure of the ups and downs of the restaurant industry. The more the state gets in meals taxes, the more people are eating out.

State Department of Revenue figures show meals tax receipts were up in each of the last six months of 2004 over the same period in 2003.

Meals tax receipts were up 10.6 percent percent in August - the first full month after the law took effect - over August 2003. They were up every month from August through December, when they were up 1.9 percent over December 2003. In all, more than half a billion dollars in meals taxes were collected in 2004.

While some in the restaurant industry feared the smoking ban would hurt business, "There's no evidence of that in these numbers," said Cam Huff, an analyst with the Massachusetts Taxpayers Foundation. "It's one area in which the slowly improving economy seems to be doing very well."

But some business owners said they had to spend money to get customers back after smokers were driven from restaurants and bars. A generally improving economy is also believed to be a factor in more people eating out.

Ed Morris, manager of the Fours restaurant in Quincy, said he finds it hard to believe that meals taxes are up.

"We've somewhat of a decrease in business," Morris said, "but I think a lot of that is attributable to the increase in business we saw when Boston, Braintree and Weymouth went non-smoking and people came down here."

Greg McDonald, part owner of the Chowder House and Cafe de Paris restaurants, Darcy's Pub and the Village Common Food Court in Quincy, said sales in the restaurant lounge and at the pub dropped immediately after the ban went into effect. Sales went back up, he said, but only after the owners spent money on high-definition TVs to attract new customers.

"It cost us a substantial amount of money to get the business back to where it was before," McDonald said.

Food sales contribute far more to the meals tax receipts than sales of alcoholic beverages. Ninety percent of the \$532 million in fiscal 2004 meals tax receipts came from the sale of prepared foods, while the tax on alcohol sales made up just 10 percent of those revenues, Huff said.

Gail Anastas, director of communications for the Massachusetts Restaurant Association, which represents some 5,000 food and beverage establishments, said she heard no complaints from the group's members about a drop-off in business after the smoking ban took effect.

"We didn't get calls from members saying, 'Help, I'm going out of business tomorrow,'" Anastas said.

If anything, restaurant owners like the uniformity of a statewide smoking ban, Anastas said. Until the law took effect, half of the association's members were in towns that had already enacted local smoking bans in public places, she said.

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TESTIMONY

SB 2300

**HUMAN SERVICES COMMITTEE
REPRESENTATIVE PRICE, CHAIRMAN**

MARCH 14, 2005

21
Chairman Price and members of the Human Services Committee, I am Clinton DeVier co-owner of Ed's in Devils Lake ND. I am in opposition to the inclusion of bars in this bill. As the bill currently stands it exempts bars until August of 2007. I am asking that you remove the August 2007 inclusion and exclude bars in their entirety.

While bars in some of the larger communities with larger customer bases may be able to handle the loss of smokers, this will have a devastating effect on small bars in smaller communities such as mine. My business relies largely on a regular crowd of about a couple dozen customers from the hours of 5:00pm to about 8:00pm. These individuals get done with work and stop by to have a couple drinks, visit with their friends, and have a smoke. Since this bill has been discussed, I've paid attention to the number of my customers who smoke and those who do not. Very few of my customers do not smoke. I've also asked some of my customers what they will do if they can no longer smoke in my business. I've been told by most that they certainly would not spend as much time at my place. Most would probably visit for a bit and then go home earlier so they can smoke. This will directly result in a loss of profit for my business. Additionally, this loss of business will directly result in a devaluation of my business. This is not true with other businesses. It is the small bars in this State that will be impacted the most and as such should not be included in this bill. I realize there is a group of people who do want to breath the smoke of others. But these are not the people who are the regular customers that keep smaller bars such as mine open.

Thank you for your time and please make the exemption for bars permanent.

#22

Shauna Kolobakken

The first thing I would like to say is that I resent the fact that some committee, organization, or association of any kind thinks they have the right to attempt to come into privately owned business establishments and dictate what can or cannot go on in that business. I believe that our government has enough and sometimes too much control over society and its choices without creating laws or policies which are not necessary in order to have an orderly and law abiding society. This is a Country of freedom and choice and with the exception of extreme circumstances these freedoms and choices should not be tampered with. Saying that, I would like to state that I believe that one of our freedoms is the choice to go into certain businesses and relax, socialize, smoke and drink if you are of age and get away from the grind that we all know too well. Along with these freedoms and choices is the right to choose where you will or will not go. If I walk into a place where I am not comfortable or do not appreciate the actions of others I simply go to places where I can enjoy myself and appreciate the atmosphere. Case in point...the smoking debate. I am against banning smoking in drinking establishments that still hold the right to allow smoking for a number of reasons.

First- Smoking is NOT illegal unless you are under the age of 18

Second- Smoking is a freedom of choice for those who do smoke. It is our bodies and we have the right to do whatever we want to our person. Just like it is the right for those who condemn smoking to be in charge of their bodies and not smoke. If they do not or cannot tolerate smoke or smoking they should be sure to go places where there is no smoking. We in Minot have two such bars and numerous bar and grills where non-smokers can enjoy a smoke free atmosphere without involving the community businesses as a whole.

Thirdly- I have worked in the bar industry for 15 years. Things that go on in a bar are sometimes not pretty. Sometimes there will be a fight. Sometimes there will be someone going in and out of the bar all night in order to participate in illegal or inappropriate activities outside the eyes of the staff. Therefore we hire people to work the door and train our staff to be aware of what is happening and to watch the comings and goings of our customers. If they are in and out too often it is our responsibility to find out why or tell them that is enough, that they need to stay in the bar or leave. We all know that people do not normally run in and out of the bar so they must be up to no good. It is the bar staffs responsibility to watch the crowd and hopefully

control those people and situations. If you ban smoking we are going to have people who have been drinking, standing outside many times a night in order to have a cigarette. In turn they are out of the eyes of the bar staff and there will be more fights, more excessive uncontrolled drinking and more drug activity in the parking lot. Some other concerns are that bars are located in public areas, there are times when there are minors outside who are now in the company of adults who have been drinking or who have found a way to have alcohol while they are outside. These situations especially in the case of a drinking establishment with a liquor store on site lead to an easier way to participate in contribution of alcohol to minors. People do have liquor in their vehicles and will go into their vehicles rather than stand out in the cold. One of the responsibilities of a bar staff is to watch and control how much their customers have to drink so that at nights end they are not on the road having accidents or causing injury to themselves or others. Our customers being outside and in their vehicles most assuredly takes away the staffs ability to know how much their customers are drinking. Not to mention the potential income the bar could be taking in if the customers were inside drinking.

Fourth- Like it or not we have criminals, drug users and dealers, thieves, abusers and people in general that need the police for emergencies. I do not believe for one second that we should be occupying the time of our law enforcement officers in order to prevent an activity that is not illegal. It would be tragic and very disturbing to find out that an emergency or criminal activity had occurred while our officers were busy checking bars for smokers! Another point related to law enforcement is that I feel house parties will become even more common so that people can smoke and drink. Now we have our law enforcement dealing with disturbance calls and adults subjecting their children to a lot more smoke a lot and more visibility to alcohol not to mention the loud and or obnoxious drunks. There is a reason why society has provided a place to go and drink and smoke and also have placed an 18 or older smoking age and a 21 or over drinking age, this is so that only adults are around adult behaviors, conversations, and actions.

Fifth-I would like to point out that the bar industry supports many individuals be it directly or indirectly. We hire our staff, bands, security, printers, repairmen, garbage haulers parking lot and snow removal crews and CPA's just to mention a few. We invest in our banks. We provide ways for food, beverage, tobacco, paper goods, restaurant supply stores and many many others to sell their products to us in order for their businesses to succeed and

have employment opportunities. We pay a great amount of tax as do the people, distributors and business we hire. Our crowds will get smaller and profits will most certainly go down by a large margin if they are not free to have a cigarette with their drink. In turn we will not need as big of a staff, we may not be able to afford the entertainment, the repairs, and the product as we do now. Our tax revenue will go down as will the employment opportunities we have today. How are we going to recover the tax from the losses these businesses will face? How are we going to recover the taxes from the cigarette sales?

I would like to add that I do not believe that this bill is for the betterment or protection of myself or others. I do not believe a state that says it is ok for a bar to be open on Thanksgiving Day a time when families should be together for a nice meal and family time, not sitting in the bar or thinks that adding another hour of drinking every day is better for anyone. I strongly believe that we as adults know how to take care of ourselves and do not need a committee, government agency or any other entity to tell us how to do that. Nor do I think it is right for anyone to dictate what a owner may or may not do in or with his business within the limits of common sense and the law. Unless of course that entity is willing to pay the businesses bills and taxes and handle all other aspects of running a business and then send the owner the profits, if there are any, at the end of the month. I feel that if the business owner wants a smoke free bar he has that right. I also feel that if that owner allows smoking in his business he has that right as well. Need I remind you that this is the USA, a place where we fight and are currently fighting to retain our freedoms, security, opportunities, and choices which we are entitled to and practice every day of our lives. I believe that we as a society and you as our elected officials have many much bigger problems to be concerned about than the one in front of you today.

Shauna Kalabakken
Landing Bar + Bottle Shop
Minot ND

#23

GOOD MORNING

My name is Allan Leier, my wife and I own a small bar in Bismarck, ND. Our bar seats about 60 people. We were both brought up on small family farms. We consider the Main Bar our small family farm, and SB2300 will basically take our small family farm away from us. My wife and I both believe people have the right to breath fresh air. We have taken many measures to clean up the air in our bar, but we also allow smoking. We have two daughters, 25 and 22, both have grown up for the past 12 years helping clean and stock on Sundays. We are not open on Sundays and both have come to the Main Bar for their 21st Birthdays. When they are home or around, they both are around to help with chores in

and around the bar. That is why we consider it our family farm. They both have learned work ethic from us because of the long hours we work and the planning it takes to operate the bar. The bar is going to be my retirement, I thought, but SB2300 will make it very hard to retire. You may ask why? I believe SB2300 will make my bar worth a lot less money. I am 53 years old, 10 years to retire and SB2300 will probably cut my business by 35% at least. We are a blue-collar bar that seats 60 people. In my observations the past few months, 65% to 70% of the people smoke. When visiting the fast few weeks with my customers about the SB2300 law, they tell me they will not stop or only at happy hour. And by the way, at happy hour, profit margins are greatly reduced.

There are very few small farms or businesses that could sustain a 35% cut in income. I don't think the big farms or businesses could stand such a large cut in income. I have 6 employees and SB2300 will take 1/2 of them away from me!!! I believe SB2300 is going to drive me from my family farm, (The Main Bar) which I love dearly. The hours are long and hard, but the people are great. The Main Bar pays approximately \$26,000.00 a year in sales tax to the State of North Dakota that also will be approximately 35% less. I can see more problems if SB2300 passes, they come to drink and would like to have a smoke, now they have to go outside and smoke gathering in the parking lots smoking and drinking, more laws broken. Taking open drinks outside is against the

law. We also sell tobacco, yes you can buy it here but you have to go else ware to use it or go outside to use it. I have owned the Main Bar for 12 years going on 13 and I have yet to force anyone in my bar. My daughters have left my bar at times because of second hand smoke, but that is their right. They have the right to breath fresh air.

I have many family members that do not come into my bar because of second hand smoke, again, that is their right and also some very good friends that do not come in because of second hand smoke, again, that is their right.

Tobacco is a legal product ct sold in bars, gas stations, grocery stores, convience stores and vending machines.

Every one has the right not to smoke, but everyone also has the right to smoke if they are 18 or older. In May of

will we close all of these small town bars or do you think they can take a 20% to 30% hit? We are known as a rural state, I think that is a great distinction SB2300 puts these small towns out of business. The bars are the only gathering places left out there.

One short story before I close. Approximately 20 years ago, at the Civic Center in Bismarck, there was a Monster Truck and Tractor show. My family and me went. These shows were very popular; they used to come here once or twice a year. The noise, smoke, fuel, it was terrible. We had headaches from the noise, sick from the smoke and fuel, but we had the right to go. These shows were popular at first, but they have dwindled down to very few

1993, we bought the Main Bar thinking we would have the right to run it for a profit and retire from it. The Main Bar is a private business open to the public, who has the right to be a patron and also have the right not to be a patron. My wife and I do not believe the public has a right to tell us how to run our bar as long as the product we sell is legal and we operate within State and government rules and regulations. I am not ready to retire. I have a few other concerns. If your bar takes a 35% decrease, so will our charitable gaming, along with our coin-operated machines. Can small town North Dakota take a 20% to 30% cut in sales? What will happen to the Braddock's, Pettibone's, Wings, Dodges and all the other small towns that may only have a bar,

**at least indoors. Why? because so many of us have
chosen not to go. Business will take care of it itself.**

**Thank you for hearing me, and I urge you to vote no on
SV2300.**

Open to questions

Allan and Diane Leier

Main Bar

Bismarck, ND

Overview

In January 2003, the Dallas City Council passed a comprehensive smoking ban that covered restaurants, hotels, bingo halls and bowling centers in the city. On March 1, 2003 this ordinance took effect.

As the Dallas smoking ban passed its first anniversary this past March, questions continued about its impacts on restaurants, hotels, and drinking establishments where food sales qualify them as restaurants in the language codified in the non-smoking ordinance.

In January 2003, the Greater Dallas Restaurant Association asked us to review the impacts a smoking ban had on the City of Carrollton in the mid-1990's and the potential impacts such a ban would have on Dallas. We found a significant impact did occur in Carrollton (which later rescinded its ordinance) and urged Dallas policymakers to adopt smoking restrictions that focused on accommodation, not discrimination.

In March of this year, the Dallas Restaurant Association asked us to review the one year impact of the Dallas smoking ordinance on City of Dallas restaurants. However, there is three to four month delay in getting monthly sales information from the state comptrollers office, so a full year analysis of data was not possible until late this summer.

The following is a report on our efforts to measure the effect, if any, of the smoking ban on revenues at affected City of Dallas establishments.

For this report, we evaluated alcoholic beverage sales data available from the State of Texas Comptrollers Office, reviewed a survey conducted by the Greater Dallas Restaurant Association, and analyzed information obtained from press reports during the first quarter of this year.

Our preliminary findings indicate the Dallas smoking ban ordinance

- ***Contributed to a decline in alcohol sales in the City of Dallas***
- ***Negatively impacted revenue at many restaurants in Dallas***
- ***Caused at least four restaurant closings***
- ***Appears to be changing the business models used by hospitality business owners in Dallas.***

The findings also track the trend experienced in Carrollton, Texas where a government imposed smoking ban led to a decline in alcohol sales and a loss of restaurant development and tax dollars in the city.

Earlier this year a news report focused on whether Dallas was at a "Tipping Point" in its effort to remain in the top tier cities in the nation. Based on our review, the city is clearly at "Tipping Point" in regards to encouraging hospitality development in the city. Not only has the smoking ordinance impacted operations at many restaurants; it has changed the perception of the

city within the hospitality community. To many in the industry, Dallas has lost its way in encouraging hospitality development in the city. This has significant implications for a city that is surrounded by suburban cities that are perceived as more hospitality industry friendly.

***The Dallas Smoking Ordinance
One Year Later***

**A Report on the Impacts of the City of Dallas
Smoking Ban on Alcoholic Beverage Sales
March 2003 to March 2004**

October 1, 2004

Prepared by:
Terry L. Clower, Ph.D. & Bernard L. Weinstein, Ph.D.*

Prepared for:
The Greater Dallas Restaurant Association
Fall 2004

*Drs. Clower and Weinstein are professors of applied economics at the University of North Texas in Denton. Views expressed are the authors' alone and do not necessarily reflect those of the university, its officers or regents.

Assessing the Impacts of Smoking Ordinances

There are several challenges in assessing the impact of smoking bans. Proponents of smoking bans often cite retail sales tax receipts in their impact assessments. However, this data can be misleading.

First, sales tax data typically reported for the restaurant industry provide no break-out for the variety of restaurant types. Fast food establishments, bar food sales, corner diners, and upscale steak houses are all included in the same set of data. Many of these establishments, especially fast food and family-style restaurants and buffets, which comprise a significant majority of restaurants in most cities including Dallas, were already non-smoking before the ban. Moreover, a sizable portion of food sales at these establishments is take-away or drive-through purchases. The presence or absence of a smoking ban probably makes no difference on sales at these types of eating places.

Thus, any claims about the absence or presence of an impact on restaurant sales based solely on broad measures of food sales tax receipts for the entire industry are simply based on invalid measures and should be viewed with suspicion by policy makers.

Full Service Restaurants Most Affected by Smoking Bans

From our preliminary review of the data, smoking bans appear most likely to affect full service dining establishments, particularly those that have a restaurant bar or serve cocktails, where a part of the ambiance is having a glass of wine or cocktail and conversation before and after the meal.

More importantly for restaurateurs, the additional time spent at the table by customers usually means additional revenue. Alcoholic beverage sales represent a sizable proportion of the profits for upscale dining establishments. It has been the experience of restaurateurs in cities where smoking bans are in place that if one or more members of a dining party are smokers, the time at the restaurant is reduced. The meal itself still takes the same amount of time to be consumed, but the time spent before and after the meal is decreased, resulting in lower alcoholic beverage sales for the restaurant.

The Carrollton Texas Experience

Our 2003 evaluation of the impact of the smoking ban imposed on Carrollton's restaurants in the mid-1990s, which had a sizable number of fast food and family style restaurants where no alcohol was served, found little impact on food sales at most restaurants

Carrollton offered an excellent opportunity to study the impact of a smoking ban empirically. The city imposed the ban in January 1995 and then decided to rescind the ban in December 1998. Our analysis found that alcoholic beverage sales decreased by an average of 11 percent during the smoking ban, imposing a substantial burden on that city's restaurants. Once the ban was removed, beverage sales rose again. While there are some challenges in assessing whether or not the Dallas smoking ban has had a similar impact on alcoholic beverage sales at restaurants, preliminary data indicate that it could.

The Dallas Experience: Alcohol Sales Down \$11.8 million

An analysis of data from the State Comptroller's office finds that alcoholic beverage sales receipts in Dallas substantially declined in 2003 versus 2002. The smoking ban was in effect during most of this period and the highly-publicized city council deliberations on the smoking ban occurred in January and February.

After several years of strong growth in alcoholic beverage sales, sales at Dallas' restaurants showed a small year over year decline between 2000 and 2001 totaling about \$370,000* (see Figure 1 below). Considering the dual effects of an economic downturn and the impacts of the 9/11 attacks on consumer spending at hospitality venues, this decrease offers little surprise. Moreover, as the impact of the tech-wreck extended the loss of regional business activity well into 2002, alcoholic beverage sales dropped an additional \$4.1 million compared to 2001. As the regional economy stabilized and began showing early signs of returning growth, expectations rose that consumers would regain their desire for fine dining accompanied by alcoholic beverage sales. However, for Dallas' restaurants the pain grew worse. Comparing 2003 to 2002, year over year sales of alcoholic beverage at eating and drinking establishments in Dallas fell \$11.8 million – almost three times the decrease in sales between 2001 and 2002.

Importantly, Dallas' experience contrasts with the success of most of its regional competitors in the hospitality sector. Based on mixed beverage sales tax rebates from the Texas Comptroller, with one exception, Dallas's biggest dining competitors saw year over year gains in alcoholic beverage sales between 2002 and 2003 ranging from a 3.2 percent increase in Richardson to a 12.2 percent increase in Frisco. Only Irving, whose sales were essentially flat (declining less than one percent) did not see year over year gains in alcoholic beverage sales between 2002 and 2003. Statewide, mixed beverage sales tax rebates to cities averaged 1.9 percent (see Figure 2).

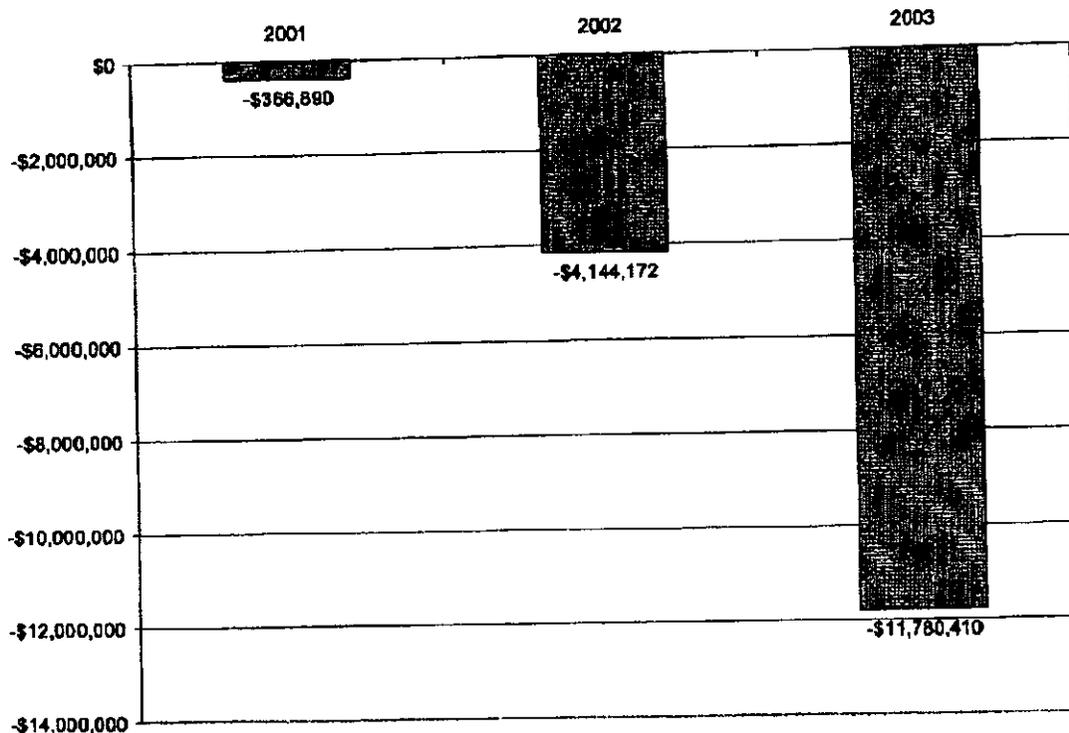
These losses in Dallas represent a significant decrease and should be of concern for Dallas policy makers as they demonstrate the city is becoming less of a destination of choice for hospitality venues. They also clearly demonstrate the new ordinance is not drawing people into Dallas bars and restaurants as proponents of the ordinance forecasted.

The Dallas ban on smoking was imposed at a time when the Dallas economy was at the nascent stage of a "jobless" economic recovery and accompanied by declining per capita income. With a depressed local economy, it is more difficult to tease out the specific impacts of the

* Year over year sales are based on the previous 12-month total sales for January 2001, 2002, 2003, and 2004, respectively.

smoking ban. Methodologically, the best way to approach this type of analysis is to look for indications of an impact over a period of time. Moreover, any affects the smoking ban may have on restaurant locations will potentially take years to be fully realized due to building leases and similar contractual obligations.

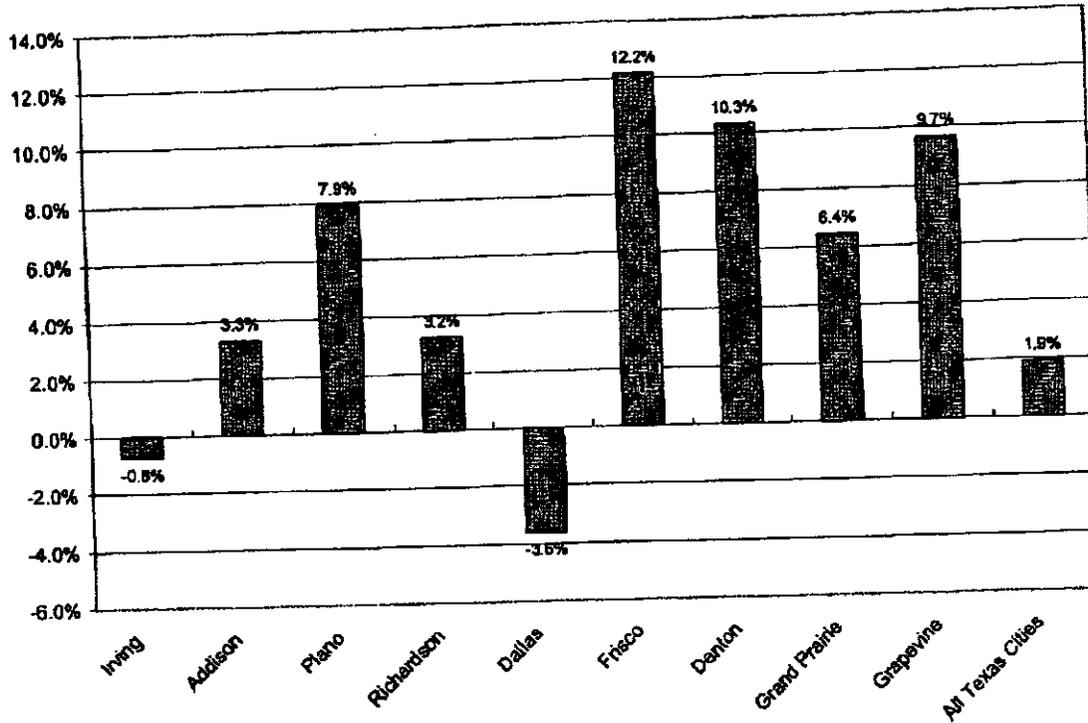
Figure 1
Year-Over-Year Change in Alcoholic Beverage Sales*
In the City of Dallas at Eating and Drinking Establishments



Source: Texas Comptroller of Public Accounts

Figure 2

Percentage Change in Year over Year Alcoholic Beverage Sales at Eating and Drinking Establishments 2002-2003*



Source: Texas Comptroller

The apparent loss of competitiveness of Dallas' bars and restaurants should be of great concern to Dallas' elected officials, not only for the potential impact it could have on hospitality venues, which provide significant property tax revenues into the city each year, but also for the impact this increasing loss will have on sales tax dollars and the city budget in years ahead. These preliminary findings are supported with anecdotal evidence offered by some of Dallas' premier restaurants that the smoking ban has clearly had a negative impact on alcoholic beverage sales.

Restaurant Industry Survey Reports Alcohol Sales Losses Range from 9% to 50% Since Ban Was Passed

Among the restaurant community it is a given that the smoking ban has had an effect, in some cases a significant effect, on some restaurants and has led to the perception that Dallas is losing its hospitality industry friendly reputation.

In a survey conducted in the first quarter of this year, The Greater Dallas Restaurant Association (GDRA) asked its members to respond to a short questionnaire. The survey asks restaurant owners or managers the following questions:

- Do you have a bar?
- Has your bar experienced a loss in sales since the smoking ban was imposed?
- What was the percentage loss?
- Have you experienced a loss in sales in the dining room since the ban?
- What is the percentage of loss?
- Has your restaurant experienced an increase in sales that you attribute to the smoking ban?
- Can you share comments on the ban from your patrons?

The question regarding an increase in sales addresses a specific prediction issued by proponents of the smoking ban that there are thousands of patrons who did not dine in Dallas restaurants because of the presence of smokers somewhere in the building.

According to responses received by the GDRA, restaurant owners have seen alcoholic beverage sales decline anywhere from 9 percent to over 50 percent since the Dallas smoking ban went into effect. Owners and managers of these establishments report mixed results in food sales, with one restaurant indicating no impact on food sales while others claim as much as a 25 percent loss in food sales. No responding restaurant indicated they had gained revenues since the smoking ban's inception

The year 2003 was certainly one of upheaval for the Dallas restaurant and bar trade. Venerable and well-respected establishments such as Marty's, The Riviera, Il Sorrento, and Star Canyon closed their doors. Other casualties of note include Matt's No Place and Liberty Noodle. While the economy is certainly one factor, and the significant loss of convention and business meetings in Dallas another, the timing of the ban clearly has reduced revenues in the restaurant sector for some properties and been the "straw" that broke the financial backs of other properties.

We caution that these observations do not necessarily represent the experience of those restaurants not responding. But there is no doubt those who reported a loss of sales associate their declining revenues with the smoking ordinance.

Indeed, ancillary sales are also affected by the smoking ban. One top-of-market steak house reported losing between \$10,000 and \$15,000 per month in cigar sales since the ordinance took effect—this after having spent \$50,000 on air filtration equipment to make sure that smoking and non-smoking patrons could equally enjoy their dining experience.

The Smoking Ban is Changing the Way Hospitality Owners Do Business in Dallas

As suggested above, Dallas may not have seen the full effect of the changing competitive landscape precipitated by the smoking ban. Full-service, upper-end restaurants may be less

inclined to keep a location in Dallas. However, they are under existing building leases and could face substantial financial penalties for moving before their leases expire.

The City of Dallas is also facing a changing competitive environment in the hospitality trade. The center of population is moving north and west of the city. The cities around Dallas are making their communities more hospitality friendly in attracting quality restaurants and other eating and drinking venues. The recent positive response to local wet-dry options in McKinney, Allen, and Rowlett in all likelihood will make these suburbs even more attractive to restaurateurs. These and other Dallas competitors have growing populations, relaxed alcoholic beverage sales requirements, and smoking ordinances that recognize the value of letting restaurant managers decide how best to serve their clientele. It is telling that no other cities in the region or state have followed Dallas' lead in adopting very restrictive smoking ordinances.

Both Austin and San Antonio passed new smoking ordinances in 2003 that allow smoking in restaurants or restaurant bars in some fashion. The City of Allen, immediately after Dallas passed its smoking ban ordinance, passed a smoking ordinance resembling those adopted by its neighboring cities of Frisco and Plano, not Dallas.

From press reports, it appears the negative effects of the smoking ordinance are not limited to restaurants. The hotel community has also suffered from the ban. Two conventions moved their meetings to suburban locations shortly after the ban was announced. Here, too, the City of Dallas has put in place regulations that ban smoking in hotel private meeting rooms and banquet facilities that run counter to the market. No other city in the Dallas area has such restrictions, putting the Dallas hotel community at a competitive disadvantage in attracting those private meetings where smoking may be requested as an option.

While the *region* still enjoyed the economic benefits from these visitors, the City of Dallas lost business and tax revenues. Hoteliers are reporting, at least anecdotally, a decline in interest in the City of Dallas as a meeting site in part because of the smoking prohibitions.

With less onerous smoking ordinances and new competition in the suburbs—most notably the Gaylord Texan Resort and Conference Center in Grapevine—Dallas' hospitality venues will be hard-pressed to attract the level of meeting and banquet business to which the city has grown accustomed.

Conclusions

Sufficient evidence exists to suggest that at least some of Dallas' premier restaurants have lost business because of the smoking ban. Their revenue losses translate into fewer jobs and lost tax revenue to the City. The hordes of new customers looking for smoke-free dining experiences have not shown up at the tables. Moreover, there is little indication that its suburbs are following Dallas' lead and adopting stringent smoking regulations for their hospitality venues. Therefore, Dallas' smoking ban will continue to push existing and new restaurants and hotels to the suburbs with associated losses to local jobs and tax revenues.

A prudent course of action for the City of Dallas, given its relatively weak economic performance and substantial need for tax revenue, would be to rescind the ban and direct the

efforts of eliminating smoking in dining establishments towards a statewide change in law that would allow Dallas' restaurants to compete on a level playing field.

Elected officials should be wary of generalized studies indicating no impact is occurring on restaurants in Dallas. While there are many confounding factors in measuring the true impact in the aggregate, there are clear indications that the smoking ordinance, one year after enactment, is contributing to restaurants and other hospitality venues in Dallas losing business at greater rates than before the ordinance was passed.

New or revised studies will probably be released showing that the smoking ban in Dallas has had no impact on restaurant sales. And, there will likely be some individual restaurants that will report an increase in overall sales after the ban was imposed. However, as suggested earlier, reports used by smoking ban proponents are often based on data that are not disaggregated enough to examine the presence of any potential impact on businesses most likely to be affected. Moreover, even if overall restaurant sales are higher than the same month as last year, that may only reflect the return of local consumer confidence—actual sales could have been even higher without the ban.

The full effect of the smoking ban may not be fully realized for many months, possibly years. As existing leases expire, restaurants negatively affected by the smoking ordinance have more flexibility in considering a change in location, moves that will be encouraged even further if local suburban voters choose to allow greater freedom for restaurants to sell alcoholic beverages in their communities. Unfortunately, once restaurants have relocated to the suburbs, it will be too late to reverse the trend.

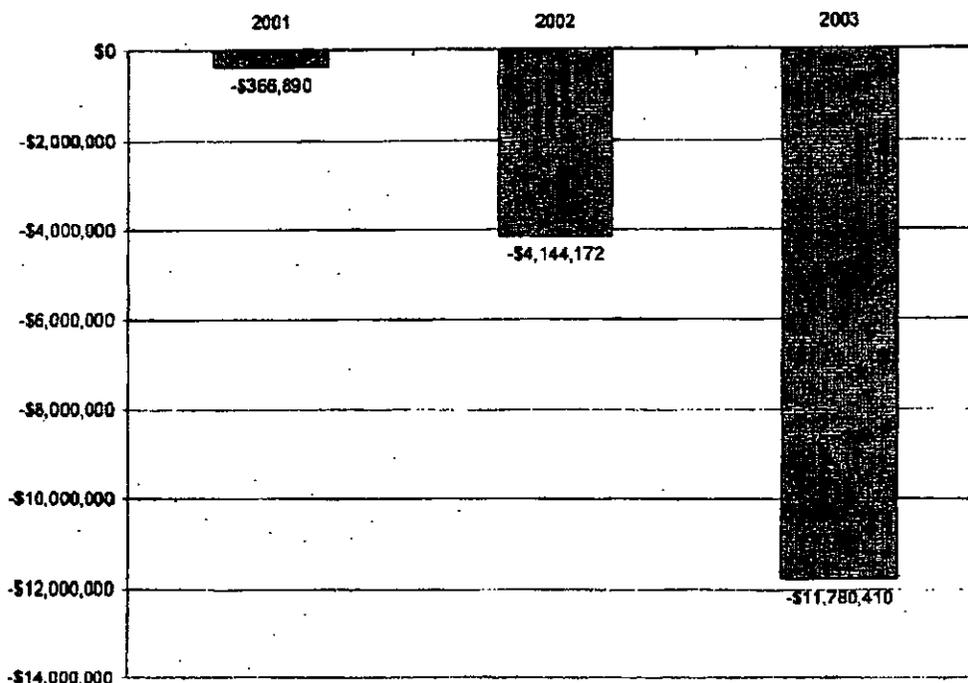
We urge Dallas officials to review whether their policies are harming one of the most reliable sectors of the city's economy. At a time when population and economic shifts continue to push activity to the suburbs, it makes little sense for policymakers to put the city's hospitality businesses at a competitive disadvantage. Doing so certainly detracts from Dallas' hard-earned regional and national reputation as a hospitality industry friendly city.

Clower and Weinstein Report

Key Findings

- Data from the State's Comptroller's office indicates the Dallas smoking ban has contributed to a significant decline in alcoholic beverage sales in Dallas. During the first 12 months of the ban being in effect, Dallas has suffered a \$11.4 million decline in alcoholic beverage sales. Dallas had been experiencing a small decline in alcohol sales in 2001 and 2002 due to a depressed economy, but the decline in 2003 was almost four times the decrease in sales from the previous year.

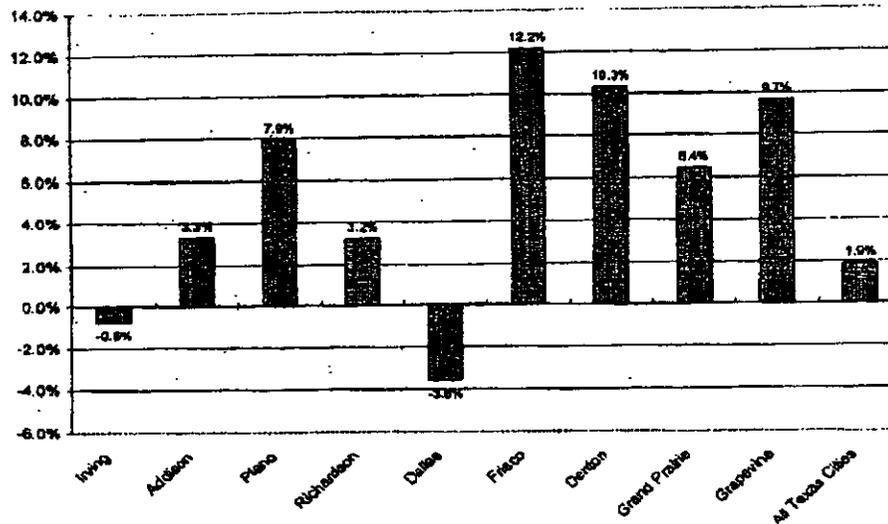
Figure 1
Year-Over-Year Change in Alcoholic Beverage Sales*
In the City of Dallas at Eating and Drinking Establishments



Source: Texas Comptroller of Public Accounts

- By contrast, during the same time period, alcohol sales increased in most Dallas suburbs. The cities of Richardson, Addison, Plano, Frisco, Grand Prairie and Grapevine all showed increases. Irving showed only a slight decrease.

Percentage Change in Year over Year Alcoholic Beverage Sales at Eating and Drinking Establishments 2002-2003*



Source: Texas Comptroller

- The results back up a survey of Dallas Restaurant Association membership that found alcoholic beverage sales had declined anywhere from 9 percent to over 50 percent in Dallas restaurants. No restaurant that responded indicated they had gained revenues since the smoking ban's inception.
- The Dallas results appear to track what happened in Carrollton, Texas after that city passed a smoking ban in the mid-1990's. During the four year term of that city's ban on smoking, alcohol sales declined by 11% and effectively stopped new restaurant development within the city.
- The new ordinance also appears to have contributed to at least four restaurant closings. Restaurants most affected by the smoking ordinance are full service dining establishments, particularly those that have restaurant bars or serve cocktails.
- Although the Dallas ordinance was championed as a trend, after 18 months no city in North Texas and none of the major cities in Texas have followed Dallas' lead in banning smoking in restaurants. Austin, San Antonio, and Allen have all passed ordinances since Dallas passed its ordinance in March 2003. All continue to permit smoking in restaurant venues.
- The new ordinance is changing the way the restaurant owners do business in Dallas. It has contributed to a feeling that Dallas has become increasingly anti-hospitality over the past few years and could have the effect of discouraging versus encouraging more restaurant development in the city in the future.

NANCY D

From: Tracey Evers [tevers@gdra.org]
Sent: Monday, January 03, 2005 12:26 PM
To: nancy_doherty@prodigy.net
Subject: RE: Smoking Ban Economic Survey



smoking%20ban%20smokingbanreportk
Oreport%2010-04... eyfindings.20...

Hi Nancy,

Attached you'll find a copy of the study as well as a copy of the key findings report we issued to our membership. You may list us as a referral if you'd like.

Tracey Evers
Executive Director
Greater Dallas Restaurant Association
8111 LBJ Frwy, Ste. 775
Dallas TX 75251
972-671-4372
972-671-4373 fax
www.gdra.org

-----Original Message-----

From: NANCY D [mailto:nancy_doherty@prodigy.net]
Sent: Monday, January 03, 2005 12:04 PM
To: tevers@gdra.org
Cc: Jack Kelleher
Subject: Smoking Ban Economic Survey

Dear Tracey:

The Amusement & Music Operators Association is a trade association for the coin-operated amusement industry. Our members include operators who place pool tables, jukeboxes, video games, dart boards and other amusements in locations such as family entertainment centers, restaurants, pizza parlors, bars and other sites.

We recently created a Smoking Initiative Sub-Committee of our Government Relations Committee to collect information and provide guidance to our members who are facing overly restrictive smoking bans in their areas.

I recently came across a news article from December 7, 2004, regarding your economic impact study and was wondering a) if we could obtain a copy and b) if we could list your association as a possible contact for our members?

Thank you for your consideration. For more information about AMOA, please visit our website at www.amoa.com.

Nancy Doherty
Communication Coordinator

Industry Employment Demand

A multiple regression was fit, in log - log terms, to estimate the impact of changes in money income, industry prices and the imposition of smoking-ban regulations on industry employment. Individual functions were estimated for the bar/tavern and restaurant industries. In each case, industry employment was regressed against state personal income, an industry price deflator, and "dummy" variables to capture the effects of anti-smoking regulations at the local/state levels and to handle transitional issues associated with the terrorist attack on the World Trade Center.

Regression of Ln (NYS employment in the bar industry) on the following:

	coefficient	t-value
intercept	9.54044	15.394
Ln (NYS personal income)	0.1542	1.35
DummyB	-0.24276	-2.687
Dummy2	0.11653	2.394
Ln(industry price)	-0.37411	-1.805
Ln(emp-1 / emp-3)	-0.61591	3.668

r-square = 0.7148

r-bar square = 0.6435

where

- NYS personal income - household income in millions of dollars adjusted one year forward 1978-2003
- industry price - price deflator for the bar industry (2000=100.0) 1978-2003
- DummyB - category variable coded to reflect industry coverage of 1995 NYC ban and 2003 NYC/NYS bans 1978-2003
- Dummy2 - category variable to capture transitional period following the WTC attack 1978-2003
- emp-1 / emp-3 - ratio of industry employment (lagged one period) divided by industry employment (lagged three periods) included for statistical estimation reasons 1978-2003

The estimated coefficient of the State personal income variable, adjusted by industry labor productivity, implies an income elasticity of approximately 1.65. This estimate is consistent with other research studies. The bar/tavern industry is seen as a "normal" good industry by economists. The positive sign of this coefficient supports this theoretical "a priori" view. However, the magnitude of the coefficient strongly suggests that consumers do not view this industry's product as a necessity - the further away from zero, the more the good is deemed a non-necessary or "luxury" good. On the other hand, the income elasticity in this industry is significantly less than for many high-end, super-luxury goods, such as BMWs, yachts, etc.

The price elasticity of demand for the bar/tavern industry is estimated to be approximately -1.9, after adjusting the regression price coefficient by industry labor productivity. While the demand for alcoholic beverages is inelastic (less than -1.0), the consumption of these drinks in a bar or tavern environment has been found by other researchers to be significantly more price sensitive. The magnitude of the estimated price elasticity puts the measurement in the elastic zone, implying relatively high price sensitivity by bar patrons.

The negative coefficient for the smoking-ban "dummy" variable indicates a statistically significant detrimental impact on industry employment which dates back to the earlier initiative by New York City in 1995 and worsened by the NYC/NYS action in 2003.

A similar function was fit for the restaurant industry. A log - log employment demand equation was estimated linking restaurant industry employment to personal income, an industry price deflator and dummy variables for the WTC attack transition and the introduction of smoking-ban regulations. The anti-smoking ban dummy was customized to reflect the coverage impact on the restaurant industry, distinct from the bar/tavern industry

Regression of Ln (NYS employment in the restaurant industry) on the following:

	coefficient	t-value
intercept	6.00247	8.626
Ln (NYS personal income)	0.5761	5.231
DummyR	-0.14156	-6.585
Dummy2	0.04052	2.48
Ln(industry price)	-0.30538	-1.798
Ln(emp-1 / emp-3)	0.73679	7.525

r-square = 0.9914

r-bar square = 0.9893

where

- industry price - price deflator for the restaurant industry (2000=100.0) 1978-2003
- DummyR - category variable coded to reflect industry coverage of 1995 NYC ban and 2003 NYC/NYS bans 1978-2003

The income elasticity for the restaurant industry is estimated to be 2.1. Like the bar/tavern industry, this industry provides products that are viewed as "normal" goods by its customers. The magnitude of the elasticity is somewhat larger than that of the bar/tavern industry, suggesting a bigger industry response to changes in general economic conditions. Other studies have found the income elasticity for the restaurant industry in the 2.0 - 3.0 range.

The price elasticity of demand is similar to that estimated for the bar/tavern industry. An elasticity of -1.8 puts the price sensitivity of restaurant meals in the elastic range, indicating a high degree of customer sensitivity to price changes.

The coefficient of the smoking-ban variable in this equation shows a statistically significant negative impact on industry employment. However, the magnitude of this impact is smaller for restaurants than for bars/taverns. While the regression results do not offer an explanation for this difference in response, the statistical results may likely reflect the differing demographic characteristics of each market's customer set.

Regional Input/Output Multipliers

An input/output (I/O) model is used to estimate the implications for economic activity in different industries. Because of the interdependencies among the industries, the growth of any single industry cannot be studied in isolation. The I/O approach is best suited to take explicit account of the direct as well as indirect relationships among all industries.

The basic parameters of any I/O model are derived from a set of identities known as the transaction tables. These tables show the flows of goods and services among different industries and the flows to each industry's final users (households, businesses, exporters, importers, and governments). These identities also show the link between the broad GDP components and the demand for individual industry products. Industries buy in one range of markets and sell in another set.

Every firm can be examined from two points of view: first, as a producer of the output it sells to other firms and to the final users of its product, and second, as a user of the inputs it buys from other firms and the primary factors of production it purchases (labor, land, capital, etc.). If all business firms, households and governments are grouped into industries, the same two-fold market structure holds. Industries buy in one range of markets and sell in another set. The I/O transaction tables show these dual market relationships among all industries in the economy.

Each row of the main transaction table shows the sales distribution of a given industry's output to every other industry and to each of the major final users (households, businesses, exporters, importers and the public sector) in the economy. Meanwhile, each column of the table shows the distribution of a given industry's purchases of materials from other industries and the use of primary factors of production.

This study employed the use of regional input/output multipliers to assess the total (direct, indirect and induced) changes associated with a change in economic activity in the bar or restaurant industry. The direct effects are only the first wave of economic changes. There are four separate effects that collectively account more fully for the regional economic repercussions of producing a dollar's worth of output in a given industry. These effects are: (1) change in output for a given industry needed to meet the initial dollar change in spending by the final users; (2) changes in the output of other

industries to meet the direct requirements of a given industry; (3) changes in the output of all industries to meet the changes in production in (2) above; and (4) the regional production required to meet changes in demand by final users created by higher local income generated by the first three effects.

These regional impact factors, which were used to capture the total economic effects by industry, are based on research conducted by the U.S. Bureau of Economic Analysis. Researchers at the U.S. Department of Commerce have developed regional I/O models called RIMS II (Regional Input/Output Modeling Systems) that capture the specific industrial composition of the local economy. This study used three impact multipliers from this body of research - output, employment and earnings multipliers. The output multiplier represents the total constant dollar change in the output of all industries for a dollar change in final demand in the bar or restaurant industry. The earnings multiplier represents the total dollar change in earnings of households employed by all industries for each additional dollar of earnings paid directly to workers employed in the bar or restaurant industry. In a similar manner, the employment multiplier represents the total change in the number of jobs in all industries for each additional job in the bar or restaurant industry.

#15

#3
opposition

Madam Chairperson and Committee members:

My perspective as the General Manager of Oxbow Country Club, Fargo in regard to SB 2300 is this: The Club business is about community and catering to the specific wants, wishes and needs of its membership. It is a big job to keep everyone happy, but that's what we do.

There doesn't seem to be an issue between smokers and non smokers. Our smoking and non smoking areas are accommodating and the ventilation is appropriate. There is also reasonable balance of consideration and tolerance on behalf of the membership.

We keep a pulse on member sentiment constantly and in many ways. We currently have an operational and facilities survey out to our membership and in it are seeking specific input in regard to our present smoking policies.

What I am saying is that as an Organization, we work out solutions that are as amicable to everyone as possible. The smoking issue can be handled internally just fine. We would like the opportunity to continue to work on our own solutions and not have the State mandate what is best for our members.

Thank You, Michael Reek

Re:
Mike O'Brien

THE BRASS RAIL, INC.

110 2nd ST NW
PO Box 779
Jamestown ND 58402-0779
Phone (701)-253-4907

March 10, 2005

ND Hospitality Association
Attn: Janet or Nicki
PO Box 428
Bismarck, ND 58502-0428

Re: Tobacco Bill

To all ND State Representatives and Senators:

Regarding the Tobacco (smoking) bill in front of you, could you answer a couple of questions?

1. Why does the federal government subsidize the tobacco growers?
2. If the cigarettes are so bad for the population, why not ban them from the market?

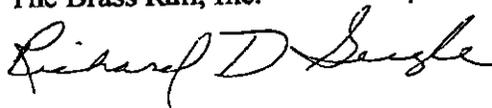
Some people believe they are a health hazard and cause death. If so, stop growing tobacco and selling cigarettes. They are now legal to use.

If the public or a person does not want to be near these products—stay away. If you don't like to bowl, you don't go to a bowling alley. If you don't buy pizza, you don't go to a pizza shop. If you don't like smoke or alcohol, don't go to a place where they allow it. Why make laws that make no sense...what happened to common sense?

We all have rights, why limit them if the government doesn't?

Vote NO to regulate tobacco

Richard D. Geigle
President
The Brass Rail, Inc.





WILLISTON CONVENTION
AND
VISITORS BUREAU

10 MAIN
WILLISTON, NORTH DAKOTA 58801-6017
(701) 774-9041

March 10, 2005

Madam Chairperson and Committee Members:

I am writing to voice my opposition to Senate Bill #2300. I oppose this bill for the following reasons:

- 1 If convention facilities are included in this measure it will have a detrimental economic impact on our community. For example, this year Williston hosted the ND State Dart Tournament at the Airport International Inn. The Airport International Inn's courtyard is the only facility in our community large enough to house this event. If this facility is forced to become smoke-free this event will not come back to Williston. The dart tournament can move out of state, the Airport International Inn cannot move.
- 2 If sports arenas, including outdoor facilities, are included in this measure it would seem to me that the effect of this measure is to outlaw smoking, period.

I personally don't smoke and I encourage my children not to smoke, but we already have laws on the books which are not enforced regarding underage smoking. I don't believe we need new laws which cannot be enforced to regulate adult behavior regarding smoking.

I encourage you to vote no on Senate Bill 2300

Sincerely,

Jeff Altizer
Executive Director
Williston Convention & Visitors Bureau

Bill Shalhoob

From: "Nicki Weissman" <nicki.ndha@btinet.net>
To: "Bill Shalhoob" <bill@selectinnbismarck.com>
Sent: Monday, March 07, 2005 2:29 PM
Subject: Fw: Smoking ban bill

----- Original Message -----

From: "Wrangham, Dwight R." <dwrangham@state.nd.us>
To: "Rick LaFleur" <rclafleur@gondtc.com>; "Nicki Weissman" <nicki.ndha@btinet.net>; "Dakota Music" <sales@dakmusic.com>
Sent: Monday, March 07, 2005 11:40 AM
Subject: FW: Smoking ban bill

-----Original Message-----

From: mclareweaver1@juno.com [mailto:mclareweaver1@juno.com]
Sent: Monday, March 07, 2005 10:00 AM
To: Williams, Clark D.; Wrangham, Dwight R.; Zaiser, Steve L.
Subject: Fw: Smoking ban bill

My name is Mary Weaver and I am a small business owner in Grand Forks. I am not in the restaurant/bar business, but the proposed smoking ban legislation disturbs me, and has prompted me to write today.

I cannot disagree that we are indeed talking about a health issue. However what you believe is the seriousness of the issue depends on which set of statistics you have before you. There are many sets. For instance, the EPA report is what is referred to as a meta-study, which means one that has compiled its data from other hand-picked reports. Can that be said to be without bias? The World Health Organization has a report based on first-hand material. Its conclusions are different from the EPA report. There are also studies which have been funded in whole or in part from the Robert Wood Johnson Foundation, which, because it owns a huge amount of Johnson and Johnson stock, profits immensely from the sale of smoking-cessation pharmaceuticals. Can those studies be said to be without bias?

There are many toxic/carcinogenic materials in our everyday world, some within our own homes, and many in businesses we frequent, such as wood dust, acetone (fingernail polish remover), mineral oil, alcohol, sunshine, tanning bed lamps, and so on. We use these prudently, and realize that in life, many factors contribute to poor health or lead to disease, and that there is not always agreement as to their severity, but that the choices are up to the individual.

3/10/2005

In North Dakota, we have given businesses the opportunity to profit from the sale of alcohol and gambling. Some people say that these harm no one but the user, whereas, they say, smoking harms others. I disagree with that, because each of us has been touched in some way by alcohol and gambling use/abuse; these have an infectious effect on families and contribute heavily to physical and mental ailments for the user, the families, and the community. Our own North Dakota traffic fatality statistics are shameful: We have ranked at or near the top in alcohol-related traffic fatalities for the last 5 years.

In Grand Forks, the issues of more venues and longer hours for drinking and gambling have been considered for some months, and it seems likely that these will be implemented. We are not only sanctioning them, but promoting them. These sorts of decisions are based on economics and the sense that the business owners are capable of making decisions based on what is best for their businesses, regardless of negative consequences. The sense is that the business owner and the customers have CHOICES, and the various levels of government have left these choices up to the individual.

I think that decisions regarding smoking should be handled in the same way. I think the smoking ban puts the government in the position of micromanaging private businesses and individual behavior. This does not promote a business-friendly climate, and those businesses which will be hurt the most by this ban are, for the most part, small businesses. Aside from that, it sets a double standard for activities within confined spaces which are legal: drinking and gambling are ok, smoking is not.

I did a survey in Grand Forks via the telephone, to find out just how extensive our "problem" is, considering that some have stated that they can't find a place to go eat without encountering smoke. I started with a list from Public Health which listed 61 smoke-free bars/restaurants in Grand Forks alone, and then I extended the list to the 115 I found, and called the rest on the phone. What I found was that fully 80 "eateries" are smoke-free (70%); 35 allow smoking, and of those, 25 also serve alcohol. This list includes bars which have menus and kitchens and to which people go to eat. Some of the "eateries" are smoke-free family restaurants, yet serve alcohol in front of children--so much for bad role-modeling. (The presence of gambling opportunities even in grocery and convenience stores could also be said to be bad role-modeling.)

It has been stated that the new law is needed to protect people from the acts of others, and that it is the same as a law that protects people from physical assault. It has been further stated that this is a fight between private property and health. I believe that is a false dichotomy, and that the true fight is between local control and government control. I believe Grand Forks is probably very typical of any city or town in the state, in that the vast majority of bars/restaurants are already smoke-free. The bottom line is that NO ONE, be they employees or patrons, is COERCED into entering these establishments. We each have freedom of choice, as we do when it comes to violence on tv (on-off buttons, changing the channel), entering "porn shops", and so on. When 70% of the "eateries" in Grand Forks are

already smoke-free by the decision of the business owner and response to patrons, there is quite a bit of choice as to where to work or eat.

I urge you to consider very seriously the proposed smoking-ban bill which would take freedom of choice away not only from customers, but also from business owners. I believe this is something which government should not interfere with, beyond those laws and ordinances already in existence is the Century Code and in respective municipal codes.

Sincerely, Mary Weaver, 509 Cherry St., GF 746-5090, 775-4566

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Nicki Weissman

From: "JOHN TWETEN" <jtweten@invisimax.com>
To: "Nicki Weissman" <nicki.ndha@btinet.net>
Cc: "Harry Bushaw" <hbnow@GRA.MIDCO.NET>
Sent: Wednesday, March 09, 2005 4:49 PM
Subject: SB 2300 Testimony

Dear Representatives;

Please consider this before voting on **SB 2300**.

We in Grafton are voting on this issue April 19 at a special election.

Even the kids that started this had enough brains to exempt bars. Not just till 2007!
 3 bars in Grafton took the same poll the kids took. It came out 108 against a smoking ban in bars. 8 favored it.
 If this passes, it's telling me I have 2 years to sell my bar, because I know none of us will last 2 months.

Manitoba banned smoking last year. I was in Winnipeg last week. I asked them how it affected them. Their answer was
 They would be CLOSED if they didn't have privatized VLT's a.k.a. video lottery terminals / video poker.
 If you would like to amend the bill to allow 12 slots per bar so we can still make a living, I would go along with a smoking ban.
 My friends and I spent 50 percent of our time outside smoking. That equals 50 percent less sales. Believe me. No bar in Grafton can
 stay in business
 if they lose that. And probably no other small town bar could either.

Minnesota just killed their smoking bill, saying enough government. Maybe if we should say the same.

I'm tired of special interest groups pushing their agenda down our throats, with taxpayers dollars.
 The bottom line for me is, if people don't like the smoke, go elsewhere.

For your info.

I'm the third generation owner of this business.
 We are celebrating 72 years in business at the same location.
 Please give us a chance to go another 72.
 I urge you, **VOTE NO on SB 2300**

Than You;

John Tweten
 Polly's Lounge
 Grafton ND

Cell Phone 701-520-0150

I have attached testimony from the West Fargo VFW where they already have a smoking ban.

Richard Benson- West Fargo VFW phone 701-282-4728

a) First Month of Smoking Ban

Sales Revenues were down \$178,000
 Bar & Restaurant receipts down \$32,000
 Gaming Revenues Down approx \$ 150,000

b) Business had been steadily improving over the last few years.

It had been up 14% year over year prior to smoking Ban

c) Benefits West Fargo VFW provided to the community.

Over the last 3 years they gave approximately \$500,000 to the Community
 They will be lucky if they can provide \$50,000 to the Community this year
 Previously provided free pool for the Community
 They may now have to begin charging residents for its use,
 Took care of Legion Baseball Team
 Purchased Fire trucks for city of West Fargo
 They will no longer be able to provide for these as well as numerous other activities which benefited the community and the tax
 payers.

We have Veterans overseas risking their lives protecting our freedom, and then we have the audacity they can't smoke in their own
 club. Obviously we have a righteous few who feel they don't have the maturity to decide if they wish to enter a smoking

environment or not. When will we quit trying to legislate adult behavior?

Should we really be worrying about what consenting adults do especially when they have many other options available to them? Maybe time would be better spent protecting children from smoking adults in their automobiles.

Carbon Monoxide is much more dangerous to a person's health than smoking. Maybe we should not allow anyone within 25 feet of any carbon monoxide emission. That would go along way to preventing pollution and aid tremendously in the global warming problem.

I don't think most of us voted for our council men based on health issues, especially those which are well within our ability as adults to control. The National Center for Disease Control claims 400,000 Americans a year die from obesity. Maybe the next thing we should consider is mandatory menu planning for all area residents.

Madam Chairperson and Respected Committee Members

I am Susanne White. My husband, children and I, own and operate the Lone Steer in Steele, ND for the past 25 years. We also own and operate 2 bars in small communities.

I believe this smoking bill is a waste of tax payers money and time.

It has become very obvious to anyone that has a increased awareness and intelligence that we have already policed ourselves. A large percentage of restaurants do not allow smoking. You don't smoke in grocery stores, public govt. or state buildings. Actually the only places we allow smoking is in rest.'s and bars. The public has let us know what they want.

As a business owner, in a FREE America, I do believe if I have purchased and paid for and built my business....I should be the person deciding who I want to do business with in the future. We have 1000s of people that will only go in smoking facilities. The same is true for non-smoking. Do we need the government to make a decision for us as to where we need to eat out at. All intelligent non-smoking people can make that decision on their own. We have non-smoking motel rooms-non smoking bars-non-smoking restaurants-WE HAVE POLICED OURSELVES. We do not need to be monitored.

Who will pay for the policing? I know now that every complaint to the State Health Dept. needs to be followed up on no matter how unbelievable it may be. Who will pay for those costs? Who will compensate for the cigarette tax we lose when we decide to ban the sale of tobacco products if you decide to ban smoking? Trust me-a large group of people will attack the entire industry-I think many anti smoking people will be out of work to their own surprise!.

This bill will absolutely wreck a huge amount of business for us. We have a lot of truckers and laborers and they smoke. Our coffee drinkers and locals smoke. We provide a non-smoking area.

My biggest question is this. If this bill was written to protect peoples health.....????? Why are we amending it to allow smoking in supposed private non-profit clubs. Everyone of you on this committee knows that we do not have PRIVATE clubs any longer. They do not police the door or follow any of the Charter rules. Again you will be policing them like you have never dreamed because Clubs are already undercutting the private entrepreneur and nothing has been done about it. The time will be ripe to clamp down on EVERY open door policy. You can bet I will be one of the many people making the state enforce OPEN DOOR POLICY if I have to compete against another unfair law. We are already on an unfair playing ground and I will not stand back and allow it anymore. It looks as though the person writing this bill could possibly be a smoker but a member of a club, protecting his little domain.

Let's spend time growing ND, not trying to enforce something that is already being handled by intelligent business owners. This is as crazy as banning perfume-I am allergic to it. Or how about banning all bee co.'s from our state. My son is allergic to bees. The list can get mighty large and we will be in your backyard next!!!!!! Please leave this alone and let the business people create the atmosphere that they need to do business in. Thank you.

Nicki Weissman

From: "Gary Grandbois" <ggrandbois@ramadafargo.com>
To: "Nicki Weissman" <nicki.ndha@btinet.net>
Sent: Friday, March 11, 2005 4:54 PM
Subject: RE: Smoking bill 2300

Dear Nicki, It will be impossible for me to make it...Sorry..

Greetings The Ramada Plaza Suites estimated loss in December for Classic's Lounge is estimated at \$3,800. Based on 5 year average. January down \$1900.00 Feb off 2300.00. The no smoking law in Fargo has certainly changed the way guests are relaxing and enjoying a beverage of their choice. We are forced to have all guest step outside of the facility for a smoke...There is absolute truth to the fact that the smoking ban has disrupted revenue in the Fargo Ramada Plaza Suites. There is no way to recoup lost revenue to this law....
Gary Grandbois

Testimony on SB2300
Lowell Thomas

Chairman Price and members of the Human Services Committee

My name is Lowell Thomas and I am President of the North Dakota Tournament Association which has over 20,000 pool and dart members who compete on a weekly basis ----in small towns all over ND. I am also the Past President of the Coin machine operators association. I am owner of Modern Coin in Minot and operate coin machines in north central ND. I am here today testifying on my own behalf.

For a little background I owned bars in Minot, was a partner in a bowling alley and built a pool hall. Have spent the last 35 years in the bar environment. The fact is the majority of the steady customers that keep the bars, pool and dart leagues operating quite simply smoke.

What if numerous farmers and ranchers in ND were debating on selling their farms and ranches and suddenly the value of their property just declined 35 per cent after all the years of struggle and hard work and – they hadn't even done anything illegal. That is what Senate Bill 2300 is doing to the bar industry. It is cutting the legs out from underneath them. The equity they had built up all these years for retirement just got decimated. To the bar industry this would be like an air force base closing or the oil rigs moving on once the boom was over.

I don't feel this bill is fair and the steady customers that support this industry are not the ones who want this passed. At the very least this industry should be exempt.

Thank You For Your Time And Consideration

#17

I adamantly oppose SB 2300.

The ND legislative body has been cruelly unfair to the ND Charitable gaming industry. By limiting games and wagers, that have been freely allowed for years at Reservation casinos, we have been playing on a slanted field, and continuously losing ground. Senate Bill 2300 would completely strip the field from us, as it cannot prohibit smoking in casinos. By disallowing smoking at Clubs and bars, YOU are taking away our jobs by sending our customers to the non-affected casinos. Take a step back and study or just take a quick glance to see which gaming, charitable or casino, adds more to ND state's coffers.

I don't believe anyone who has approved this bill has given it lengthy thought or even enough thought to attach a fiscal note to it. The reality is that it will impact tremendously on the expected income from tobacco, related vices and state income taxes to mention just a few. Although I can't quote any exact numbers, I would like to attach my version of a fiscal note.

Your "sin" tax on tobacco paid to the state will decrease drastically. Many people, who don't smoke much at home or work, enjoy smoking with their beer or cocktail at liquor establishments. Most staff persons who work in the liquor and gambling sector smoke. If they can't smoke in a bar or club, down dips the expected tobacco tax. These staff persons won't have to be smoke-free for long, as the impact on the volume of business will decrease so sharply, that lay-offs will start immediately. That will pillage the unemployment compensation from a sector that rarely collects. The "sin" tax on alcohol will also be negatively affected. The gaming tax and bingo sales tax will take a steep nose-dive also. Finally as each Club's or bar's business goes downhill, it will appear as if prohibition has returned. There will be bankruptcies, foreclosures and vacant commercial real estate that can never recover. Non-smokers have a choice of which facilities they patronize. Allow the smokers the same courtesy.

I love my job as the AMVETS gaming manager and I am good at it. Personally, this bill dooms my job and professionally, it threatens the entire industry. I implore you, do not allow this tragedy to take place. Oppose SB 2300, and let the clubs and bars make their own decisions concerning smoking and non-smoking. Oppose SB 2300, and save hundreds of jobs, including mine.

Vicki Wagner (258-1857)

Vicki Wagner

ND Council of Veterans, Fraternal and Charitable Organizations Secretary
AMVETS Gaming Manager

9A

9075 Foothills Blvd., Suite 1 • Roseville, California 95747



(916) 780-0226 • (916) 783-8807 FAX • www.kiiss.org

March 11, 2005

Senate given same

North Dakota House Human Services Committee:

Two years ago I visited Bismarck and Fargo to speak about proposed smoke-free laws in those cities. Now you have an opportunity to bring that issue before the entire state.

As a public affairs representative for the California Restaurant Association I spent 14 years dealing with the restaurant smoking issue. Initially we fought smoking bans due to fear of economic harm and wanting to protect business owner's rights. Then in 1994 we switched sides and supported and passed a statewide ban.

I was most concerned about the impact it would have on the bars. A month into the ban we had bar owners saying things were so bad they'd be "living out, of their cars in two weeks," etc. Yet even our most boisterous woe criers today are still in business. There was an adjustment period for a minority of operators to be sure a few weeks for some restaurants, a few months for some bars.

Yet the adjustment went quickly enough that by the time actually sales taxes were reported, all restaurants and bars had improved sales of between four and eleven percent no matter how you slice or dissect the figures.

If you get tired of hearing statistics, look at the wisdom of the industry itself. Here in Placer County where I live liquor licenses on the open market sold for an average of \$26,000 each when we went smoke free. Five years later they were selling for \$250,000. Would operators be willing to pay a ten-fold increase if they were not still making money on liquor sales? Of course not. I have also attached a news clip from Massachusetts, new smoking ban. It's been the same for every other state that has gone smoke free.

Sincerely

Paul McIntyre
President & CEO

Smoking ban worries turn to ashes: State tax figures show more people are eating out since law went into effect

By **TOM BENNER**
Patriot Ledger State House Bureau

BOSTON - By the best measures available, Massachusetts restaurants have seen business go up - not down - since a statewide ban on smoking in restaurants and bars went into effect July 5.

There had been predictions that the ban on smoking in all workplaces would drive people out of restaurants when they could no longer light up.

Restaurants collect a 5 percent tax on all meals, and the amount collected from the meals tax is the most frequently cited measure of the ups and downs of the restaurant industry. The more the state gets in meals taxes, the more people are eating out.

State Department of Revenue figures show meals tax receipts were up in each of the last six months of 2004 over the same period in 2003.

Meals tax receipts were up 10.6 percent percent in August - the first full month after the law took effect - over August 2003. They were up every month from August through December, when they were up 1.9 percent over December 2003. In all, more than half a billion dollars in meals taxes were collected in 2004.

While some in the restaurant industry feared the smoking ban would hurt business, "There's no evidence of that in these numbers," said Cam Huff, an analyst with the Massachusetts Taxpayers Foundation. "It's one area in which the slowly improving economy seems to be doing very well."

But some business owners said they had to spend money to get customers back after smokers were driven from restaurants and bars. A generally improving economy is also believed to be a factor in more people eating out.

Ed Morris, manager of the Fours restaurant in Quincy, said he finds it hard to believe that meals taxes are up.

"We've somewhat of a decrease in business," Morris said, "but I think a lot of that is attributable to the increase in business we saw when Boston, Braintree and Weymouth went non-smoking and people came down here."

Greg McDonald, part owner of the Chowder House and Cafe de Paris restaurants, Darcy's Pub and the Village Common Food Court in Quincy, said sales in the restaurant lounge and at the pub dropped immediately after the ban went into effect. Sales went back up, he said, but only after the owners spent money on high-definition TVs to attract new customers.

"It cost us a substantial amount of money to get the business back to where it was before," McDonald said.

Food sales contribute far more to the meals tax receipts than sales of alcoholic beverages. Ninety percent of the \$532 million in fiscal 2004 meals tax receipts came from the sale of prepared foods, while the tax on alcohol sales made up just 10 percent of those revenues, Huff said.

Gail Anastas, director of communications for the Massachusetts Restaurant Association, which represents some 5,000 food and beverage establishments, said she heard no complaints from the group's members about a drop-off in business after the smoking ban took effect.

"We didn't get calls from members saying, 'Help, I'm going out of business tomorrow,'" Anastas said.

If anything, restaurant owners like the uniformity of a statewide smoking ban, Anastas said. Until the law took effect, half of the association's members were in towns that had already enacted local smoking bans in public places, she said.

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TESTIMONY

SB 2300

**HUMAN SERVICES COMMITTEE
REPRESENTATIVE PRICE, CHAIRMAN**

MARCH 14, 2005

21
Chairman Price and members of the Human Services Committee, I am Clinton DeVier co-owner of Ed's in Devils Lake ND. I am in opposition to the inclusion of bars in this bill. As the bill currently stands it exempts bars until August of 2007. I am asking that you remove the August 2007 inclusion and exclude bars in their entirety.

While bars in some of the larger communities with larger customer bases may be able to handle the loss of smokers, this will have a devastating effect on small bars in smaller communities such as mine. My business relies largely on a regular crowd of about a couple dozen customers from the hours of 5:00pm to about 8:00pm. These individuals get done with work and stop by to have a couple drinks, visit with their friends, and have a smoke. Since this bill has been discussed, I've paid attention to the number of my customers who smoke and those who do not. Very few of my customers do not smoke. I've also asked some of my customers what they will do if they can no longer smoke in my business. I've been told by most that they certainly would not spend as much time at my place. Most would probably visit for a bit and then go home earlier so they can smoke. This will directly result in a loss of profit for my business. Additionally, this loss of business will directly result in a devaluation of my business. This is not true with other businesses. It is the small bars in this State that will be impacted the most and as such should not be included in this bill. I realize there is a group of people who do want to breath the smoke of others. But these are not the people who are the regular customers that keep smaller bars such as mine open.

Thank you for your time and please make the exemption for bars permanent.

#22

Shauna Kolobakken

The first thing I would like to say is that I resent the fact that some committee, organization, or association of any kind thinks they have the right to attempt to come into privately owned business establishments and dictate what can or cannot go on in that business. I believe that our government has enough and sometimes too much control over society and its choices without creating laws or policies which are not necessary in order to have an orderly and law abiding society. This is a Country of freedom and choice and with the exception of extreme circumstances these freedoms and choices should not be tampered with. Saying that, I would like to state that I believe that one of our freedoms is the choice to go into certain businesses and relax, socialize, smoke and drink if you are of age and get away from the grind that we all know too well. Along with these freedoms and choices is the right to choose where you will or will not go. If I walk into a place where I am not comfortable or do not appreciate the actions of others I simply go to places where I can enjoy myself and appreciate the atmosphere. Case in point...the smoking debate. I am against banning smoking in drinking establishments that still hold the right to allow smoking for a number of reasons.

First- Smoking is NOT illegal unless you are under the age of 18

Second- Smoking is a freedom of choice for those who do smoke. It is our bodies and we have the right to do whatever we want to our person. Just like it is the right for those who condemn smoking to be in charge of their bodies and not smoke. If they do not or cannot tolerate smoke or smoking they should be sure to go places where there is no smoking. We in Minot have two such bars and numerous bar and grills where non-smokers can enjoy a smoke free atmosphere without involving the community businesses as a whole.

Thirdly- I have worked in the bar industry for 15 years. Things that go on in a bar are sometimes not pretty. Sometimes there will be a fight. Sometimes there will be someone going in and out of the bar all night in order to participate in illegal or inappropriate activities outside the eyes of the staff. Therefore we hire people to work the door and train our staff to be aware of what is happening and to watch the comings and goings of our customers. If they are in and out too often it is our responsibility to find out why or tell them that is enough, that they need to stay in the bar or leave. We all know that people do not normally run in and out of the bar so they must be up to no good. It is the bar staffs responsibility to watch the crowd and hopefully

control those people and situations. If you ban smoking we are going to have people who have been drinking, standing outside many times a night in order to have a cigarette. In turn they are out of the eyes of the bar staff and there will be more fights, more excessive uncontrolled drinking and more drug activity in the parking lot. Some other concerns are that bars are located in public areas, there are times when there are minors outside who are now in the company of adults who have been drinking or who have found a way to have alcohol while they are outside. These situations especially in the case of a drinking establishment with a liquor store on site lead to an easier way to participate in contribution of alcohol to minors. People do have liquor in their vehicles and will go into their vehicles rather than stand out in the cold. One of the responsibilities of a bar staff is to watch and control how much their customers have to drink so that at nights end they are not on the road having accidents or causing injury to themselves or others. Our customers being outside and in their vehicles most assuredly takes away the staffs ability to know how much their customers are drinking. Not to mention the potential income the bar could be taking in if the customers were inside drinking.

Fourth- Like it or not we have criminals, drug users and dealers, thieves, abusers and people in general that need the police for emergencies. I do not believe for one second that we should be occupying the time of our law enforcement officers in order to prevent an activity that is not illegal. It would be tragic and very disturbing to find out that an emergency or criminal activity had occurred while our officers were busy checking bars for smokers! Another point related to law enforcement is that I feel house parties will become even more common so that people can smoke and drink. Now we have our law enforcement dealing with disturbance calls and adults subjecting their children to a lot more smoke a lot and more visibility to alcohol not to mention the loud and or obnoxious drunks. There is a reason why society has provided a place to go and drink and smoke and also have placed an 18 or older smoking age and a 21 or over drinking age, this is so that only adults are around adult behaviors, conversations, and actions.

Fifth-I would like to point out that the bar industry supports many individuals be it directly or indirectly. We hire our staff, bands, security, printers, repairmen, garbage haulers parking lot and snow removal crews and CPA's just to mention a few. We invest in our banks. We provide ways for food, beverage, tobacco, paper goods, restaurant supply stores and many many others to sell their products to us in order for their businesses to succeed and

have employment opportunities. We pay a great amount of tax as do the people, distributors and business we hire. Our crowds will get smaller and profits will most certainly go down by a large margin if they are not free to have a cigarette with their drink. In turn we will not need as big of a staff, we may not be able to afford the entertainment, the repairs, and the product as we do now. Our tax revenue will go down as will the employment opportunities we have today. How are we going to recover the tax from the losses these businesses will face? How are we going to recover the taxes from the cigarette sales?

I would like to add that I do not believe that this bill is for the betterment or protection of myself or others. I do not believe a state that says it is ok for a bar to be open on Thanksgiving Day a time when families should be together for a nice meal and family time, not sitting in the bar or thinks that adding another hour of drinking every day is better for anyone. I strongly believe that we as adults know how to take care of ourselves and do not need a committee, government agency or any other entity to tell us how to do that. Nor do I think it is right for anyone to dictate what a owner may or may not do in or with his business within the limits of common sense and the law. Unless of course that entity is willing to pay the businesses bills and taxes and handle all other aspects of running a business and then send the owner the profits, if there are any, at the end of the month. I feel that if the business owner wants a smoke free bar he has that right. I also feel that if that owner allows smoking in his business he has that right as well. Need I remind you that this is the USA, a place where we fight and are currently fighting to retain our freedoms, security, opportunities, and choices which we are entitled to and practice every day of our lives. I believe that we as a society and you as our elected officials have many much bigger problems to be concerned about than the one in front of you today.

Shauna Kalabakken
Landing Bar + Bottle Shop
Minot ND

GOOD MORNING

#23

My name is Allan Leier, my wife and I own a small bar in Bismarck, ND. Our bar seats about 60 people. We were both brought up on small family farms. We consider the Main Bar our small family farm, and SB2300 will basically take our small family farm away from us. My wife and I both believe people have the right to breath fresh air. We have taken many measures to clean up the air in our bar, but we also allow smoking. We have two daughters, 25 and 22, both have grown up for the past 12 years helping clean and stock on Sundays. We are not open on Sundays and both have come to the Main Bar for their 21st Birthdays. When they are home or around, they both are around to help with chores in

and around the bar. That is why we consider it our family farm. They both have learned work ethic from us because of the long hours we work and the planning it takes to operate the bar. The bar is going to be my retirement, I thought, but SB2300 will make it very hard to retire. You may ask why? I believe SB2300 will make my bar worth a lot less money. I am 53 years old, 10 years to retire and SB2300 will probably cut my business by 35% at least. We are a blue-collar bar that seats 60 people. In my observations the past few months, 65% to 70% of the people smoke. When visiting the fast few weeks with my customers about the SB2300 law, they tell me they will not stop or only at happy hour. And by the way, at happy hour, profit margins are greatly reduced.

There are very few small farms or businesses that could sustain a 35% cut in income. I don't think the big farms or businesses could stand such a large cut in income. I have 6 employees and SB2300 will take ½ of them away from me!!! I believe SB2300 is going to drive me from my family farm, (The Main Bar) which I love dearly. The hours are long and hard, but the people are great. The Main Bar pays approximately \$26,000.00 a year in sales tax to the State of North Dakota that also will be approximately 35% less. I can see more problems if SB2300 passes, they come to drink and would like to have a smoke, now they have to go outside and smoke gathering in the parking lots smoking and drinking, more laws broken. Taking open drinks outside is against the

law. We also sell tobacco, yes you can buy it here but you have to go else ware to use it or go outside to use it. I have owned the Main Bar for 12 years going on 13 and I have yet to force anyone in my bar. My daughters have left my bar at times because of second hand smoke, but that is their right. They have the right to breath fresh air.

I have many family members that do not come into my bar because of second hand smoke, again, that is their right and also some very good friends that do not come in because of second hand smoke, again, that is their right.

Tobacco is a legal product ct sold in bars, gas stations, grocery stores, convience stores and vending machines.

Every one has the right not to smoke, but everyone also has the right to smoke if they are 18 or older. In May of

will we close all of these small town bars or do you think they can take a 20% to 30% hit? We are known as a rural state, I think that is a great distinction SB2300 puts these small towns out of business. The bars are the only gathering places left out there.

One short story before I close. Approximately 20 years ago, at the Civic Center in Bismarck, there was a Monster Truck and Tractor show. My family and me went. These shows were very popular; they used to come here once or twice a year. The noise, smoke, fuel, it was terrible. We had headaches from the noise, sick from the smoke and fuel, but we had the right to go. These shows were popular at first, but they have dwindled down to very few

1993, we bought the Main Bar thinking we would have the right to run it for a profit and retire from it. The Main Bar is a private business open to the public, who has the right to be a patron and also have the right not to be a patron. My wife and I do not believe the public has a right to tell us how to run our bar as long as the product we sell is legal and we operate within State and government rules and regulations. I am not ready to retire. I have a few other concerns. If your bar takes a 35% decrease, so will our charitable gaming, along with our coin-operated machines. Can small town North Dakota take a 20% to 30% cut in sales? What will happen to the Braddock's, Pettibone's, Wings, Dodges and all the other small towns that may only have a bar,

Message

Page 1 of 2

Subj: FW: MD Defeats Smoking Ban by Winning the Data War
Date: 3/9/2005 2:03:25 PM Central Standard Time
From: bsmythe@iei.net
To: pjuckem@verizon.net, ashaffer@shafferservices.com, dcorey@osca.net,
VelasquezEVAM@aol.com, FrankPinball@aol.com, breweramuse@blomand.net,
garyspencer@calcoin.com, jackamoa@aol.com, jreed@bjnovelty.com
CC: iamoa@ndadarts.com

-----Original Message-----

From: John Livengood [mailto:jlivengood@livengood-associates.com]
Sent: Wednesday, March 09, 2005 2:48 PM
To: bsmythe@iei.net; hal@slipperynoodle.com
Subject: MD Defeats Smoking Ban by Winning the Data War

FOR IMMEDIATE RELEASE**MARYLAND LAWMAKERS REJECT STATEWIDE SMOKING BAN
FOR RESTAURANTS AND BARS**

(Columbia, MD) - In an evenly-split vote, Maryland lawmakers have killed a statewide smoking ban initiative for the third consecutive year. Members of the Senate Finance Committee rejected the measure on March 4, 2005 by a 5 to 5 vote, effectively killing the bill for the year. Legislation must win more "yea" than "nay" votes in order to pass.

With many predicting the vote was too close to call, this year's smoking ban debate was without question the most heated in recent years, with both sides accusing the other of providing flawed data about the economic impact of smoking bans. Ultimately, however, the Restaurant Association of Maryland (RAM) prevailed with irrefutable data from the Maryland Comptroller's office. The Association provided to lawmakers data that showed significant sales losses and sharp declines in the number of restaurants with liquor licenses that filed state sales tax returns from jurisdictions with local smoking bans (Talbot and Montgomery Counties).

"We figured out how smoking ban proponents were manipulating sales data and we simply called them on it," said Melvin Thompson, vice president of government relations for the Restaurant Association of Maryland. "They've been employing the same misleading tactic nationwide -- using industry-wide sales data to downplay the negative impact that smoking bans have on a specific segment of the restaurant industry. Instead of letting them get away with it again, we examined sales data from only those segments of the industry most impacted by smoking bans (establishments with liquor licenses) and successfully convinced lawmakers that this is the only data that is relevant."

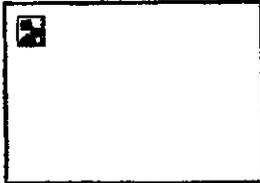
During testimony before the Senate Finance Committee, Talbot County Councilwoman Hillary Spence (the sponsor of Talbot's smoking ban) questioned the validity of RAM's data and maintained that Talbot County restaurants were "thriving." In the wake of the strength of RAM's figures, however, she has since admitted that she made a mathematical error that led her to think that sales in Talbot County were down by only 1.1 percent. Instead, RAM's facts accurately show an 11 percent decline.

"This remains a controversial issue and an uphill battle," Thompson said. "But the debate should begin with data that is accurate and relevant."

Message

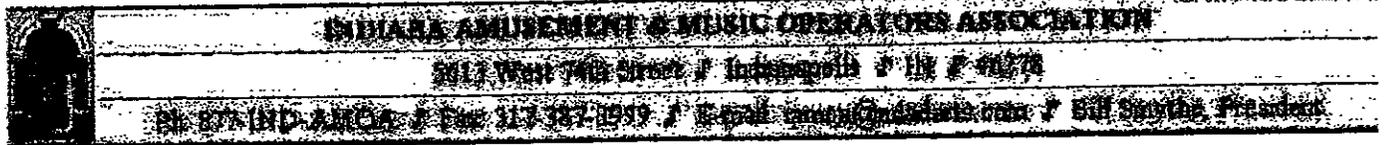
###

The Restaurant Association of Maryland currently has 3,000-members statewide. The mission of RAM is to promote, protect and improve the foodservice industry in Maryland. RAM members consist of professionals from the foodservice industry, hotel/motel and lodging industry and businesses that provide products to the hospitality industry.



Restaurant Association of Maryland
Steve F. De Castro Building
6301 Hillside Court
Columbia, Maryland 21046
800-874-1313 fax 410-290-6882
www.marylandrestaurants.com

*Melvin R. Thompson
Vice President - Government Relations
Restaurant Association of Maryland
6301 Hillside Court
Columbia, MD 21046
410-290-6800 x1007
1-800-874-1313
mthompson@marylandrestaurants.com*



**Background Materials
for
Children's Health and Environment
Committee
of the Indianapolis City Council**

March 10, 2005

Introduction

The Indiana Amusement and Music Operators Association (IAMOA) appreciates the opportunity to share our members' perspective on the smoking ban being considered by the Children's Health and Environment Committee.

What is the IAMOA? The IAMOA is a trade association of coin-operated vending companies. Our members are small businesses that own and operate coin-operated amusement equipment such as pool tables, darts, jukeboxes, video games and golf games.

Why is the IAMOA interested in this issue? Our members serve a broad range of locations, from bowling centers, arcades, hotel game rooms as well as restaurants and most importantly bars and taverns. The industry has moved away from video games. This was caused by the home-market proliferation; contrary to the opinion held by some that the move was caused by the failed introduction of video-violence ordinances. Members have increased their dependence on operating pool and dart games in bar/tavern locations to what has now become our largest customer base and revenue generator. Members generally offer a variety of league activities on these games as a means of generating traffic to the location. It is virtually impossible to play pool or darts the proposed 50 feet outside the establishment. Therefore, we are here to reveal to the Committee the impact a smoking ban will have on our members and their employees as well as to support our customers.

Background

A number of smoking bans have been enacted across the country. While news reports and government officials often provide glowing reports on the success of the bans, we now have hard evidence of the negative effects to these communities. Let's examine just a few.

New York State: The statewide ban took effect in 2003. A comprehensive independent economic impact study found the following effect on New York's bar and tavern industry¹:

- 2,000 jobs lost
- \$28.5 million in wages and salaries lost
- \$37 million in gross state product lost

In addition, the indirect losses to ancillary businesses that provide services to this industry saw:

- 650 jobs lost
- \$21.5 million in lost labor earnings
- \$34.5 million in gross state product lost

This totals a negative impact in one year of more than \$70 million in economic activity, \$50 million in lost wages, and the elimination of 2,650 jobs.

1 The Economic Impact of the New York State Smoking Ban on New York's Bars by Ridgewood Economic Associates, Ltd. Brian O'Connor, Ph.D. May 12, 2004.

In addition, the International Communications Research (ICR) released an impact study² for New York City claiming that:

- One-third of New York City bars, hotels and nightclubs have reduced staffing by an average of 16% since the ban took effect.
- Three-fourths of the affected bars and restaurants have experienced a decline in patronage averaging 30%, and almost 80% of businesses claim to have been negatively affected by the ban.

Dallas, Texas: The citywide ordinance took effect in March 2003. A study was commissioned by the Greater Dallas Restaurant Association to learn the effects of the ban on alcoholic beverage sales. The study found that:

- In one year alcoholic beverage sales at bars and restaurants fell \$7.6 million. During the same time frame surrounding communities without smoking bans saw sales increase up to 12.2%.

Toledo, Ohio: Toledo is the most interesting of the cases of a total smoking ban. Sixteen months after it was enacted, the ordinance was modified to EXCLUDE places of business with less than 9 employees and businesses where 65% of their gross sales were from alcoholic beverages. The City Council reversed their decision based on the negative economic impact it caused, including:

- 25% decrease in direct sales dollars, totaling \$4,742,354.
- 24.5% decrease in secondary or indirect sales dollars, totaling \$1,881,978.
- 18.33 % decrease in direct labor or 691 jobs.
- 10% of bars closed.

Coin-Amusement Operators: While formal impact studies have not been performed for our industry, our peer state and local associations report the following:

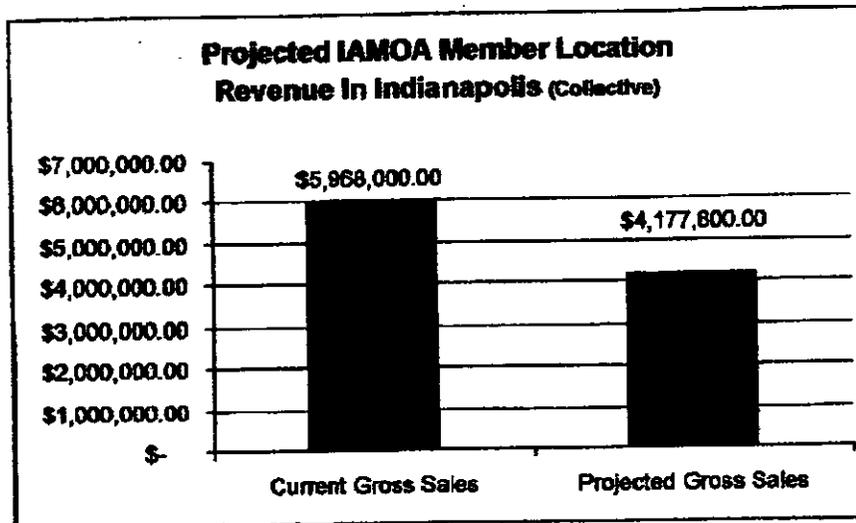
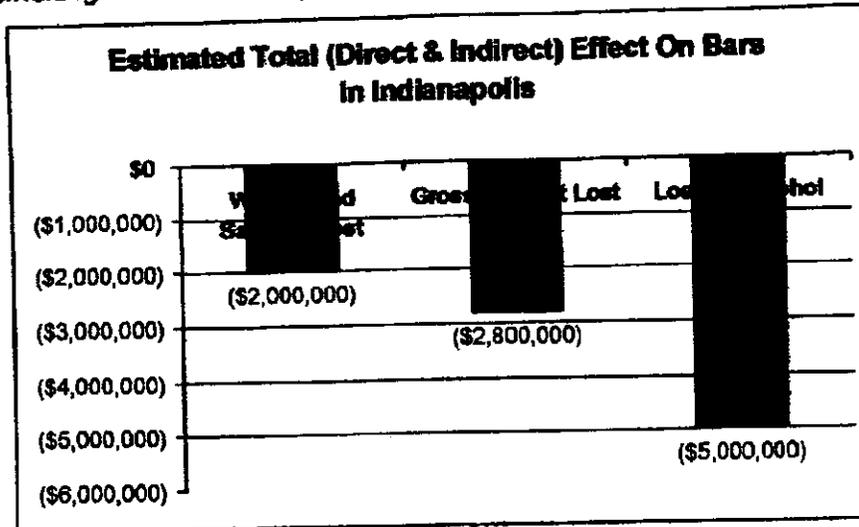
- New York State: 25 – 30% loss of revenues
- California: 20% loss of revenue continues three years after the ban
- Florida: 25 – 35% loss of revenues
- Columbus, OH: 20 – 35% loss of revenue

² Reported at <http://www.bantheban.org/archives/009491.php> and cited in reference 1.

Assessing the Impact of a Ban on our Members and Customers

Based on the results of total bans around the country, including those cited, a catastrophic loss of revenues would be predicted for our members and customers.

Using U.S. Census data to create comparative population data, below are the results we predict of a smoking ban on Indianapolis:



This 30% loss in revenues would result in loss of jobs within our members' firms. It would also seriously impact their ability to be profitable.

WV

Wheeling Council Snuffs Smoking Ban

By **SHELLEY HANSON**

WHEELING - Members of City Council unanimously passed a resolution Tuesday declaring its opposition to a proposed smoking ban but said they are still open to debate on the matter.

The resolution expressed the city's and council's "disapproval of the Wheeling-Ohio County indoor air regulations" as proposed by the Wheeling-Ohio County Board of Health.

The board of health was considering a vote to implement the measure this year. Many business owners in the county have expressed opposition to a smoking ban, saying it would hurt their bottom lines. The resolution states that council is taking action "as a means of encouraging support to various businesses within the city/county area."

Vice Mayor Mike Nau said he wanted residents to know that the resolution does not mean the city is "pro-smoker" but that it needs more information about the proposed measure.

"I think the community needs to know that this issue is not being taken lightly," Nau said. "I think we're being asked to be the conscience of the public. ... Before we say no or yes, we need to know what exactly we're being asked. We don't want to cut off public debate, but it should have happened three or four months ago. I think we would send the wrong message just to not do anything."

Councilman Brent Bush also spoke similarly on the matter and said he believes smokers and non-smokers can co-exist. Mayor Nick Sparachane also said he is "looking forward" to the board's recommendations.

The Ohio County Commission already has passed a similar resolution in

opposition to the proposed smoking ban.

Members of the board of health last week decided to delay a vote on the ban, saying that additional communication was needed between the board and the community, city officials and the Wheeling Area Chamber of Commerce.

The ban would prohibit smoking in enclosed public places in the county, except free standing bars and free standing video lottery rooms, private residences not used as child care or health care facilities, designated hotel and motel rooms, bingo halls, retail tobacco stores and meeting halls or conference halls used for private affairs.

The ban also would prohibit smoking where food is served, and signs alerting patrons of the measure would have to be posted inside the establishments.

Board of health Chairman Michael Caruso and Wheeling Ohio County Health Officer [redacted] is considering exempting [redacted] and Racetrack and Gaming Center from the smoking ban, as it believes the center would suffer economically more so than bars or [redacted]

The resolution states that the city "is charged with protecting the health, safety and welfare of the citizens of Wheeling."

"Wheeling City Council, by actions and words, is highly supportive of economic development and job creation within the municipality and the surrounding areas of Ohio County; and there has not been sufficient consideration of the validity of the test results and medical documentation relied upon in the studies which may have been utilized, the effect such proposed ban would have upon the economy of the area, the expense borne by the business community in attempts to comply, and the ultimate loss of

business resulting from its implementation," according to the resolution.

"The business community, as well as other public areas identified in the proposed regulation, already have sufficient designated non-smoking areas within the facilities to provide the citizenry with smoke-free areas."

The resolution also states that council "recognizes the legislatively prescribed public policy statements of the United States Surgeon General as reiterated in the regulation, and also recognizes that no regulation will accomplish the goal of such policy as stated, which is to 'provide the state with a citizenry free from the use of tobacco.'"

The resolution also states that council believes the public and businesses with public areas in the city "can and do comply with current regulations and smoking restrictions and no further regulation should be required."

Wheeling News-Register, Wheeling WV 12/14/04

#6

TESTIMONY BEFORE THE HOUSE HUMAN SERVICES
COMMITTEE

MARCH 14, 2005

Madam Chair, my name is David Smith and I'm 7 years old. I hate smoke because it makes me very sick. I have a bad type of asthma and last month I went to the bowling alley for 1 hour and I ended up getting very sick. I had to go to a doctor and I missed 4 days of school. I wanted to have my next birthday party at the bowling alley and now I can't because of the smoke. I also can't go to any of my friends' birthday parties at the bowling alley and this isn't fair.

I know I'm only a kid but don't I have the right to breathe clean air? Doesn't everyone have the right to breathe clean air? I have had many people thank me for sticking up for them by testifying on this bill. Please vote for this law and help keep us kids from getting sick.

Thanks for your time. I will answer any questions you have.

#7

TESTIMONY BEFORE THE
HOUSE
HUMAN SERVICES COMMITTEE
March 14, 2005

Senate Bill No. 2300

Testimony - Presented by Gordy Smith

Madam Chairman, members of the committee, my name is Gordy Smith and I'm here as a private citizen to testify in support of Senate Bill 2300. I feel strongly enough about this bill to take time off from work to come here today to testify.

My son has a rare, chronic form of asthma that wasn't properly diagnosed until we were referred to the University of Minnesota when he was four years old. As he told you, last month I took him to the bowling alley to watch his mom bowl and to play video games. We were only there an hour and later he had a terrible asthma attack. While there are many different philosophical arguments both supporting and opposing laws restricting smoking, I believe that if each of you had to witness your son gasping for breath, scared to death and coughing to the point of vomiting your decision on this bill would be easy. David was sick for several days and coughed so hard he broke blood vessels in his face. We were in contact with his specialist at the University of Minnesota who agreed with us that second hand smoke likely triggered his attack.

One of government's most important responsibilities is to protect its citizens, especially those people who are particularly vulnerable. Certainly our children are some of our most vulnerable citizens and they depend on their parents and government to take the necessary action to protect them. I don't understand how we in North Dakota can rationalize that we are fulfilling this responsibility when we allow smoking in facilities open to the public. Encouraging parents to boycott businesses that allow smoking is not a fair or reasonable solution. Neither is "waiting for the marketplace to take care of it". Is it fair to deny my son the opportunity to go somewhere like the bowling alley because of the poisons in the air? Doesn't my son have a right to go there to learn to bowl, to attend his friends' birthday parties or just to watch his mom and dad bowl? How can my son's right to be safe be superceded by someone's right to smoke?

A friend of mine told me he doesn't want government to interfere that far into our lives. Frankly I find this line of reasoning to be hypocritical. Look around. Government is in our lives in all sorts of areas. For example, local government tells me when I have to shovel my sidewalk after a snowfall. State government tells me how old David has to be before he can hunt and requires him to take a hunter safety course before he can buy a license. State government has passed legislation to protect us from drunk drivers. All of these are examples where government has stepped in to protect its citizens. Yet, the health problems and deaths associated with second hand smoke far exceed the health and safety problems that result from snow-filled sidewalks, hunting accidents, or drunk drivers.

I'm sure there will be individuals who will cite that this legislation will cause economic hardship for some. But if we are going to talk about hardship, let's consider all of the hardship associated with this issue. How about the financial burden that has to be born by those of us who are harmed by second hand smoke? Who reimburses my wife, my son and I for the medications my son had to take, for the doctor's appointment he had, and for the time away from school and work that we all experienced? How can we as parents measure the hardship involved and the fear and worry we experience when our son has an attack triggered by second hand smoke? Who reimburses our son for his lost right to go somewhere like the bowling alley to have fun or to go to certain restaurants? Most importantly how can anyone measure the hardship and fear my son experiences when he has these attacks? Our kids deserve better from us.

Some business owners might tell you that they own their business and they should be allowed to decide if people can smoke there. The state legislature has passed legislation that regulates many different aspects of businesses to protect their employees and the public. For example, government at one level or another establishes when bars can be open, issues a limited number of liquor licenses and therefore limits the number of bars, and regulates what types of activities can legally take place in a bar. So passing legislation to protect all employees and customers doesn't really seem so burdensome or unusual.

Sometimes it's easy for us to ignore the effects of second hand smoke because no one dies immediately like they do in a fatal shooting or a deadly car crash. There usually aren't any front page stories on people who die from second hand smoke. But if for one minute you would close your eyes and imagine how you would feel if you had to watch your child or grandchild suffer a terrifying asthma attack or find out they have a horrible disease caused by second hand smoke, I'm confident your decision on this bill would be much easier.

We are glad that the smoking ban in fraternal organizations is delayed for only two years. Families often gather at fraternal organizations for weddings, anniversaries and birthday parties. We will not be able to attend these events as a family until a smoking ban is in place.

It's time that State government stands up to protect the 80% of us who don't smoke from the 20% that do. Please stand up for those especially vulnerable citizens such as my son David who need your help to keep them safe and to protect their right to clean air and good health. I ask for your support for SB 2300.

Thank you for your attention and consideration. I'll gladly answer any questions you might have.

Assessment of Minot's Smoke-Free Restaurant Ordinance

Tobacco Education, Research & Policy Project
North Dakota Center for Persons with Disabilities
A University Center of Excellence
Minot State University
Minot, ND

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Abstract

An Assessment of the Minot Smoke-Free Restaurant Ordinance

Minot's smoke-free restaurant ordinance went into effect in January 2001. The people of Minot support the law, restaurant compliance of the law is high, business owners have voiced their support for smoke-free establishments and the law has had a neutral impact economically. The following is a summary of the assessments of Minot's smoke-free restaurant ordinance found within this document.

A random sample telephone survey of Minot voters, conducted in October 2003 found that 80% of voters support the smoke-free law, with an impressive two-thirds strongly favoring the law. 88% of the voters agree that restaurants are healthier and 80% agree it is more enjoyable to go out to Minot restaurants now that they are smoke-free. Most voters in Minot indicated that the right of business owners to make their own decisions regarding smoking *does not* outweigh the right of people to breathe clean air in public places. When asked which is closer to their own view, 61% of voters say people have a right to breathe clean air in restaurants and at work, so we should have laws that prohibit smoking inside workplaces, including restaurants. Only 35% of voters say business owners should have a right to decide if smoking is allowed or prohibited in their establishments.

A study of restaurant compliance conducted in 2003 found overall compliance with the restaurant ordinance was high at 96% compliance and the Minot Police Department stated there have been no problems with restaurant compliance.

Examples of business owner quotes:

"Business is up dramatically. People say they come in more often because we are smoke-free. Our wait staff's comments are really favorable regarding not having to breathe in secondhand smoke." (October 20, 2003). Owner of Homesteaders Restaurant.

"We opened the smoke-free bar to give nonsmokers a place to socialize. We have wonderful clientele from a wide range of occupations and professions. What they have in common is the desire to escape the smoke and enjoy themselves." (September, 2003). Owner of Blue Rider, a smoke-free bar opened since 1994

An economic impact study conducted by Minot State University on the Minot smoke-free restaurant ordinance found no economic effect of the ordinance on Minot restaurants. This study analyzed objective data collected by the Office of the North Dakota Tax Commissioner and included six years of data -- five years pre- and one year post-implementation of the ordinance.

For further information contact: Kelly Buettner-Schmidt, Project Director, Tobacco Education, Research and Policy Project, ND Center for Persons with Disabilities, Minot State University, 500 University Avenue, Minot, ND 58707.

January 2005

An Assessment of Voter Satisfaction with Minot's Smoke-Free Restaurant Ordinance

403 Voters
October 28-30, 2003

Survey Among Voters in Minot, North Dakota

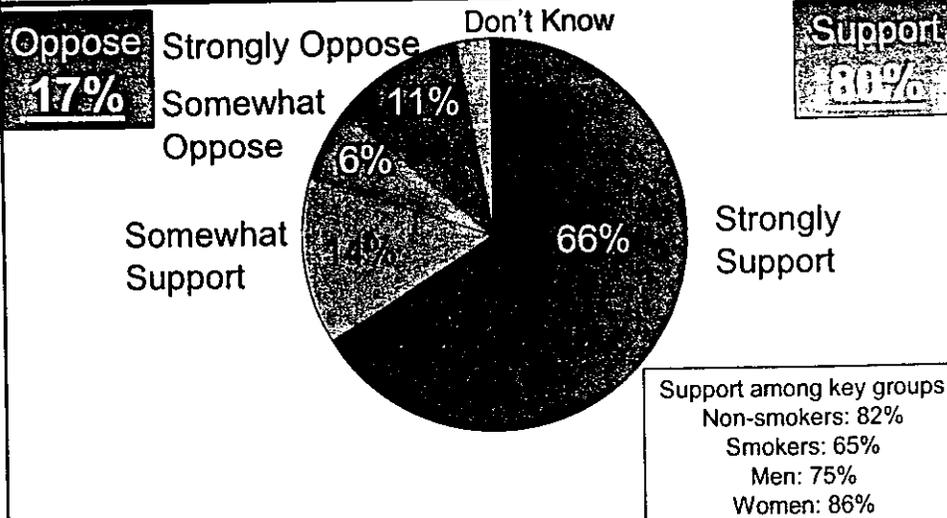
Methodology

- The results of this survey are based upon 403 random telephone interviews among Minot, North Dakota voters who voted in the most recent general election, November 2002.
- The results are weighted by age to more accurately reflect the electorate in Minot, North Dakota.
- Interviews were conducted from October 28-30, 2003.
- A random sample of 403 has a worst-case 95% confidence interval of plus or minus 4.9% about any one reported percentage.
- Survey conducted on behalf of Minot State University by Harstad Strategic Research



Survey Among 403 Voters in Minot, ND
October 28-30, 2003

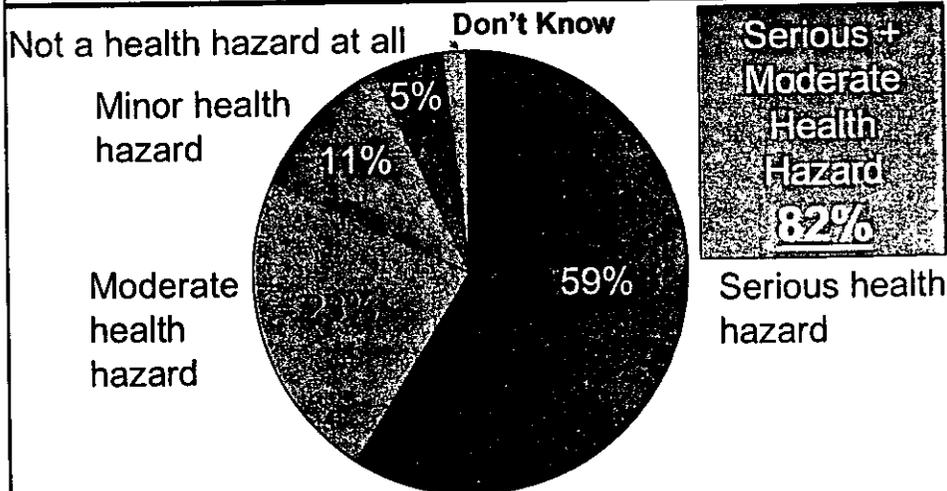
As you may know, a law went into effect in January 2002 prohibiting smoking inside restaurants in Minot. Now that this law has been in effect for nearly two years, is it something you support or oppose?



TERPP TOBACCO EDUCATION RESEARCH POLICY PROJECT

Survey Among 403 Voters in Minot, ND
 October 28-30, 2003

How much of a health hazard is exposure to second-hand cigarette smoke?

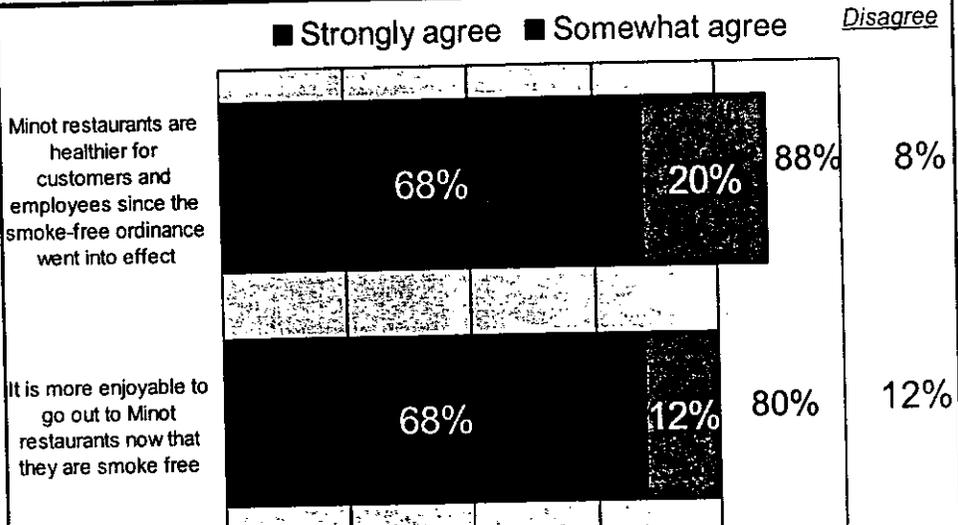


TERPP TOBACCO EDUCATION RESEARCH POLICY PROJECT

Survey Among 403 Voters in Minot, ND
 October 28-30, 2003

Minot Voters Agree That Restaurants Are Healthier & More Enjoyable Now That They Are Smoke Free

Percent who agree with each statement

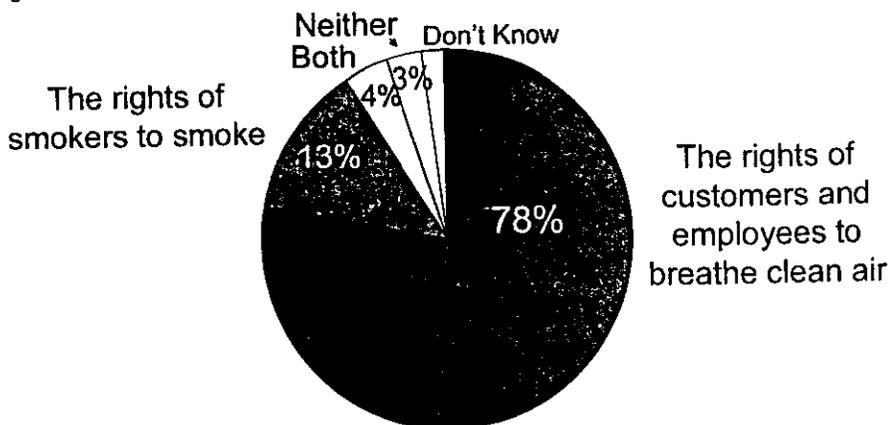


TERPP TOBACCO EDUCATION RESEARCH POLICY PROJECT

Survey Among 403 Voters in Minot, ND October 28-30, 2003

Minot Voters Believe The Rights of Customers & Employees Are More Important Than The Rights of Smokers

Please tell me which statement is more important:
 The rights of customers and employees to breathe clean air inside restaurants
 The rights of smokers to smoke inside restaurants



TERPP TOBACCO EDUCATION RESEARCH POLICY PROJECT

Survey Among 403 Voters in Minot, ND October 28-30, 2003

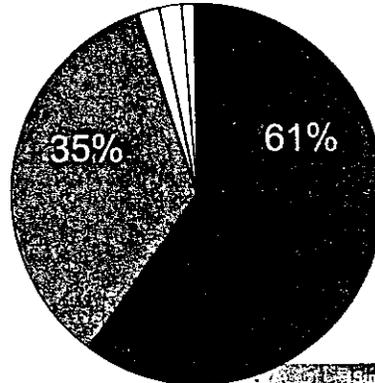
Minot Voters Believe Peoples' Right to Breathe Clean Air Outweighs Business Owners' Right to Choose

Please tell me which statement is closer to your view:

Business owners should have a right to decide if smoking is allowed or prohibited in their establishments, so we should not have laws that prohibit smoking inside workplaces, including restaurants.

People have a right to breathe clean air in restaurants and at work, so we should have laws that prohibit smoking inside workplaces, including restaurants.

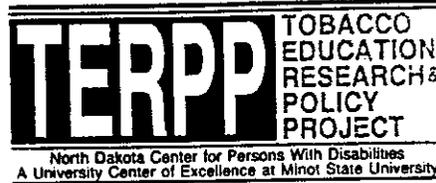
Business owners
should have a
right to decide



People have a
right to breathe
clean air

TERPP
TOBACCO
EDUCATION
RESEARCH
POLICY
PROJECT

Survey Among 403 Voters in Minot, ND
October 28-30, 2003



Summary

Compliance of Minot Restaurants with the Smoke-Free Restaurant Ordinance

Introduction

Minot State University's Tobacco Education, Research and Policy Project conducted an assessment of Minot restaurants' compliance with the smoke-free restaurant ordinance. The ordinance was effective January 2002.

Methods

First District Health Unit's Tobacco Control and Prevention Program obtained a listing of licensed "RE" restaurants within Ward County from its Environmental Health Division. This list consisted of 87 restaurants that were licensed within the city of Minot, five of which were exempt from the law and one which was unable to be inspected. This left 81 restaurants to be inspected. Inspections occurred between June and September 2003.

The inspection included a visual assessment of each restaurant. This visual inspection did not include an assessment related to the separate ventilation requirements of the ordinance. The enforcement of that provision requires considerable knowledge and expertise in the area of building ventilation systems, including knowledge of air flow volumes and negative and positive pressure. Only three restaurants without bars and six restaurants with attached bars implemented separate ventilation systems. The man-hours needed to assess compliance of this very complex issue would be exceedingly disproportionate to the number of businesses choosing to provide separate rooms.

Additionally, the Minot Police Department was contacted to assess compliance issues determined by the police department.

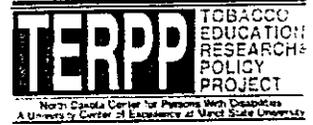
Summary of Findings

Other than minor signage issues, overall compliance with the restaurant ordinance was high at 96% compliance. Additionally, 100% of the restaurants did not have anyone smoking in the smoke-free areas and 100% of the restaurants had all the ashtrays removed from the smoke-free areas. The Minot Police Department stated there have been no problems with restaurant compliance.

For further information please contact: Kelly Buettner-Schmidt, Project Director, Tobacco Education, Research and Policy Project, North Dakota Center for Persons with Disabilities. A University Center of Excellence at Minot State University



THE ECONOMIC IMPACT OF
MINOT'S SMOKE-FREE RESTAURANT ORDINANCE
2003



KEY POINTS:

Study based upon

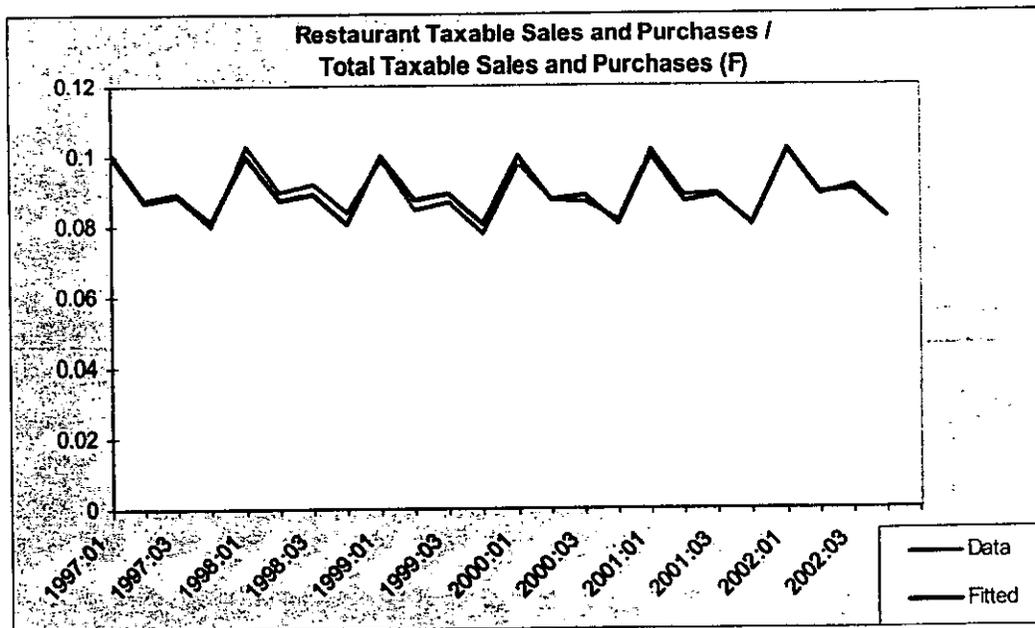
- Objective data collected by the Office of the North Dakota Tax Commissioner
 - Numbers include all restaurant sales in Minot, not just a sampling
 - Data collected consistently by an agency with no interest in the effects of local policy on restaurant sales
- Six years of data collected and analyzed; five years pre and one year post implementation of the ordinance. Data collect from the first quarter of 1997 through the fourth quarter of 2002
 - Adjusts for normal fluctuations in sales and any seasonal patterns

RESULTS:

- “The implementation of the smoke-free ordinance had no significant effect on the fraction of sales that went to restaurants in Minot.”
- The results of the study showed the smoke-free ordinance had no impact on restaurant sales for the City of Minot.

CONCLUSION:

- “Analysis of six years of sales tax data shows that there was no economic effect of the smoke-free ordinance on Minot restaurants in spite of claims that the smoke-free ordinance would hurt restaurant business.”
- “This study found no adverse change in restaurant sales because of the smoke-free restaurant ordinance.”



Authors:

Kelly Buettner-Schmidt, Tobacco Education, Research and Policy Project
Dr. Frank Moseley, College of Business, Minot State University
Minot State University Business Administration Graduate Students

For more information contact: Kelly Buettner-Schmidt, TERPP Project Director, 701-858-3256, schmidt@minotstateu.edu

“Business is Up Dramatically”

Quotes from Minot Restaurateurs & Bar Owners

“Kroll’s Diner owner Keith Glatt said a metrowide ban on smoking in restaurants and bars makes the most sense so some businesses don’t have advantages. Kroll’s also has a restaurant in Minot, N.D., where smoking recently was banned, and Glatt said his sales have increased 10 percent to 15 percent.” (January 10, 2004) The Fargo Forum

“Business is up dramatically. People say they come in more often because we are smoke free. Our wait staff’s comments are really favorable regarding not having to breathe in secondhand smoke.” (October 20, 2003). Dean Aberle, Owner of Homesteaders Restaurant

“Business has been better. We’ve only been smoke-free for about a month, but the increase in business is noticeable.” (July, 2001) - Dean Aberle, Owner of Homesteaders Restaurant

“Being a 24-hour restaurant it seemed to affect us a bit more. When (the ordinance) went into effect, January and February we were down a lot. It affected that graveyard shift. As it went on, things got better and better. As far as sales overall, we don’t think it has affected us at all. I think we get a lot less people sitting here a long period of time. There are advantages - being able to seat people more easily. I think it’s a great advantage to the staff. And for us it’s an advantage not having the smell, the ash trays.” (September, 2003) - Janelle Herslip, Proprietor of Denny’s Restaurant

“We opened the smoke-free bar to give nonsmokers a place to socialize. We have wonderful clientele from a wide range of occupations and professions. What they have in common is the desire to escape the smoke and enjoy themselves.” (September, 2003) - Owner of Blue Rider, a smoke-free bar opened since 1994

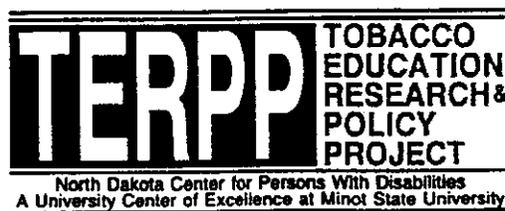
“Our guests are important both smokers, and non-smokers. However we believe that there is a day that we all have to (even Applebee’s) go to a non-smoking environment. Business will go on either way. Our guests might not be able to smoke in the restaurant of their choice, but we think our guests will come to their Applebee’s Neighborhood Grill & Bar for their favorite food, fun & drink.” (October, 2003) - Abe Sakak, CEO Applecore Inc.

“Going smoke-free has been a plus. In addition to eliminating the health risks of secondhand smoke, maintenance on ceiling and walls of the restaurant has been a lot less since we went smoke-free.” (November 2000) - Vern Korgel, Manager of Royal Fork Restaurant

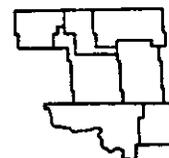
“Our business is mainly delivery, (but) we went smoke-free about 10 years ago, mainly for the people who work here. It’s a lot easier on our employees; and the people who come in here for breakfast don’t have to worry about the smoke.” (July 2001) - Gordon Troxel, Owner of Nite Train Pizza



STAMP, Minot, ND



First District Health Unit



www.fdh.u.org

You don't have to smoke to be killed by smoking.

- Secondhand smoke is responsible for 3,000 lung cancer deaths annually in otherwise healthy nonsmokers.
- Secondhand smoke causes 35,000 to 40,000 deaths from heart disease every year. Even relatively low exposure significantly increases the risk of heart disease.
- For every 8 smokers the tobacco industry kills, it takes one nonsmoker with them.
- Secondhand smoke contains more than 60 known or probable carcinogens and more than 4,000 chemicals including formaldehyde, arsenic, cyanide, and carbon monoxide.
- Secondhand smoke also causes emphysema and lung disease.

Supporters for smoke-free environments want to protect our health... and our lives.

- A broad-based, solid majority of voters across the political spectrum support smoke-free policies. The American Cancer Society, American Heart Association, and American Lung Association all support enactment of comprehensive smoke-free policies.
- Comprehensive smoke-free workplace policies reduce tobacco-related illnesses and the costs of treating them.

Share the air.

Because everyone has the right to breathe clean air.



Cancer Action Network

Breathe easy with smoke-free policies.

- Smoke-free policies enable children, the elderly, and people with certain health conditions to enjoy dining out without putting their health at risk.
- Smoke knows no bounds. Nonsmoking sections and ventilation systems don't eliminate exposure.
- Restricting smoking in workplaces only during hours children are likely to be present is a false compromise. Smoke lingers and there are no protections for workers at other times.
- Hospitality industry workers deserve protection from secondhand smoke just as much as bankers, lawyers or office workers.

No one should have to choose between a job and good health.

- Nonsmoking bar and restaurant workers have a 30 percent higher risk of lung cancer than all other nonsmokers.
- Bartenders working an eight hour shift in a smoky bar get the same exposure to smoke as if they had smoked half a pack of cigarettes.
- A number of economic studies show communities with comprehensive smoke-free workplace laws have not seen a negative impact on the hospitality industry or any other sector.
- Smoke-free policies decrease absenteeism among non-smoking employees, reduce housekeeping and maintenance costs, lower insurance rates and result in fewer smoking-related fires.

Share the air.

Testimony North Dakota Legislature Second Hand Smoke

Thank you for allowing me to discuss this major public health issue – Second Hand Smoke. As part of my testimony, I will be referencing a study published in the British Medical Journal by Drs. Sargent, Shepard and Glantz from Helena Montana.

In the few minutes I have today, I will show you not only why the results they found are plausible, but actually why they should have been expected. Indeed, it would have been more surprising if they had found nothing.

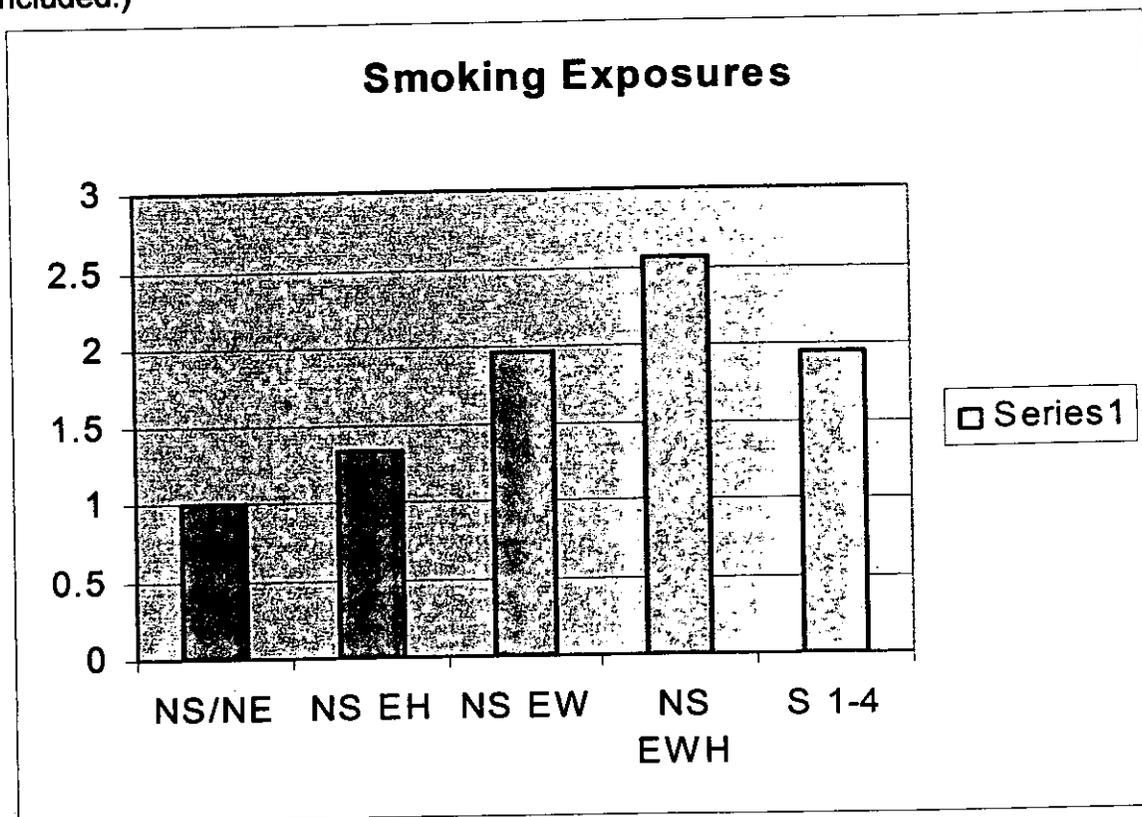
Starting in the early 1990's, many studies have shown that individuals who are exposed to second hand smoke have a higher risk of heart attacks than those who have no exposure. This is the same type of data which recently led to the removal of Vioxx from the market. People who took Vioxx had a higher risk of heart attacks than did people who did not. People exposed to second hand smoke have a higher risk of heart attacks than people who are not exposed. What does this mean?

To understand what the data tells us let's take a sample group of 1000 people and assume that none of them are exposed to second hand smoke. This group will have a certain number of heart attacks, say 100. Now take a second group of people, identical to the first except for the one issue we are measuring (either Vioxx or second hand smoke) and count the number of heart attacks in the second group. Let's say the second group has 130 heart attacks. We can now say the second group has an increased risk of 30%. We also express this as a relative risk of 1.3.

More than 50 studies have been published in numerous medical journals have documented this increased risk of heart attack with exposure to second hand smoke. Let's look at one:

(Pitsavos C, et al Tob Control 2002 Sep;11(3):220-5)

This study divided people into 4 groups. All groups were 100% non-smokers. The first group has no second hand smoke exposure anywhere. The second group is exposed only at home, the third only at work and the fourth at both home and work. The risk for each group is shown in the attached graph. (NS/NE = Non-smoker Not-exposed, NS EH = Non-smoker Exposed at Home, NS EW = Non-smoker exposed at work, NS EW = Non-smoker exposed at work and at home. For reference, a study of light smokers (1-4 cigarettes per day is also included.)



Note that if you exposed your spouse to your cigarette smoking, your spouse has a 30% increased risk of having a heart attack. Note also, that people exposed at work have almost twice the risk of a heart attack as people who are not exposed at work.

This shows the consistent finding from all studies that exposure to second hand smoke is associated with increased risk. Note also, that the greater the exposure, the higher the risk. This is a dose response curve. Whenever we find a "dose response curve", the probability that the factor looked at is causative is increased.

"If second hand smoke is the causative factor, would removing the second hand smoke reduce the risk?" This is importance of the Helena study. It was the first time this question has been asked and answered.

Additional questions that must be answered include, "What are the mechanisms? How does cigarette smoke, whether first hand or second hand, cause heart disease?"

Let me give you a brief high level overview of the answer. All of the answers are laboratory proven. These experiments have actually been done on people and animals.

Mechanism of Heart Attacks

There are three different processes that occur, either alone or together, to cause a heart attack. First, cholesterol builds up in the arteries, like the scale in a pipe, until the artery is closed. Second, a clot forms in the artery and suddenly plugs up the artery like a cork in a bottle. Lastly, the artery can spasm and close so tightly as to prevent any blood flow.

Cholesterol

Laboratory studies in animals show that rabbits exposed to second hand smoke for six months will have twice as much cholesterol build-up in their arteries as rabbits not exposed. And ultrasound studies in humans have shown that chronic exposure to second hand smoke results in thicker arterial walls. Thus second hand smoke contributes to faster cholesterol build up in our arteries.

THE BRASS RAIL, INC.

110 2nd ST NW
PO Box 779
Jamestown ND 58402-0779
Phone (701)-253-4907

March 10, 2005

ND Hospitality Association
Attn: Janet or Nicki
PO Box 428
Bismarck, ND 58502-0428

Re: Tobacco Bill

To all ND State Representatives and Senators:

Regarding the Tobacco (smoking) bill in front of you, could you answer a couple of questions?

1. Why does the federal government subsidize the tobacco growers?
2. If the cigarettes are so bad for the population, why not ban them from the market?

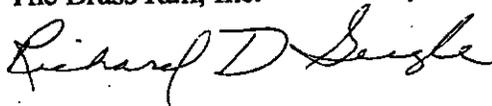
Some people believe they are a health hazard and cause death. If so, stop growing tobacco and selling cigarettes. They are now legal to use.

If the public or a person does not want to be near these products—stay away. If you don't like to bowl, you don't go to a bowling alley. If you don't buy pizza, you don't go to a pizza shop. If you don't like smoke or alcohol, don't go to a place where they allow it. Why make laws that make no sense...what happened to common sense?

We all have rights, why limit them if the government doesn't?

Vote NO to regulate tobacco

Richard D. Geigle
President
The Brass Rail, Inc.



So-called "Opt Out" Is NOT North Dakota's Local Control Principle

Statement of the Healthy North Dakota Tobacco Policy Committee March 18, 2005

has been suggested that local communities should be allowed to "opt out" of a state law requiring smoke-free workplaces. In considering this proposition, please review the following:

1.) There is no precedent for local communities to opt out of state laws governing issues of public health and safety, such as the current smoke-free bill. Indeed, this would be a slippery slope. Just think about the number of state laws a municipality may desire to weaken or ignore. If a community doesn't like the restrictive seat-belt law, will they be allowed to "opt out" of obeying it? What about the state's drunk-driver laws? Can they be ignored by local vote, too?

2.) North Dakota's longstanding, legitimate support for the "local control" principle does not include an "opt out" scheme. Defending local control means preserving communities' rights to strengthen laws enacted by the state, not weaken them. Especially in measures to safeguard public health, the state must always provide the floor, not the ceiling for protections.

3.) Recent local votes in Fargo and Dickinson have been falsely cited as a "reason" to thwart statewide smoke-free workplace policy, but the argument is not valid. In fact, it can much more plausibly be argued that both of those local votes indicated citizens' preference for statewide smoke-free policy over local policy. Consider:

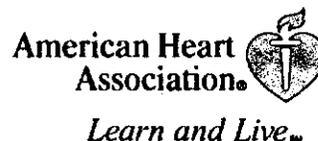
- a. The proposal voted on in Dickinson was definitely not the same as SB 2300, and there is no reason to infer that Dickinson's local vote means those citizens would oppose a STATE smoke-free law. Some citizens there argued that a state law (instead of a local one) is the correct solution. Also, the proposal defeated in Dickinson prohibited smoking not only indoors, but also 25 feet in front of a building entrance. Voters were concerned that smokers would have to stand in the streets. The ordinance also required all bars to be smoke-free. Dickinson polls showed greater than 80 percent of citizens supported a smoke-free workplace ordinance, yet the local ordinance was defeated—and its outdoor clause, the bar issue, and the state-law issue are likely reasons for its defeat.
- b. In Fargo, 55 percent of the voters supported a comprehensive smoke-free policy stronger than SB 2300, one that included bars immediately. While 57 percent voted for an ordinance with a number of exemptions, some of those voting for the stronger ordinance also voted for the weaker ordinance in order to ensure there would be some level of protection. There is wide agreement that the Fargo electorate was confused by the overlapping choices that confronted them at the polls.

Polls indicate that at least 61 percent of North Dakotans want businesses (including privately-owned businesses) to be smoke-free; there is absolutely no reason to assert that, somehow, folks in Dickinson and Fargo are different from other North Dakotans.

4.) The "opt out" scheme is a new tactic being aggressively promoted by tobacco-industry forces in many states to obstruct effective public health protections against toxic secondhand smoke.

5.) Smoke-free workplace law is a matter of public health, and local communities are not allowed to ignore selected public health measures. Rules about vaccinations and the amount of alcohol allowed in the blood stream while operating a motorized vehicle are not optional. Secondhand smoke is the same type of public health issue.

The Healthy North Dakota Tobacco Policy Committee opposes the "Opt Out" concept.





NORTH DAKOTA
DEPARTMENT OF HEALTH
600 East Boulevard Avenue, Dept. 301
Bismarck, ND 58505-0200
www.health.state.nd.us

COMMUNITY HEALTH SECTION

Memo

To: Representative Price, Chair, House Human Services Committee
From: Kathleen Mangskau, RDH, MPA ^{KM}
Director, Division of Tobacco Prevention and Control
Date: 03/14/2005
Re: **Additional Information for SB 2300**

Attached is additional information Representative Nelson requested regarding the definition of bars in SB 2300. The information was obtained from Missy Teske in the Office of the Attorney General, Licensing Division. Section 5-02-06 of the North Dakota Century Code defines the percentage of sales for food versus alcohol in determining if the establishment is a restaurant or a bar. Ms. Teske explained the highlighted section of the attached statute indicating that if sales were 49 percent food and 51 percent alcohol, it would be considered an alcohol establishment.

Please contact me at 328-4517 if you have questions or need additional information.

Attachment

Cancer Prevention
and Control
701.328.2333
701.328.2036 (fax)

Chronic Disease
701.328.2228
701.328.2036 (fax)

Family Health
701.328.2356
701.328.1412 (fax)

Injury Prevention
and Control
701.328.4536
701.328.1412 (fax)

Nutrition and
Physical Activity
701.328.2496
701.328.1412 (fax)

Tobacco Prevention
and Control
701.328.3138
701.328.2036 (fax)

5-02-06. Prohibitions as to persons under twenty-one years of age - Penalty - Exceptions. Except as permitted in this section, any licensee who dispenses alcoholic beverages to a person under twenty-one years of age, or who permits such a person to remain on the licensed premises while alcoholic beverages are being sold or displayed, is guilty of a class A misdemeanor, subject to sections 5-01-08, 5-01-08.1, and 5-01-08.2. Any person under twenty-one years of age may remain in a restaurant where alcoholic beverages are being sold if the restaurant is separated from the room in which alcoholic beverages are opened or mixed and gross sales of food are at least equal to gross sales of alcoholic beverages which are consumed in the dining area, or if the person is employed by the restaurant as a food waiter, food waitress, busboy, or busgirl under the direct supervision of a person twenty-one or more years of age and is not engaged in the sale, dispensing, delivery, or consumption of alcoholic beverages. A person may enter and remain on the licensed premises if the person is a law enforcement officer or other public official who enters the premises in the performance of official duty or if the person enters the licensed premises for training, education, or research purposes under the supervision of a person twenty-one or more years of age with prior notification of the local licensing authority. Any person under twenty-one years of age may remain in an area of a site where beer, wine, or sparkling wine is sold in accordance with the conditions of an event permit issued pursuant to section 5-02-01.1. Any person who is nineteen years of age or older but under twenty-one years of age may be employed by the restaurant to serve and collect money for alcoholic beverages, if the person is under the direct supervision of a person twenty-one or more years of age, but may not be engaged in mixing, dispensing, or consuming alcoholic beverages. Any establishment where alcoholic beverages are sold may employ persons from eighteen to twenty-one years of age to work in the capacity of musicians under the direct supervision of a person twenty-one or more years of age.

From: Joe Cherner [Joe@smokefree.org]

Sent: Thursday, July 01, 2004 11:59 PM

To: Joe Cherner announce list

Subject: [JoeCherner-announce]status of state smokefree workplace laws

Dear Smokefree Advocate,

We've come a long way, baby... but we still have a long way to go!

The chart below shows the status of smokefree workplace states. In the next twelve months, we expect several more states to pass smokefree workplace laws (including bars and restaurants). The most likely candidates are Washington, Colorado, Maryland, Arizona, and Minnesota... but there are always a few surprises!

	State Smokefree Workplace Laws		
	Smokefree Offices	Smokefree Restaurants	Smokefree Bars
California	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Delaware	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
New York	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Connecticut	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Maine	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Massachusetts	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Rhode Island	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Florida	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Vermont	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Utah	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Idaho	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Maryland	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Testimony

SB 2300

House Human Services Committee

Monday, March 14, 2005

Deborah Knuth

Government Relations Director, American Cancer Society

Good morning, Chairman Price and members of the Committee. My name is Deborah Knuth, and I am the Director of Government Relations for the American Cancer Society in North Dakota. I am here to request a "do pass" vote for Senate Bill 2300.

Local and state policy makers should enact comprehensive smoke-free public and workplace laws that protect all workers and all community members from the proven dangers of secondhand smoke. All workers have the right to breathe smoke free air regardless of the occupation they choose. The negative effects of secondhand smoke are not exclusive to any one industry or type of employee.

I have attached information for your perusal that may have already been covered by others in this morning's testimony.

Thank you for allowing my testimony this morning.

You don't have to smoke to be killed by smoking.

- Secondhand smoke is responsible for 3,000 lung cancer deaths annually in otherwise healthy nonsmokers.
- Secondhand smoke causes 35,000 to 40,000 deaths from heart disease every year. Even relatively low exposure significantly increases the risk of heart disease.
- For every 8 smokers the tobacco industry kills, it takes one nonsmoker with them.
- Secondhand smoke contains more than 60 known or probable carcinogens and more than 4,000 chemicals including formaldehyde, arsenic, cyanide, and carbon monoxide.
- Secondhand smoke also causes emphysema and lung disease.

Supporters for smoke-free environments want to protect our health... and our lives.

- A broad-based, solid majority of voters across the political spectrum support smoke-free policies. The American Cancer Society, American Heart Association, and American Lung Association all support enactment of comprehensive smoke-free policies.
- Comprehensive smoke-free workplace policies reduce tobacco-related illnesses and the costs of treating them.

Share the air.

Because everyone has the right to breathe clean air.



Cancer Action Network

Breathe easy with smoke-free policies.

- Smoke-free policies enable children, the elderly, and people with certain health conditions to enjoy dining out without putting their health at risk.
- Smoke knows no bounds. Nonsmoking sections and ventilation systems don't eliminate exposure.
- Restricting smoking in workplaces only during hours children are likely to be present is a false compromise. Smoke lingers and there are no protections for workers at other times.
- Hospitality industry workers deserve protection from secondhand smoke just as much as bankers, lawyers or office workers.

No one should have to choose between a job and good health.

- Nonsmoking bar and restaurant workers have a 30 percent higher risk of lung cancer than all other nonsmokers.
- Bartenders working an eight hour shift in a smoky bar get the same exposure to smoke as if they had smoked half a pack of cigarettes.
- A number of economic studies show communities with comprehensive smoke-free workplace laws have not seen a negative impact on the hospitality industry or any other sector.
- Smoke-free policies decrease absenteeism among non-smoking employees, reduce housekeeping and maintenance costs, lower insurance rates and result in fewer smoking-related fires.

Share the air.

Testimony Supporting SB 2300
March 14, 2005
House Human Services Committee
Claire Sue Price, Chairman
By
Representative Lee Kaldor
District 20

Chairman Price and members of the House Human Services Committee, I am Representative Lee Kaldor, Representing District 20—all of Traill County and parts of Steele, Cass and Barnes Counties. I am here today to give testimony in support of SB 2300. There are others here today from the health community who will speak to the technical details of this bill as well as the health needs for controlling Environmental Tobacco Smoke (ETS), or what we commonly call “Second-hand smoke”. You will hear the evidence that exists to prove that ETS is unsafe for those who are exposed to it. You will hear of the evidence that demonstrates the need to make our workplaces and public places clear of ETS and safe for employees and clientele. I am here to focus on another aspect of this legislation. I want you to allow me to discuss with you the business concerns that this bill has generated.

There are those who suggest that such a strict measure will hurt business and impose unnecessary restrictions on business and people’s rights to smoke. This measure, so they say, will have a devastating effect on some businesses. I can’t deny that as our culture changes and our acceptance of smoke filled rooms declines that some businesses will be affected adversely. I suppose there was a time when taking Spittoons out of business places was considered a threat to the business’ regular clientele, but they adjusted and they made it. Today businesses all across North Dakota are changing to smoke free environments and they are finding that not only is it not hurting their business, but in fact, improving their businesses in many different and understandable ways. Smoke free businesses are spending less money on cleaning, ventilation

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maintenance, insurance, sick leave and workers compensation claims. In addition they have happier and more customers who prefer a smoke free place to do business.

The Senate has modified this bill to provide a two year exemption for stand-alone bars and clubs. This will provide a period for evaluation and consideration of the benefits of a smoke free work environment. Unfortunately, the employees in these exempt places will not be protected.

Finally, this is a public health issue. It is not about smoker's rights. It is about the rights employees have to a safe work environment. A uniform measure such as SB 2300 will make enforcement easier and less confusing for employers. It also levels the playing field in that all establishments will be smoke free. Loyal clientele will likely patronize their favorite bar or restaurant as in the past because all facilities are smoke free. Not only that, but businesses will be surprised to see new customers who have avoided their places in the past because of the presence of smoke.

As we continue to learn more about the effects of ETS, it is imperative that we react to the new information and take action as a state to protect our workers, our children and our citizens and their right to breathe clean air. The right to breathe clean air is as fundamental a right as ensuring that we have clean water supplies. How is it that we can expect anything less?

Chairman Price and Committee members, I hope that you give this legislation the favorable consideration it deserves. Act boldly in the interests of all of those who work in polluted environments. Give them a chance to breathe clean air. Thank you.

Minot Convention & Visitors Bureau

PO Box 2066 • Minot, North Dakota 58702-2066 USA
Tel 701.857.8206 • Fax 701.857.8228 • 800.264.2626 (U.S. & Canada)
E-mail: pcvb@srt.com • Web Site: www.visitminot.org

As is common with implementing any new ideas and restrictions, there were many concerned citizens when Minot voters passed the no smoking policy in restaurants. However, in visiting with hotel and convention facility managers there seems to have been no negative effect on the convention industry in Minot. In fact, several managers felt that it has made a positive impact even to the point of saying that it has increased their business. In conversations I have had with convention planners from across the state, region, and the nation, the topic hasn't been an issue. Having said that, to my knowledge, Minot has not lost a convention due to the fact that our city has implemented a ban on smoking in restaurants.

Dusty Zimmerman 
Director of Convention Sales
Minot Convention & Visitors Bureau



Discover the Magic!

**Testimony
Senate Bill 2300**

**House Human Services Committ
Monday, March 14, 2005**

**June Herman
Senior Advocacy Director, American Heart Association**

Good morning, Chairman Price and members of the House Human Services Committee. My name is June Herman, and I am the senior director of advocacy for the American Heart Association. I am here today to testify in support of establishing smoke free public health protections, and I encourage the committee to extend those protections to all North Dakota workers.

It is very appropriate for this committee to address this bill as it is at its core a public health matter. Knowing that you have already received information on the hazardous workplace employment, and the public health threat of second hand smoke, I am going to focus my comments to the dynamics of community dynamics of passing smoke free policies.

You may find that smoke free policy development will sort into two key policy areas – public health protection and business regulation. If you approach this bill as a public health issue, given the science provided to you today, how could one group of workers be asked to work in an unsafe environment while others are protected? Worker safety protections have always been applied as extensively as possible. For this worksite health issue, the only proven protection is 100% smoke free air. Those who seek to exempt a sector of the workforce often represent the least likely sector to provide any type of health coverage for their employees. So not only do we place those workers at risk, their health care becomes the responsibility of government health programs, or other employers.

If you approach this bill as a business regulation issue, the debate will quickly become one of why one worksite must comply, and others don't. The recent Fargo, W. Fargo, and Moorhead smoke free policy work is a good example of how hard it is in a competitive hospitality environment to draw a fair, clean line of exemptions. The city commissioners of those communities all asked of me why the state could not enact a policy that crossed all political subdivisions and make establishment of a level playing field for all businesses. The struggle of drawing a fair, clean line of exemptions is why the Fargo City commission was ready to move with a 100%, comprehensive policy, and why Moorhead did the same. Unfortunately, their work unraveled with one hospitality venue seeking exemptions, then another, then another. Even though the majority of voters in both West Fargo and Fargo voted for 100% coverage, other options receive slightly more. And while more people in those communities are protected, several hospitality sites are realizing how important a level playing field of 100% smoke free policy is in such a competitive market.

You will find granting exemption for one sector to be a slippery slope, as bar/grill establishments seek to compete with "bar" establishments, and restaurants compete with bar/grill establishments, business restaurants with clubs and organizations. And they all have one thing in common – workers exposed to environment poisons that threaten their health.

In North Dakota, a greater number of hospitality sites now understand the health impact to their workforce, and realize the liability they can face in exposing their workers. What many of them seek is a common workplace health policy that levels the playing field for all. Attached to my testimony I've attached a copy of a letter on this matter from a Jamestown truck stop owner who encourages that every work place is covered with your policy.

Whether a public health policy, or a business regulation issue, the fairest approach for all is requiring smoke free protections of all worksites.

March 10, 2005

Dear Committee Members:

Thank you for considering my views on SB2300, a bill that eliminate the problem of second hand smoke from most public places. I am a member of the Sargent County Board of Commissioners. As a County Commissioner, I am also a member of the Sargent County Social Services Board and have oversight over the County's public health unit and emergency medical services. As a member of these boards, I have become well aware of the financial burden smoking and smoking related illnesses place upon our social services and healthcare budgets. It is immense, as you are well aware, and the problem must be addressed at the source. Eliminating second hand smoke from public places will go a long way toward ridding our society of the health and social burdens associated with tobacco use. You have already received a mountain of scientific, medical and statistical evidence which supports the elimination of tobacco smoking in public places as an action that is both desirable and necessary to protect and promote the health of the citizens of this State. That evidence is clear and overwhelming. I will not bore you with more. I Do, however, ask that you consider my personal experience with smoking and second hand smoke as you make your deliberations.

In December of 1971 I returned to my home town, Rutland, North Dakota, following 3 years of military service which included a tour of duty as a Marine Corps infantry platoon commander in Viet Nam. For a short period after my return, I resided in the home of my parents, in Rutland. I was then a heavy smoker - 2 to 3 packs each day. I had begun smoking during my Senior year in high school, back in 1963, had continued the addiction through my college years and military service. My father, Earl Anderson, had been a smoker for about 30 years, until he kicked the addiction in 1966. Even though he had stopped smoking, though, everywhere he went, at work, at public gatherings, even at his frequent pinochle games in the local pool hall, there was smoking going on. Every time he was around me, he was subjected to my second hand smoke, too, and we were together a lot. My father was a community leader, active in his church, a successful businessman and a political activist. If you wanted to make sure that something got done, he was the man you went to. He was an innovator. He saw possibilities for housing, businesses and public facilities in the rural communities of Sargent County that were not apparent to others, and he brought them to reality. As you can tell, I admired my father. In January of 1977, he was diagnosed with cancer. The cancer had started in his lung and mestastasized to his brain. In 7 months he was dead. A man of vision, with the ability, energy and courage to make that vision reality, prematurely dead at age 61, lost to his family, to his friends, to his community and to his State. As the

information about the health effects of second hand smoke has become known, I have often wondered what part my own smoking may have played in my father's illness and death. Three months before my father was diagnosed with cancer, I had stopped smoking, but I had inflicted second hand smoke upon him, with all of its cancer causing components, for 5 years. There is little doubt that smoking tobacco, and the second hand tobacco smoke that he was exposed to at work, in public places and even in his own home, caused the cancer that prematurely killed my father. The bill before you does nothing about second hand smoke in the home, but it does eliminate second hand smoke from most public places. If, as a result of this bill, the life of even one person is spared, it will have been worth your effort. But this bill will do much more than that. I know, you know and the people of North Dakota know that it is a necessary measure to protect the health of the people of this State. I know, you know and the people of North Dakota also know that eliminating the scourge of second hand tobacco smoke from the air we breathe will ultimately save the public treasury millions of dollars in health care costs avoided. SB2300 is a good bill. It deserves to become law. I ask that you support it.

Respectfully submitted,

Bill Anderson
Sargent County Commissioner
PO Box 100
Rutland ND 58067