2009 HOUSE POLITICAL SUBDIVISIONS

HB 1213

2009 HOUSE STANDING COMMITTEE MINUTES

Bill No. HB 1213

House Political Subdivisions Committee

☐ Check here for Conference Committee

Hearing Date: January 29, 2009

Recorder Job Number: 8182, 8184

Committee Clerk Signature

Minutes:

Chairman Wrangham opened the hearing on HB 1213.

Rep.Joyce Kingsbury: (see testimony #1). Discussed problems with staying in hotels where they are I oppose to be smoke free rooms and someone had smoked in the room. Many people have problems with second hand smoke. Dr. James Burr, Valley City, said that whenever and wherever you are asked to support public policy extending protection from toxic second hand smoke to workers and patron's in all public places in our state, please remember that you will deciding for or against reducing heart attacks among ND citizens.

Rep. Koppelman: When we check into a smoke free room it is evident that those rooms have been smoked in before; when that happens if this bill would pass, is there a penalty? If so who is on the hook; the hotel owner, the previous occupant who smoked or how is this law carried out?

Rep. Kingsbury: I had a copy of the hotel where we are staying. The form you sign in on states at the bottom of the page, if a non-smoking room is smoked in, their credit card will be charged and the amount if there listed. They do go ahead and charge the credit card for that.

Rep. Koppelman: If the law would pass is there a fine or criminal penalty?

Rep. Kingsbury: We think the business is taking care of this itself.

Rep. Headland: how would bar owners recouped the money they have spent to meet the smoking laws earlier?

Rep.Kingbury: I don't think those bars had any guarantee that smoke free laws were not going to come before them later.

Rep. Headland: you referenced bar owners; they asked you to sponsor this bill? You said there is an analysis that shows that smoke free laws don't hurt the restaurant and bar patrons. If a bar owner has the ability to not allow smoking in his bar without this state mandating it, why would they need to ask you to put this bill in.

Rep.Kingsbury: I don't know; everyone had the choice to do that.

Rep. Kilichowski: The only thing that would not be smoke free would be the truck stops; am I reading this right?

Rep. Kingsbury: There are other exemptions like organizations.

Rep. Kilichowski: As far as I can see it would be the truck stops.

Rep. Kingsbury: they are exempt.

Rep. Kilichowski: If we are going to go smoke free why are truck stops exempt?

Rep. Kingsbury: I have had no request in that direction. ND has taken small steps in going smoke free in public work places and I choose those two areas.

Rep. Corey Mock: You mentioned making small steps toward going smoke free. Rep. Headland mentioned we made small steps and businesses have had to make accommodations; you responded there was no guarantee that the small steps will never continue. Rep. Kilichowski mentioned truck stops are still on the exemption list; how long before they are removed from the exemption list and all of their money they have invested into their business to provide a smoking atmosphere for their cliental is removed?

Rep. Kingsbury: I will say again there was no guarantee.

Rep. Corey Mock: You think it is more fair to the public if you just make it just one big step and save every one the investment?

Rep. Kingsbury: I have tried that.

Rep. Metcalf: I am testifying on experience. Discussed growing up and how everyone smoked in the 50s and 60s everyone smoked and they expected you to smoke. In 1980 I worked for the ND Winter Show. The first thing I noticed when I went in for a meeting I had to have a knife to cut a hole in the smoke to see where to go. A few short years later I became the manager of the ND Winter Show and the first thing I did was eliminated smoking in the rooms. Discussed heart surgery and how this procedure was done. It costs me over $100,000 and I know people are killing themselves. I know my problem was due to second hand smoke since no one in my family smoked. I hope you pass this bill. My desire was to take smoking entirely out of the public sector and if we can carry this bill further maybe we can eliminate it totally from public places.

Rep. Headland: You said by your choice you eliminated smoking at the Winter Show. Why does that not apply to bars today?

Rep. Metcalf: I was in California about 6-7 years ago walking down the streets in San Francisco and I said gee this is nice; no cigarette butts on the streets and no smoke in the air and everything. The state of California had eliminated smoking in the entire state. Most people are like me; independent, while I was in the National Guard all those years I did not think of stopping smoking. I had never had any health problems because of that so why would I want to eliminate smoking. Take away all the activities that my friends seem to enjoy, but I do not believe that we should start putting this health issue onto all US citizens just because a few people want to smoke.

Rep. Kaldor: In support of HB 1213 as a co sponsor. Since 2005 I have had the same reaction that Rep. Kingsbury has had. I have been on the 2005 bill and have countless individuals and businesses come to me and ask me to go all the way and get smoking out of public places. I had a bar owner say that when the ban went into effect in 2005 he was actually making more money than he had before. He had a restaurant that he was actually rotating customers faster than he was before and the people were eating in his restaurant are eating more. He opposed the bill in 2005. This debate is really about workers safety. Clean air is paramount. It is about putting health before business risks. Someone wrote an article in the newspaper in Wisconsin about a year ago that I thought was interesting because they are debating the same thing. They have allowed their businesses to do it on a voluntary basis, but someone wrote a letter to the editor and said You know smoking is a lot like driving we all have a right to do it, but we don't have a right to drive on sidewalks and we shouldn't have a right to smoke in public places. I hope you will give it a do pace recommendation.

Rep. Zaiser: You talked about the number of people that said you should have gone all the way. How does that compare with people saying you are crazy and you should have not done this at all?

Rep. Kaldor: I have not had one person tell me that we shouldn't be doing this.

Rep. Conrad: In 2005 I remember being in a conference committee on this bill. I remember discussing putting in air filter systems. Can you share some of that with us?

Rep. Kaldor: Yes that was in the Human Services Committee where we had the testimony. Scientific research on filtration systems and air handling systems and the evidence was clear that they did not make any difference. Those gases do not go out the window; they stay in and fill the room.

Rep. Koppelman: What will be the penalty to hotels and who pays it?

Rep. Kaldor: The penalty clause is not part of this bill, but it is in current law. It seems to me there is a fine that would be due the owner of the establishment; however, their ability to charge that back to the person who stayed in the hotel is the same as Rep. Kingsbury described. In Minnesota they have passed this comprehensive law and I recently stayed in a motel there in East St. Paul and they had it very specifically in there. When you signed in it was a $500 fine that you would get added on to your charge card if you violated state law.

Rep. Koppelman: So the penalty to the establishment would be the fine and then they could try and get it from that but it would be a civil kind of thing.

Rep. Kaldor: The problem with that is we don't have clear enforcement measures in current law. It is kind of up to the citizens or city.

Rep. Zaiser: What if they pay for the room with cash?

Rep. Kaldor: I think there are other measures that they can use; I think if smoking occurs they could have them pay cash and get it back in the morning.

Senator Kilzer: I sponsored the second hand smoking bills the last two sessions. I would urge all of you to get out your computer and check on Dr. Carmona. He was the surgeon general, who released the unscheduled public health report in June, 2006. At that time he considered it revolutionary news that second hand smoke was terribly harmful to people; especially children. Discussed second hand smoke vis. Health issues.

Terry Dwelle: State Health Officer: (see testimony #2).

Rep. Zaiser: What happens to those people now who have to go into a concentrated area to smoke, like at the Capitol? Is it worse due to fact that there is a lot of smoke in a small area?

Terry Dwelle: We know that even small amounts of exposure by individuals who are exposed; just to second hand smoke can result in lung cancer etc. There are studies that will show that somehow there is an increase in risk.

Rep. Jerry Kelsh: I have heard a lot about third hand smoke. Is that the smoke that comes off your clothes? How dangerous is that?

Terry Dwelle: that is a new area of research. There is not a lot of information on that yet. Discussed Spirit Lake clinic and about the children that come in here. It is my belief that some of the parents that come home from bars and other places are actually impacting the health of those children and making their asthma more difficult to control.

Rep. Koppelman: All of us have been in an environment where we have been exposed to seconded hand smoke whether we smoked or not. Are we all toast?

Terry Dwelle: I think all of us have been exposed to significant second hand smoke. Second hand smoke in the work environment; within a few minutes, increase the problems we see associated with heart attacks. Also the reverse is true. By removing a person from second hand smoke we also see a dramatic decline in some of the risk factors of heart disease and heart attacks.

Rep. Headland: Do people here have the right as American citizens to have a place where they can go out and enjoy a cigarette. We have decided with our laws that it is perfectly legal and it is their right to do. With everything you mentioned we should be looking at a complete ban of the sales of tobacco products, but that is not the questions here. How would you respond to the question I posed? Should people that smoke have somewhere to go?

Terry Dwelle: I have yet one redeeming aspect of cigarette smoke in regard to health. I believe a person has the individual right to chose. I believe they do, but I also believe that we as individuals should have the right to breathe clean air.

Sharon Buhr: Director, Young People's Healthy Heart Program: (see testimony #3)

Rep. Jerry Kelsh: Is the smoke from tobacco more toxic than the smoke from campfires?

Sharon Buhr: I don't know.

Rep. Zaiser: You mentioned when Fargo went smoke free and they tested the air within those bars and it went to a safe level? What is that level?

Sharon Buhr: I am not a tobacco specialist. We have two people from Fargo who can answer that.

Vicki Voldal Rosenau: (see testimony #4).

Handed out testimony #5 for Jason Bergstrand. (He was not there).

Chairman Wrangham: We will now take opposition and see how long this takes since we have been at the hearing for one hour.

Opposition:

Mike Motschenbacher: (see testimony #6).

Rep. Koppelman: How do you handle this currently with non-smoking rooms that are smoked in and how would it change under this law?

Mike Motschenbacher: We do as hotel employees we do everything possible to make it so someone does not smoke in a non-smoking room. When the customer comes to the hotel and asked for a non-smoking room, there is a sign on the counter that says you will be charged $100 for smoking in a non-smoking room. There is a sign also outside the elevator that says this is a non-smoking floor and when you get into your room there are no ash trays in the room so there are five things that should alert the lights in your head that this is non smoking. However, even after that it still happens. Some people don't care. As far as the fines, we attempt to charge the $100, but I will tell you the amount of time it takes a hotel manager to recoup the $100 fine is not worth it. It is quite a process to collect when you include the credit card dealings also. It probably takes two hours of work when we attempt to charge someone that.

Rep. Koppelman: If we carry this forward, I assume the fine would be geared to the hotel owner. If this law passes the entire hotel would be non smoking you still have the same issue. How does that play out; you don't want to report it since you are guilty and stuck with a fine; if you don't report it and try to go after the person, it sounds like nothing changes, is that right?

Mike Motschenbacher: Yes you are right.

Rep. Conrad: A constituent in her 60s and has belonged to the Moose Club in Minot. She plays darts and the rest of the facility is smoke free, but the bars not and that is where the darts are played. Someone joined the league that is a heavy smoker and she has a medical issue and they asked them not to smoke. They said no they want to keep smoking so she and a couple other ladies when to the club to ask them to become smoke free in the bar so they can play their darts and the club meeting said no. That lady has no choice; how would you explain to her the situation?

Mike Motschenbacher: I have been through that same situation and I was in a dart league and my whole team was a non smoking team. We chose to quit and do something else.

Bill Shalhoob: Owner of Select Inn, Bismarck: (see testimony #7) in the reference to public places. The bill excludes residences and in some instances the hotel room is considered your private abode. Whether that would extend to this or not, you could make this change. There is a cross over where your room becomes a place where you stay. I we look at legislatures that stay in hotel rooms and many other people they extend for 30 days or longer, we no longer get charged sales tax against that so it become effectively an apartment, which is a private residence. How are we going to get around that? I have stayed in the state of California within the last six months and Minnesota. Even though they have non smoking laws; none of the laws, as far as I know, extend to every hotel room in every hotel in those states. There is no non smoking in hotel rooms in these states.

Lowell Thomas, Minot, ND: President of the ND Tournament Association: we have approximately 25,000 pool and dart players across the state of ND. Went into detail on the programs being held around the state and the impact of this to businesses across the state with tournaments being held. Last session after your legislative session after your last session we set up 84 dart boards after you left at 10:00PM. That weekend we held the largest singles, doubles, and triples dart tournament in our 23 year history. If we are that important to the hotel industry just think what these league players mean to the bar industry across ND. These are not the customers that stop in once a year for their free birthday drink; these are usually the steady customers who play a big part in keeping the doors open and that are why they play for their favorite bar. Between 70 and 80 percent of our players smoke. 95% of our players in Minot signed up in our smoking bars. So this bill affects the rights of 95% of the 2400 pool and dart players in Minot. We ask that you vote no on HB 1213.

Rep. Corey Mock: How many bars are in Minot and how many are smoking and non-smoking?

Lowell Thomas: We have 5 no smoking bars in Minot. We have 31 bars in our league system at are smoking. No there is not smoking in the facility that adjoins the room. In the main facility that adjoins the room there is smoking.

Rep. Klemin: I have walked by the rooms and it is very smoky? I am not sure how that is allowed under this current law?

Lowell Thomas: This is in current law that when we hold a state tournament that they allow smoking in the banquet facility.

Gary Huber: I operate three lounges in Minot. I opened one lounge to non smoking about 6 years ago. I kept it open for six months are non smoking and waiting to see if it would show a profit or close to a profit. It was not; I don't know where their statistics same from but I can tell

you my sales have more than doubled since I went to smoking. This country was founded on freedom of choice and every year we are losing more and more freedoms. This country is going through a recession and if we lose 25% from passing this smoking bill what is the recession going to cost us? I don't think we are going to stay in business.

Lisa Hixson: Stadium Sports Bar in Bismarck: (see testimony #8)

Rep. Conrad: Explain why people will stop coming to your establishment if they cannot smoke?

Lisa Hixson: I use to work at a restaurant here in town and I had a great Friday night group that always came in and they all smoked. When that bar went non smoking they decided to go to their homes. Now we have a bar with a smoking and non smoking side.

Rep. Koppelman: Do you know what is happening now with the non smoking laws?

Lisa Hixson: I know Fargo has gone smoke free. Their business has gone down. Here in Bismarck what happens if Bismarck goes smoke free and Mandan doesn't? We are back to Moorhead Fargo?

Rich Wenninger: Clincher, Bar in Hague, ND: I do not smoke; I have 3 part time bartenders that smoke. Bottom line is freedom to choose. This is my tavern; I should decide who smokes in there.

Arlan Scholl, Elks Lodge: I can tell you four years ago we decided to take the majority of our club and turn it into a non smoking facility. You can go upstairs to the smoking bar; that is your choice. Since we opened it up our revenues are down 72% in that non smoking bar. I am afraid of what this is going to do to all the charities that we take care of. Let us make that decision. This is not whether smoking is bad for us. We are aware of that; this is about freedoms. You are telling private businesses what they can and cannot do on their property.

Rep. Koppelman: I am curious about the private clubs. Are there any distinctions on private clubs?

Arlan Scholl: If this bill passes and the clubs aren't included then we will have a huge problem because every smoker in town will come in. We have already stuck a lot into the ventilation systems now and this should have been going to charities. I hope this bill does not pass. I think it is an infringement on rights of being an American. What do you think the trucks stops are going to look like if they are excluded?

Rep. Corey Mock: You said this bill is an issue regarding rights; do you believe that using unsanitary dish washers in your businesses is an issue of health is over stepping the bounds?

Arlan Scholl: No I think people have a choice whether they want to walk into that bar.

Rep. Zaiser: would smoke in the air be equitant to a dish or a glass that is very contaminated or dirty.

Arlen Scholl: Look at grills and grease. If you really want to be healthy why are you going to a bar? You should be going to one of the gyms or health food stores. I do not smoke. I do love shooting pool and I do enjoy visiting with the people.

Tom Balzer: ND Motor Carriers Assoc. Truckers smoke and eat bacon and steak. Our concern is truckers stay in hotels. Truck stops have invested $100's of thousands of dollars specifically for truck drivers. That is why they are exempt. Where does this stop? Non smokers did not have a choice, but today people have choices. My wife smokes and she goes out and goes to bars where they smoke. Now there is a choice and the problem is pretty soon we will not have that choice any more.

Michael O'Bryan, small businessman: I have been coming to this legislative session for the past 10 years to try to defeat one smoking bill after another. I think we should put the blame on the health department. They have failed to educate our public and particularly our young

children on the dangers of smoking. Instead of looking at their own failures, they have chosen to humiliate and dehumanize the folks that chose to smoke. Hundreds of thousands of dollars have been spent on commercial's that shows smokers as inhuman, insensitive third class citizens. That money should have been spent on educating our young people so they can some day break this cycle of smoking. If you past this law you will be punishing the entire hospitality industry because the Health Departments failed policies.

Rep. Zaiser: Why were cigarettes displayed in a C-Store so they can be sold? Who do you encounter that activity?

Michael O'Brian: I think they should not put them out so someone can see it? If they do they are a poor business person. Kids will get cigarettes because 18 year old friends will buy them for them. Perhaps there should be a law to tell them to put them behind the counter.

We need to reach the children and we are not doing a good job of this.

Allen Leier: Main Bar in Bismarck: (see testimony #9).

Rick Lafleur: President of NCOA, NDCMOA, CAT: I am telling you from inside the industry and the national board I set on. The Coin Operators are down 25-30% nationally where ever these have been instituted. In all cases it was a negative impact. 75% of them when polled, in 2007 by DH research felt they would go out of business. We are not talking about Fargo or the larger cities of Bismarck, Minot or Grand Forks. We are talking about all the small towns in between. We are going to close the very places that people want to be smoke free; they just won't be there. The affect on the BINGO halls was devastating. Those people just did not go. Minnesota had 300 taverns close. This is what will happen. We are not funded by big tobacco. We just got $20 million more from tobacco and we better do something smart with that. We already know that 5% of the people that try to quite are successful. The root of the problem is in the bottom. We have smoking cigarettes for over 400 years. We need to figure

out a way to stop this bad addiction. We need to help them. We introduced a bill last session, but it would have limited the amount of nicotine in cigarettes. In the last 10 years the cigarette makers spiked the level of nicotine as much as 30% in some brands. We continue to not regulate tobacco. Why? I would like to make one exception to the bill. In section 22 3-12.10.3; exceptions is medical necessity. It allows people that are residences of nursing homes to smoke. Why do we do that? Because people can't get by if they can't smoke.

Chairman Wrangham: We have now been 40 minutes with those opposed to this bill. We had a 1.05 with support. We have another hearing scheduled so we will close and reopen after the other bill.

Recess on hearing.

Job #8184.

Chairman Wrangham reopened the hearing on HB 1213.

Kathleen Mangskau: Chair, Tobacco Prevention and Control Advisory Committee:

(testimony #10- 2 packets).

Rep. Koppelman: Does that mean you want all smoking banned?

Kathleen Mangskau: We advocate is best practice which we know is the complete smoking ban. We know if we advocated all tobacco smoking ban you always run into black market and other issues.

Rep. Koppelman: You don't advocate the ban on smoking, but you advocate the ban on second hand smoke. So that makes it sound like it would be only in your home?

Kathleen Mangskau: We would like to see that non smokers are not exposed to second hand smoke. We want to protect the health of the public.

Rep. Corey Mock: In Minnesota it was mentioned that 300 bars in Minnesota have since closed since passing the smoking ban. In your testimony you say smoke free laws have had no negative impact on businesses. There is a conflict.

Kathleen Mangskau: Many times the studies that are presented are not necessarily what we would consider valid research.

Rep. Corey Mock: I represent Grand Forks and I know that one club in East Grand Forks has since had to close and two more are on the verge. I would call that negative impact.

Kathleen Mangskau: I cannot speak for Minnesota. We know from the studies that we did in ND that there was no negative impact on business. There can be many reasons why businesses close their doors. It might not be the smoking laws.

Rep. Headland: Did you say you knew from data in Minnesota that it did not impact business?

Kathleen Mangskau: No I did not say that. In 2005 there was a study done in ND that was under that law and there was no negative impact on business from that law.

Rep. Headland: I would like you to provide us with that information.

Kathleen Mangskau: Yes, I can get that. (Was attached to her stuff called testimony #10).

Rep. Koppelman: I am curious about that study. Before the smoking ban went into effect for restaurants we had a local restaurant that decided to go smoke free. Their business did not fall off. However, we also had our community put a smoking ban in bars in affect and because of the way the language was written, it only affected one establishment and made it smoke free unintentionally. That business almost went out of business before the change was made. Do you know if that was considered?

Kathleen Mangskau: the study that was done took a random sampling of ND communities and they looked at the tax receipts from the tax department. Whether they looked at individual businesses; they really looked at the overall tax receipts.

Rep. Koppelman: So the total receipts the tax department collected did not change, but people may have made choices to go to places where they could smoke vs. places where they couldn't so they are spending the same amount of money, but they may be spending it somewhere else. That report probably would not show individual businesses.

Kathleen Mangskau: Yes, individual businesses, was looked at.

Rep. Headland: Do you care that this legislature could put businesses out of business?

Kathleen Mangskau: Course we care about North Dakotan's and their health and welfare. Please look at all the information carefully.

Rep. Headland: But you are presenting us with data that really is not correct in itself. You are basing your data on that it doesn't impact business by total tax collections. You are presenting data that does not present the facts.

Kathleen Mangskau: I think you should read the study and all the facts connected with the collection of the data. It was done by Minot State University who certainly know more about research than I do.

Rep. Headland: Where are the Minot official's then with their data? You are looking at it from your own opinionated side?

Kathleen Mangskau: That data was presented at the 2007 legislature and they did present it at that time. So the study is available and I will get a copy to the committee.

Chairman Wrangham: You site a study from Fargo? I would like to see those too. Isn't it true that the study done by Minot State was a study on banning smoking in restaurants? We are now talking about bars.

Kathleen Mangskau: I am speaking to the impact on the law it was the law in affect at that time.

Rep. Conrad: do you have a study from other states where they have put a ban on bars?

Kathleen Mangskau: I believe an earlier testimony some of those studies were sited. The studies in Fargo are related to the exposure of second hand smoke.

Rep. Zaiser: Can someone tell us what about the air in bars that was safe?

Kathleen Mangskau: I think our Fargo people can talk about that.

Chelsey Matter: Smoke Free Air for Everyone: (see testimony #11)

Opposition

Cheryl Leyendecker: Lucky Spur, Wing, ND: I am a small bar owner in Wing, ND. Our population in Wing is 80 people. Of our patrons that come into our establishment, 75% smoke. If this bill goes into effect it will affect our business. People have said that when the smoking ban went into effect it did not affect their business. I can speak from what I heard from our owner of the restaurant in Wing that have said since the smoking ban went into affect their business has decreased by 25%. We are not open as long as the restaurant, but we have lost about 30% of our business. If you take into affect what it will do to the sales tax it will be a major affect. I am not sure if our revenue decreased by 30% whether we would be able to stay open. If we would manage to stay open we would not be able to support a lot of events that go on in our small community. Proponents for the pro side of the bill have said third hand smoke, if this bill goes into affect what will we as bars; have to do to get rid of the third hand smoke? We just bought the bar and put a lot of money into it for remodeling. Now to have to do that again would be another major part of our yearly operating budget. Our workers are all smokers. If we had someone want to come in and we were going to hire them, would I have to say to them are you a smoker or non smoker? If they say they are a non smoker, would I be

called discriminating against them if I refused to hire them because I may be jeopardizing their health because of their working there? It concerns me about the patrons. I am also a nurse and know the health effects of smoke.

Rep. Conrad: Do you think people in Wing would come to your events, but can't because they can't handle the smoke?

Phil Sandy, Dickinson: Coin Machine Operator and Past president of the NDCA and the NDCOA. I have been in business for 41 years. I have seen nearly 100 locations go out of business in Western ND. Generally it is due to population. Right now we have about 5 towns where the only thing left is the bar. If we go non smoking that is a definite affect on this town. They have lost their social being. We strongly as a do not pass. I listened to people talking and my brother is from St. Paul. His coffee shop went non smoking in St. Paul. The next two weeks his business went down 75%. Don't tell me smoking doesn't make a difference.

Rep. Zaiser: Do you think that there would be a ban it would affect small towns more than larger towns?

Phil Sandy: Absolutely. In the west towns are farther apart.

Rudy Martinson: ND Hospitality Association: (see testimony #12). City staff noted these findings do not direct address the question of whether indoor smoking was beneficial or adverse impact on the local hospitality industry. 1. The revenues did not constitute profits. Profitability is a better gage in business success than gross revenues. 2. Two years ago during the 2007 session it was the hospitality association did stand in front of the legislature and wonder when you were talking about a ban in smoking in bars where that stops? Do we ban smoking next in your car or hotel rooms and both of those things are here this year. I don't just represent bars, restaurants and hotel. We do start to wonder what is the next thing to be

banned within this industry? They are now talking about banning trans fats, high sodium, and communities in the west coast where you can not smoke in your home. Where does this stop?

Dick Prozinski: (see testimony #13).

Hearing closed.

Additional testimony left:

Bette Deede #14

Bruce Levi #15

Mike Rud #16

Carol M. Russell#17

Melany Jenkins #18

2009 HOUSE STANDING COMMITTEE MINUTES

Bill No. HB 1213

House Political Subdivisions Committee

☐ Check here for Conference Committee

Hearing Date: February 6, 2009

Recorder Job Number: 8917

Committee Clerk Signature

Minutes:

Chairman Wrangham reopened the hearing on HB 1213.

Rep. Weiler explained the proposed amendment. The intent is to give bar and restaurant owners a tax credit for air quality expenses due to our actions. We did decide it would be over a five year period.

Rep. Klemin: Where is the fiscal note? Certainly it was a tax paying business that incurred those expenses, but those expenses probably were tax deductable or amortizable. They have already gotten a deduction from their taxes in the past. Are we going to give them an additional credit?

Rep. Weiler: The intention was not to allow this credit if it has been taken off already. If they haven't then they should be able to get a tax break. It was my intent to have it spread over a period of five years, but it is not in here.

Rep. Nancy Johnson: Would it be a match?

Rep. Weiler: Yes it would be a match.

Chairman Wrangham: This is where restaurants or bars constructed wall etc. so they could have a separation and have smoking in their bar. Now if we a couple years later deny them the use of their bar as a smoking area the walls will actually have to be removed.

Rep. Conrad: Why are they not using local ordinances? I happen to set in on this bill in conference committee Rep. Kalber made it very clear that all of that equipment they were putting in was not demonstrated to work so if we put this into law you realize that you are going to have to take it out if it doesn't work. We have mislead the people so much; now we are suppose to pay for these people when there was testimony that it did not work.

Rep. Weiler: The government forces people to do certain things they should not have to pay for it. Why should they not be able to recover their costs?

Chairman Wrangham: they did that because by law they were required to do this.

Rep. Hatlestad: Since we are concerned about double dipping can we reduce the percentage from 100% to 25% and maybe 100% from the time this bill goes into effect?

Rep. Weiler: I do share your committee's concerns about double dipping. If they somehow have not taken the credit for their expense they had to go through then they should be able to recover that. I would say yes to your question. If they have already gotten credit then they shouldn't get 24%.

Rep. Hatlestad: There is a big difference between deduction and credit. So just some kind of a credit

Rep. Klemin: I would like to request an opinion whether we can add this on to this bill now without a fiscal note since the deadline has passed?

Rep. Headland: Why do we need this bill? Political subdivisions already have the power to ban the smoking if they so chose. What is the point in delaying it because of the amendment?

Rep. Klemin: Chair should request a ruling on whether we can consider an amendment like this. It really changes the whole character of the original bill.

Chairman Wrangham: We will clarify that.

Hearing closed.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill No. HB 1213

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Hearing Date: February 12, 2009

Recorder Job Number: 9411

Committee Clerk Signature

Minutes:

Chairman Wrangham reopened the hearing on HB 1213.

Rep. Kingsbury: handed out a proposed amendment. (testimony #1). Afterward I received an email from a bar owner in West Fargo and I think I forwarded that to all the committee. He wants this passed. He thought a grace period before its effective date would give our owner a chance to make some changes or prepare a business plan for a change. It came from a bar owner so I thought I would move that forward. I put an effective date and moved it out a year and a half.

Rep. Headland: Just so I understand this clearly; the bar owner went smoke free and his business is gone down and now he wants the state to get some of his business back?

Rep. Kingsbury: No. They want to be smoke free. They went smoke free because West Fargo went smoke free.

Chairman Wrangham: Basically we are here to accept the amendment and hear Rep. Kingsbury's statement.

Rep. Corey Mock: Is a year and a half sufficient or by January 1st; would that accomplish that?

Rep. Kingsbury: That would be up to the committee. He drew out two years and I drew out a year and a half.

Rep. Koppelman: what about the January 1st, 2011. It seems like an awkward date because it is just before the next legislative session comes in. It means even if we wanted to change it all the bars would be smoke free and the hotel rooms would be smoke free for maybe a month or whatever it would take to pass a bill with an emergency clause if we decided to change something.

Rep. Kingsbury: The effective date is a year and a half and I changed it from two years. I didn't know whether the fiscal would be a mistake.

Chairman Wrangham: I think there are other amendments we are looking at so we will hold this bill. Minnesota put into their law when they went smoke free they added some language for displaced worker section to insure workers who lost their jobs because of it would be helped out. There is some additional testimony that you passed out.

Hearing closed.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill No. HB 1213

House Political Subdivisions Committee

☐ Check here for Conference Committee

Hearing Date: February 16, 2009

Recorder Job Number: 9596

Committee Clerk Signature: Pamela Lowe

Minutes:

Chairman Wrangham reopened the hearing on HB 1213.(see #1) Number four of this Minnesota law I thought we should put into the bill. It says for dislocated workers to help out and retrain people that have lost their jobs because of state action.

Rep. Klemin: I don't think this is necessary because we already have an unemployment law that prevails that they would probably be eligible for unemployment insurance.

Chairman Wrangham: that would give them training etc?

Rep. Klemin: No there is no provision for training or anything like that. Is there an allocation of funds for dislocated workers?

Chairman Wrangham: I think there is a training program.

Rep. Klemin: What kind of training do you need to be a server in a restrunant?

Chairman Wrangham: I would assume you would have to be retrained for a different type of job.

Rep. Klemin: I think the separation part is concerned you would be eligible for unemployment benefits.

Rep. Koppelman: I was looking at number 3 here; does unemployment insurance kick in for self employed people?

Rep. Klemin: so this could be something different then.

Rep. Conrad Made A Motion we move the amendment to change it to September 1, 2010 on 0102. Seconded By Rep. Klemin.

Chairman Wrangham: I am going to resist that amendment. I think whatever we do we should do.

Rep. Conrad: No one debated the health issue. We generally provide some kind of grandfathering in and I think this will give them one year. My intent was the summer of 2010. A man came in from Minot; he was a big bar owner and he had one he tried non smoking at and it did not work so now it is a smoking bar. The last two bars that have been opened in Minot are all non smoking.

Rep. Headland: If you are interested in grandfathering it in and helping them would you be interested in further amending to allow the establishment that currently offers smoking to allow them to continue to smoke?

Rep. Conrad: No I am not that interested.

Rep. Klemin: I think the amendment gives a little more time for those business owners that would be affected by this to revise their business plan; and revise the way they are doing business and get ready for 2010.

Chairman Wrangham: The article from a New Salem paper hit the nail on the head. A local bar owner said I have a lot of smokers in my bar and I have a lot of non smokers in my bar. If this goes into affect the smokers are going to go to their shops and garages and the non smokers are going to go right with them. I don't know how they are going to change their business plan besides close their doors.

Rep. Kretschmar: I think the time limit is too long. We have tons of testimony that this is bad for health. I think if we pass this bill it should go into affect August 1. I don't think they should go more than a year.

Rep. Zaiser: I am not a smoker, but I am struggling with this incremental approach to stop the smoking. I think if we do pass this it should be done soon.

Rep. Kilichowski: I am going to oppose any amendment and even this bill. My people back home that come to a larger city and a small percentage of hotel rooms are smoke able. A small percentage of the bars you can smoke in. I think it will hurt these communities out there.

Rep. Conrad: I would like to withdraw my motion. Rep. Klemin withdrew his second. Rep. Conrad Made A Motion to make the motion January 1, 2010. Seconded By Rep. Klemin.

Rep. Conrad: there are a lot of people who would like to go out to the bars in Center and they can't because they can't handle the smoke. I think this is reasonable.

Rep. Headland: What about the few people that wants to smoke; where are they going to go? I don't believe this bill addresses second hand smoke and the ramifications of it. If it did it would be a ban on tobacco products in ND. This bill is about people rights; business owners rights. I am going to reject all the amendments and reject the bill.

Rep. Hatlestad: I understand cities and counties already have the authority; why do we have to do it as a state? Why shouldn't the local people make the decision? Put it on the ballot or whatever.

Chairman Wrangham: The amendment now states January 1, 2010.

Rep. Kilichowski: I guess if we are taking it away from Hotels; motels and bars why are we leaving truck stops in there?

Rep. Kilichowski: At 12:00 Midnight they can smoke and 12:01 they can't?

Voice Vote amendment. Vote 7 Yes 6 No Absent 0 Passed.

Chairman Wrangham: we have the bill before us as amended.

Rep. Corey Mock: My concern with the bill is the hotels and motels. In response to some of the health issues I think the reason the state should do something through the State Health Department and I don't think anyone is augmenting it that second hand smoke is a health risk. I am thinking about people especially legislatures that are living in hotels and motels. As part of this bill you are saying you cannot smoke in your own home. Many workers in the western part of the state are living in hotels. I would move to remove the overstrike on hotels, motels and other places of lodging.

Motion Made By Rep. Corey Mock to remove the overstrike on hotels, motels as an amendment. Seconded By Rep. Kretschmar

Rep. Kretschmar: I think this is kind of a home for people and it is in private and not out in the public. I think the bill should apply to all public areas. Allow the hotel manager to set up smoking rooms.

Rep. Conrad: The ventilation systems do not take care of smoke. It was for health reasons that are why it was put in there for second hand smoke.

Rep. Headland: I will not support that amendment either. If the issue is health then this bill really doesn't address it properly. If the issue is health then we should be looking at a bill that completely bans the sale and use of tobacco products in the state. Anything less than that isn't proper because you are not protecting everybody's health. Here you are always leaving alternatives and I think there is reason when we put out the smoking ban in prior session we knew we needed alternatives for people that smoke. This is a very small area where people can continue to smoke so I again will reject the bill and for that reason I will reject the amendments.

Rep. Klemin: I think I agree with the amendments. As far as the testimony from the truckers; a lot of them smoke and they live away from home. I know they are special rooms and that smoke travels through the ventilation systems, but it is not too significant.

Chairman Wrangham: We have an amendment to remove the overstrike on line 16 and 17.

Vote: 6 No 7 Yes Failed

Motion Made By Rep. Zaiser to propose a hothouse amendment. I want to propose that all cigarette smoking other than in their own property shall be prohibited. Seconded by Rep. Kilichowski:

Vote 2 Yes 11 No Failed.

Chairman Wrangham: We have a bill before us with two amendments on there. One changes January 1, 2010.

Rep. Headland Made A Motion Do Not Pass As amended; Seconded by Rep. Hatlestad

Rep. Koppelman: I think our Vice Chairman has summed it up well. The reason I opposed Rep. Zaiser's amendment is that we don't have a force and we would have to have a hearing on that since it would draw a lot of interest and number three what about second hand smoke in homes? I want to mention two things that really struck me during testimony. I did support the bill we passed earlier and it was a tough decision for me a couple of years ago to ban smoking in restaurants and public places etc. We have gotten to the place in ND where smoking is very confined and limited and there are only places where we can do it. If we want to address it from a health issue lets ban it. Testimony we heard in committee from a Ms. Dickerson said I have been fighting this bill myself and for my business for the past eight years. I sat in the 2001 committee meeting where former Rep. Mike Gross introduced the bill and said cigarette smoke is so bad for people than why are we not banning the sale of cigarettes. I sat in the meeting flabbergasted that the only opponents of this bill were the

Health Association and medical association. If smoking is so bad why worry about the small percentage of places to ban smoking. I think the ultimate issue is to ban smoking. I asked the question of one of the people testifying for the bill during the hearing and she testified; their goal is to totally eliminate exposure to second hand smoke. The only place then that anyone could smoke then would be in their own home if no one else ever entered that building before someone else came in and no one else smoked or in their own car. So I am going to refuse to support the bill for that reason.

Rep. Conrad: It is an addiction. We can't address it in that manner because of this. We need education and treatment.

Rep. Headland: this bill is a feel good bill. Beyond that I don't think anyone really understands the possible implications of passing this. This bill won't allow anything that cannot be done in any political subdivision today. For those types of reasons I am going to support the do not pass.

Rep. Kretschmar: I think we are getting a little away from the bill when we talk about banning smoking in all of ND. This bill doesn't prohibit smoking. It allows smoking in certain places. In current law it is banned in every other place other than liquor establishments. Two cities on our eastern border Fargo and West Fargo has banned it by city ordinance. I don't know what Bismarck's ordinance says but a variety of non smoking is in establishments. It is difficult in our rural communities where the city council to go against the wishes of a bar. They look to the state for guidance. If this does pass and there is no smoking; but liquor industry in ND is one of our most regulated industries. We tell them what hours to be open, we tell them who they can serve and not serve; we tell them a lot and this is just one more thing to do. My friend a bar owner who is a smoker is against this bill. I talked to numerous patrons of that bar,

including a lady that works in there. They want non smoking in the bar. I am going to support the bill.

Vote: 8 Yes 5 NO 0 Absent Carrier: Rep. Headland

Hearing closed.

Prepared by the Legislative Council staff for
Representative Kingsbury
February 2, 2009

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1213

Page 1, line 2, after "employment" insert "; and to provide an effective date"

Page 2, after line 16, insert:

"**SECTION 2. EFFECTIVE DATE.** This Act becomes effective on January 1, 2011."

Renumber accordingly

Date: 2/16
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1213

House Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number .0102

Action Taken DO PASS DO NOT PASS (AS AMENDED)

Motion Made By Rep. Conrad Seconded By Rep. Klemin

Representatives	Yes	No	Representatives	Yes	No
Rep. Dwight Wrangham, Chairman			Rep. Kari Conrad		
Rep. Craig Headland, Vice Chairman			Rep. Jerry Kelsh		
Rep. Patrick Hatlestad			Rep. Robert Kilichowski		
Rep. Nancy Johnson			Rep. Corey Mock		
Rep. Lawrence Klemin			Rep. Steve Zaiser		
Rep. Kim Koppelman					
Rep. William Kretschmar					
Rep. Vonnie Pietsch					

Total (Yes) _____ No _____

Absent _____

Carrier: _____

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

withdrawn

#1

90468.0102
Title.

Prepared by the Legislative Council staff for
Representative Kingsbury
February 2, 2009

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1213

Page 1, line 2, after "employment" insert "; and to provide an effective date"

Page 2, after line 16, insert:

"**SECTION 2. EFFECTIVE DATE.** This Act becomes effective on ~~January~~ Sept 1, 201Ø.

Renumber accordingly

Date: 2/16
Roll Call Vote #: 2

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1213

House Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number .0102

Action Taken DO PASS DO NOT PASS AS AMENDED

Motion Made By Rep. Conrad Seconded By Rep. Klemin

Representatives	Yes	No	Representatives	Yes	No
Rep. Dwight Wrangham, Chairman		✓	Rep. Kari Conrad	✓	
Rep. Craig Headland, Vice Chairman		✓	Rep. Jerry Kelsh	✓	
Rep. Patrick Hatlestad		✓	Rep. Robert Kilichowski		✓
Rep. Nancy Johnson	✓		Rep. Corey Mock	✓	
Rep. Lawrence Klemin	✓		Rep. Steve Zaiser	✓	
Rep. Kim Koppelman		✓			
Rep. William Kretschmar	✓				
Rep. Vonnie Pietsch		✓			

Total (Yes) 7 No 6

Absent 0

Carrier: ✓

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

Amend to Jan 1, 2010

Date: 2/16
Roll Call Vote #: 3

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1213

House Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number move to strike hotel + Motels

Action Taken DO PASS DO NOT PASS AS AMENDED

Motion Made By Rep. Seconded By Rep.

Representatives	Yes	No	Representatives	Yes	No
Rep. Dwight Wrangham, Chairman		✓	Rep. Kari Conrad		✓
Rep. Craig Headland, Vice Chairman		✓	Rep. Jerry Kelsh	✓	
Rep. Patrick Hatlestad		✓	Rep. Robert Kilichowski		✓
Rep. Nancy Johnson		✓	Rep. Corey Mock	✓	
Rep. Lawrence Klemin	✓		Rep. Steve Zaiser	✓	
Rep. Kim Koppelman		✓			
Rep. William Kretschmar	✓				
Rep. Vonnie Pietsch	✓				

Total (Yes) 6 No 7

Absent

Carrier: ✓

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

Failed

Prepared by the Legislative Council staff for
Representative Weiler
February 2, 2009

#1

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1213

Page 1, line 1, after "Act" insert "to create and enact a new section to chapter 57-38 and a new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota Century Code, relating to an individual and corporate income tax credit for expenditures by bar or restaurant owners to comply with smoking restrictions imposed by state law or local ordinance;"

Page 1, line 2, after "employment" insert "; and to provide an effective date"

Page 2, after line 16, insert:

"**SECTION 2.** A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

Income tax credit for bar or restaurant alterations to comply with smoking restrictions imposed by state law or local ordinance. A taxpayer is entitled to a credit against the tax determined under section 57-38-29, 57-38-30, or 57-38-30.3 in the amount of any expenditure by the taxpayer after June 30, 1999, for structural changes or heating, cooling, or air-handling systems intended by the taxpayer as the owner of a bar or restaurant, or both, to meet requirements of state law or local ordinance regarding prevention of airflow from an area in which smoking was permitted to an area in which smoking was not permitted by state law or local ordinance.

SECTION 3. A new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota Century Code is created and enacted as follows:

Bar or restaurant alterations to comply with smoking restrictions credit under section 1 of this Act.

SECTION 4. EFFECTIVE DATE. Sections 2 and 3 of this Act are effective for taxable years beginning after December 31, 2008."

Renumber accordingly

Date: 2/16
Roll Call Vote #: 4

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1213

House Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS DO NOT PASS AS AMENDED

Motion Made By Rep. Zaiser Seconded By Rep. Kilichowski

Representatives	Yes	No	Representatives	Yes	No
Rep. Dwight Wrangham, Chairman		✓	Rep. Kari Conrad		✓
Rep. Craig Headland, Vice Chairman		✓	Rep. Jerry Kelsh		✓
Rep. Patrick Hatlestad		✓	Rep. Robert Kilichowski	✓	
Rep. Nancy Johnson		✓	Rep. Corey Mock		✓
Rep. Lawrence Klemin		✓	Rep. Steve Zaiser	✓	
Rep. Kim Koppelman		✓			
Rep. William Kretschmar		✓			
Rep. Vonnie Pietsch		✓			

Total (Yes) 2 No 11

Absent _____

Carrier: _____

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

Hog House

Failed

90468.0103
Title.0200

Adopted by the Political Subdivisions Committee
February 16, 2009

VR
2/16/09

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1213

Page 1, line 2, after "employment" insert "; and to provide an effective date"

Page 2, after line 16, insert:

"**SECTION 2. EFFECTIVE DATE.** This Act becomes effective on January 1, 2010."

Renumber accordingly

Date: 2/16
Roll Call Vote #: 5

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1213

House Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number .0102

Action Taken DO PASS DO NOT PASS AS AMENDED

Motion Made By Rep. C Headland Seconded By Rep. P Hatlestad

Representatives	Yes	No	Representatives	Yes	No
Rep. Dwight Wrangham, Chairman	✓		Rep. Kari Conrad		✓
Rep. Craig Headland, Vice Chairman	✓		Rep. Jerry Kelsh	✓	
Rep. Patrick Hatlestad	✓		Rep. Robert Kilichowski	✓	
Rep. Nancy Johnson		✓	Rep. Corey Mock		✓
Rep. Lawrence Klemin		✓	Rep. Steve Zaiser	✓	
Rep. Kim Koppelman	✓				
Rep. William Kretschmar		✓			
Rep. Vonnie Pietsch	✓				

Total (Yes) 8 No 5

Absent 0

Carrier: Rep. Headland

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

REPORT OF STANDING COMMITTEE

HB 1213: Political Subdivisions Committee (Rep. Wrangham, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (8 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HB 1213 was placed on the Sixth order on the calendar.

Page 1, line 2, after "employment" insert "; and to provide an effective date"

Page 2, after line 16, insert:

"**SECTION 2. EFFECTIVE DATE.** This Act becomes effective on January 1, 2010."

Renumber accordingly

2009 TESTIMONY

HB 1213

HB 1213

#9

Mr. Chairman, members of the Committee.

My name is Joyce Kingsbury, I represent District 16, Walsh and part of Pembina County

HB 1213 would remove Bars, Motel and Hotel rooms from the exemptions in NDCC 23-12-10. I am bringing this bill forward at the request of constituents, bar owners and patrons.

This is not my first attempt at restricting the public's exposure to secondhand smoke. When I introduced a bill in 2001, California had been smoke-free for ten years and had eye-opening statistics pertaining to reduction of health care costs to the state. One by one, states and entire countries have gone smoke-free.

As many cities and towns, the state of North Dakota continues to take baby steps in fighting a giant-size health problem.

Accompanying the growth of smoke-free laws nationwide has been a parallel increase in false allegations that smoke-free laws will hurt local economies and businesses.

Numerous analyses show that smoke-free laws do not hurt restaurant and bar patronage, employment, sales or profits. The laws tend to have no effect and sometimes even produce slightly positive trends.

This is about the workplace and the workers. One can argue that folks have a choice whether to work in a smoking environment or not. Often in smaller communities there are limited part-time job opportunities and it is tempting to take the risk.

The attitude of the public has changed dramatically to reflect a growing viewpoint that the involuntary exposure of non-smokers to secondhand smoke is unacceptable.

The need for restrictions on smoking in enclosed public places is now widely accepted in the U.S. And states are requiring smoke-free environments for nearly all enclosed public places, including restaurants, bars and casinos.

When a hotel or motel has certain rooms designated as smoking, those rooms are constantly saturated, making the housekeepers vulnerable to dangerous levels of residue from the secondhand smoke. Eliminating smoking in indoor spaces fully protects nonsmokers from exposure to secondhand smoke. Separating smokers from nonsmokers, cleaning the air and ventilating buildings cannot eliminate exposures of nonsmokers to secondhand smoke.

Please consider a Do Pass for HB 1213 for healthy workplaces in our great state.

Thank you. I would answer any questions.

#2

Testimony
House Bill 1213
House Political Subdivisions Committee
Thursday, January 29, 2009; 2.p.m.
North Dakota Department of Health

Good afternoon, Chairman Wrangham and members of the Political Subdivision Committee. My name is Terry Dwelle, and I am the State Health Officer with the North Dakota Department of Health. I am here to testify in support of House Bill 1213.

Secondhand smoke is a mixture of the smoke given off by the burning ends of cigarettes, pipes or cigars and the smoke exhaled from the lungs of smokers. Secondhand smoke also is called environmental tobacco smoke, and exposure to secondhand smoke is called involuntary or passive smoking. Secondhand smoke contains more than 50 known cancer-causing poisons and 250 toxins and releases 4,000 chemicals into the air after a cigarette is lit. Comprehensive smoke-free policies clear the air of these cancer-causing chemicals and toxins.

Eighty percent of North Dakotans do not smoke. According to a 2006 survey, 65.6 percent of North Dakota adults strongly or somewhat supported expanding the smoke-free law to prohibit smoking in all workplaces, including bars and lounges.

Health Effects of Secondhand Smoke

Over the past 20 years, many scientific studies have shown the dangers associated with secondhand smoke, including lung cancer, heart attacks, respiratory illnesses and asthma. The 2006 U.S. Surgeon General's report on *The Health Consequences of Involuntary Exposure to Tobacco Smoke* concluded that there is "no risk-free level of exposure to secondhand smoke." A summary of the Surgeon General's report is included with my testimony.

Breathing secondhand smoke for even a short time can have immediate adverse effects on the cardiovascular system and interferes with the normal functioning of the heart, blood and blood vessels in ways that increase the risk of a heart attack. According to the Surgeon General's report, nonsmokers who are exposed to secondhand smoke increase their risk of developing heart disease by 25 percent to 30 percent and increase their risk of developing lung cancer by 20 percent to 30 percent.

On July 1, 2003, the city of Pueblo, Colo., enacted a comprehensive indoor smoke-free ordinance. According to a recent study reported in the U.S. Centers

for Disease Control and Prevention's *Morbidity and Mortality Weekly Report* (Jan. 2, 2009), hospital admissions resulting from heart attacks have decreased by 41 percent in Pueblo since the ordinance was implemented. The conclusion of the study is that smoke-free laws likely reduce heart attack hospitalizations both by reducing secondhand smoke exposure among nonsmokers and by reducing smoking, with the first factor making the larger contribution.

According to the Campaign for Tobacco Free Kids, 110 adult nonsmokers in North Dakota die each year due to exposure to secondhand smoke.

The Surgeon General's 2006 report concludes that separating smokers from nonsmokers, cleaning the air and ventilating buildings cannot eliminate exposure. Smoke-free policies are the only effective way to eliminate secondhand smoke exposure in the workplace.

Conclusion

In conclusion, studies show that secondhand smoke exposure is harmful. Smoke-free policies are an effective way to protect workers from the dangerous chemicals in secondhand smoke.

This concludes my testimony. I am happy to answer any questions you may have.

CDC | CDC Home | Search | Health Topics A-Z

MMWR

Weekly

January 2, 2009 / 57(51);1373-1377

Reduced Hospitalizations for Acute Myocardial Infarction After Implementation of a Smoke-Free Ordinance --- City of Pueblo, Colorado, 2002--2006

Exposure to secondhand smoke (SHS) has immediate adverse cardiovascular effects, and prolonged exposure can cause coronary heart disease (*1*). Nine studies have reported that laws making indoor workplaces and public places smoke-free were associated with rapid, sizeable reductions in hospitalizations for acute myocardial infarction (AMI) (*2--7*). However, most studies examined hospitalizations for 1 year or less after laws were implemented; thus, whether the observed effect was sustained over time was unknown. The Pueblo Heart Study examined the impact of a municipal smoke-free ordinance in the city of Pueblo, Colorado, that took effect on July 1, 2003 (*3*). The rate of AMI hospitalizations for city residents decreased 27%, from 257 per 100,000 person-years during the 18 months before the ordinance's implementation to 187 during the 18 months after it (the Phase I post-implementation period).* This report extends that analysis for an additional 18 months through June 30, 2006 (the Phase II post-implementation period). The rate of AMI hospitalizations among city residents continued to decrease to 152 per 100,000 person-years, a decline of 19% and 41% from the Phase I post-implementation and pre-implementation period, respectively. No significant changes were observed in two comparison areas. These findings suggest that smoke-free policies can result in reductions in AMI hospitalizations that are sustained over a 3-year period and that these policies are important in preventing morbidity and mortality associated with heart disease. This effect likely is mediated through reduced SHS exposure among nonsmokers and reduced smoking, with the former making the larger contribution (*4,6,7*).

Two control sites were selected for comparison with the city of Pueblo: 1) the area of Pueblo County outside the city of Pueblo limits and 2) El Paso County, including Colorado Springs, the most populous city in this county. The city of Pueblo and Colorado Springs are located approximately 45 miles apart (Figure 1). Neither of the control sites had smoke-free laws in place before or during the study periods. Based on data from the Behavioral Risk Factor Surveillance System, the adult smoking prevalence for Pueblo County (including the city of Pueblo) and El Paso County during 2002--2003 was 25.9% (95% confidence interval [CI] = 20.2%--31.6%) and 17.4% (CI = 14.5%--20.2%), respectively. The corresponding prevalences for 2004--2005 were 20.6% (CI = 15.4%--25.8%) and 22.3% (CI = 19.3%--25.4%). Separate smoking prevalence estimates were not available for the city of Pueblo.

Persons with recognized AMIs that occur in the city of Pueblo and Pueblo County receive care at two hospitals, Parkview Medical Center and St. Mary-Corwin Medical Center, both located within the

city of Pueblo. Persons with recognized AMIs that occur in El Paso County receive care at two other hospitals, Penrose Hospital and Memorial Hospital, both located in Colorado Springs. Data on AMI hospitalizations were drawn from electronic Colorado Hospital Association administrative data. These data included admission date, primary diagnosis code (based on *International Classification of Diseases, Ninth Revision* codes 410.0--410.9), sex, age, postal code of residence, and hospital name. No other patient-level data, including smoking status, were available. U.S. Census Bureau population data for 2006 were used as denominators in calculating AMI hospitalization rates. A more extensive description of the study's methodology has been published previously (*3*). AMI hospitalization rates among residents of the city of Pueblo, the area of Pueblo County outside the city of Pueblo limits, and El Paso County were compared across three periods: 0--18 months before the smoke-free law took effect (pre-implementation period), 0--18 months after this date (Phase I, post-implementation period), and 19--36 months after this date (Phase II, post-implementation period), for a total of 54 months. Rates were compared between periods using a chi-square test. Relative rates (RRs) were calculated as the ratios of AMI rates between two periods. Data presented in this report were not adjusted for seasonality because a season-adjusted analysis of Phase I versus the pre-implementation period found that the adjustment did not significantly change the findings (*3*).

During Phase II, AMI hospitalizations among residents of the city of Pueblo continued to decrease (Figure 2). AMI hospitalization rates differed significantly across all three periods within the city of Pueblo ($p<0.001$). The rate of AMI hospitalization among residents in the city of Pueblo in the Phase II post-implementation period was 152 per 100,000 person-years, compared with 187 per 100,000 person-years in the Phase I post-implementation period, for an RR of 0.81 (CI = 0.67--0.96) (Table). In contrast, no significant change was observed for residents of the area of Pueblo County outside the city of Pueblo limits (139 per 100,000 person-years versus 115 per 100,000 person-years; RR = 1.21 [CI = 0.80--1.62]) or for residents of El Paso County (149 per 100,000 person-years versus 150 per 100,000 person-years; RR = 0.99 [CI = 0.91--1.08]) during the same period. The RR for AMI hospitalizations in the city of Pueblo in the Phase II post-implementation period compared with the pre-implementation period (rate = 257 per 100,000 person-years) was 0.59 (CI = 0.49--0.70). In contrast, RRs for the area of Pueblo County outside the city of Pueblo limits and for El Paso County for the same period were 1.03 (CI = 0.68--1.39) and 0.95 (CI = 0.87--1.03), respectively; the pre-implementation period rates were 135 per 100,000 person-years and 157 per 100,000 person-years, respectively. Within each site, the distribution of AMI patients by age and sex was unchanged over time.

To further examine whether the change in AMI rates could be attributed to pre-existing secular trends, AMI rates were examined for all three sites for three 18-month periods immediately preceding the pre-implementation phase. No statistically significant secular trend occurred in any of the three sites before July 1, 2003.

To ensure that the observed change in the city of Pueblo was not attributable to undercounting fatal AMIs post-implementation, the number of AMI deaths for the city of Pueblo were obtained from the Health Statistics Section of the Colorado Department of Public Health and Environment. After accounting for AMI deaths in a conservative manner (by assuming that all fatal AMIs occurred in patients who failed to reach the hospital) and adding these numbers to the hospital AMI admission data, the RR for the city of Pueblo remained statistically significant at 0.82 (CI = 0.64--0.97) from the Phase II to Phase I post-implementation periods and at 0.66 (CI = 0.55--0.77) from Phase II post-implementation to the pre-implementation period.

Reported by: *RN Alsever, MD, Parkview Medical Center; WM Thomas, PhD, St. Mary-Corwin Medical Center; C Nevin-Woods, DO, R Beauvais, S Dennison, R Bueno, Pueblo City-County Health Dept; L Chang, PhD, Colorado State Univ-Pueblo; CE Bartecchi, MD, Univ of Colorado School of*

Medicine. S Babb, MPH, A Trosclair, MS, M Engstrom, MS, T Pechacek, PhD, R Kaufmann, PhD, Office on Smoking and Health, National Center for Chronic Disease Prevention and Health Promotion, CDC.

Editorial Note:

Evidence from animal and human studies indicates that SHS exposure can produce rapid adverse effects on the functioning of the heart, blood, and vascular systems that increase the risk for a cardiac event (*1*). Relevant mechanisms include effects on platelet function, endothelial function, and inflammation. Epidemiologic and laboratory data indicate that the risk for heart disease and AMI increase rapidly with relatively small doses of tobacco smoke, such as those received from SHS, and then continue to increase more slowly with larger doses (*1,8,9*). Evidence also suggests that the acute effects of SHS exposure might be rapidly reversible (*8,9*).

Eliminating smoking in indoor spaces is the only way to fully protect nonsmokers from SHS (*1*). Previous studies have found that SHS exposure decreases substantially among nonsmoking employees of restaurants and bars and among nonsmoking adults in the general public after implementation of smoke-free laws (*1,5,7,10*). Compliance with smoke-free laws typically reaches high levels rapidly and then increases further over time (*1,5*). In addition, smoke-free laws are associated with increased adoption of no-smoking rules in private homes (*1,10*). Smoke-free policies have been found to prompt some smokers to quit smoking (*1*); because active smoking is a major risk factor for heart disease and AMI, this effect also would be expected to reduce heart disease and AMI rates at a population level. The continued decrease in AMI hospitalizations observed in this study might be a result of a combination of 1) the immediate reduction in SHS exposure among nonsmokers that occurred when the city of Pueblo smoke-free ordinance was implemented, 2) further reductions in this exposure that occurred because of increased compliance with the ordinance and increased adoption of smoke-free home rules over time, and 3) increased quitting among smokers as a result of the ordinance and associated changes in social norms.

In addition to the previous study conducted in the city of Pueblo (*3*), eight other published studies have reported that smoke-free laws were associated with rapid, sizeable reductions in hospitalizations for AMI (*2,4--7*). The current study adds to the previous evidence by documenting this effect in a relatively large population and by demonstrating that the effect was sustained over an extended period. A meta-analysis of seven of the previous eight studies and one unpublished study yielded a pooled estimate of a 19% (CI = 14%--24%) reduction in AMI hospitalization rates after implementation of smoke-free laws (*2*). Three studies have suggested that these reductions are more pronounced among nonsmokers than among smokers (*4,6,7*). For example, one study that included objective confirmation of patients' smoking status reported reductions of 21%, 19%, and 14% in the number of hospitalizations for acute coronary syndrome among never smokers, former smokers, and current smokers, respectively, in the year after implementation of a comprehensive national smoke-free law, with the decrease in hospitalizations among nonsmokers accounting for 67% of the total decrease (*7*).

The findings in this report are subject to at least four limitations. First, because no data were available on whether study subjects were nonsmokers or smokers, determining what portion of the observed decrease in hospitalizations was attributable to reduced SHS exposure among nonsmokers and what portion was attributable to increased quitting among smokers was not possible. The prevalence of smoking decreased in Pueblo County as a whole, but the difference over time was not statistically significant. Second, the study did not directly document reductions in SHS exposure among nonsmokers after the city of Pueblo smoke-free law took effect, although studies elsewhere have

reported such reductions (*1,5,7,10*). Third, individual residences were assigned based on postal codes, which might have resulted in a small amount of misclassification (*3*); however, misclassifying residents' exposure to the city of Pueblo smoke-free ordinance would result in underestimating the effect of this ordinance. In addition, residents of the area of Pueblo County outside the city of Pueblo limits might work in workplaces or patronize restaurants or bars in the city of Pueblo, or vice versa; again, this would bias findings toward the null. Finally, the ecologic nature of this study precludes definite conclusions about the extent to which the observed decline in AMI hospitalizations in the city of Pueblo was attributable to the smoke-free ordinance. To the extent that any unmeasured factors influenced rates, the findings described in this report might overestimate or underestimate the actual effect. AMI hospitalization rates initially were substantially higher in the city of Pueblo than in the two comparison areas, suggesting that these areas might not be fully comparable to the intervention site because of demographic and other differences. However, no significant changes in the manner in which AMI patients were diagnosed, treated, or transported occurred in the three study sites during the study period. Future studies could further expand the evidence base by including information on the smoking status of AMI patients and biomarkers (e.g., cotinine and troponin) for objective measurement of SHS exposure and case ascertainment, as was done in one recent study (*7*).

The Phase I study findings suggested that the city of Pueblo's smoke-free ordinance led to a rapid decrease in AMI hospitalizations. The findings described in this report suggest that the initial decrease in AMI hospitalizations observed immediately after the implementation of comprehensive smoke-free laws continued over time. These findings provide support for considering smoke-free policies an important component of interventions to prevent heart disease morbidity and mortality.

Acknowledgments

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* Some of the AMI hospitalization admission figures, AMI hospitalization admission rates, relative rates, and relative rate confidence intervals calculated for this analysis differ from those previously published (*3*) because of receipt of routinely amended coding data from the Colorado Hospital Association.

Figure 1

FIGURE 1. Pueblo smoke-free area, comparison areas, and hospitals treating acute myocardial infarction patients — Pueblo Heart Study, January 2002–June 2006

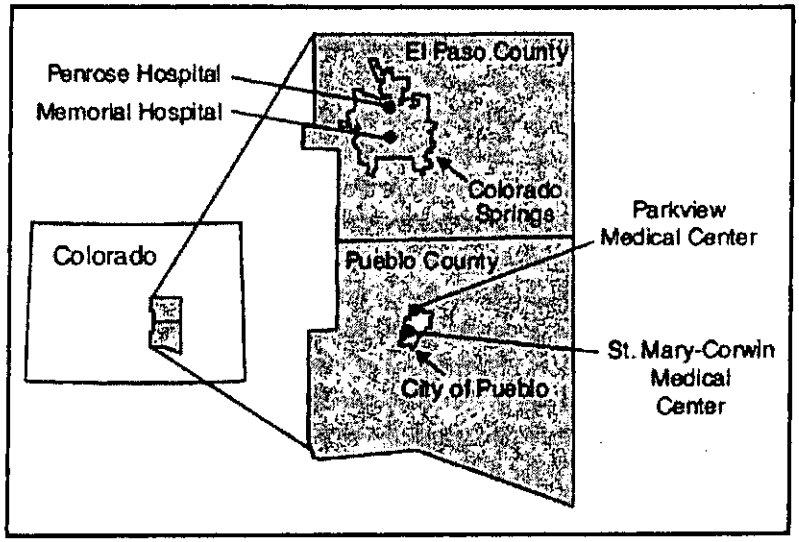

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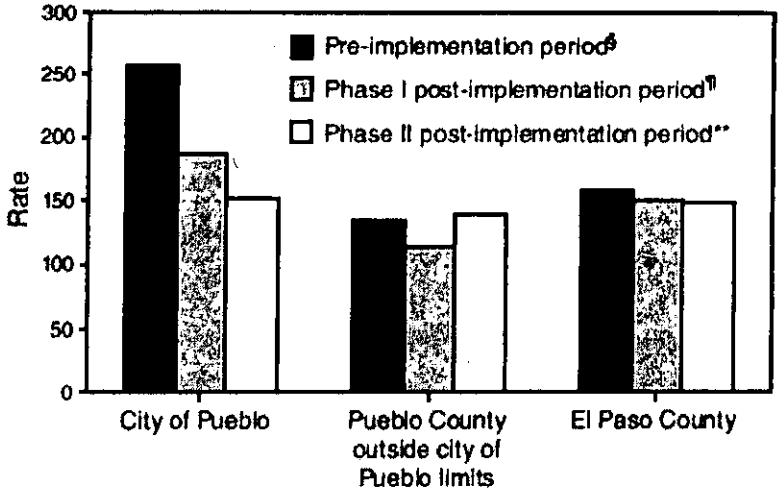
Figure 2

FIGURE 2. Rate* of hospitalizations for acute myocardial infarction before and after smoking ordinance, by area and period — city of Pueblo, Pueblo County outside city of Pueblo limits, and El Paso County, Pueblo Heart Study, January 2002–June 2006†



* Per 100,000 person-years. Based on U.S. Census Bureau population data for 2006.

† Because of receipt of routinely amended coding data from the Colorado Hospital Association, certain data points for the pre-implementation and Phase I post-implementation periods differ from those published previously (Bartecchi C, Alsever RN, Nevin-Woods C, et al. Reduction in the incidence of acute myocardial infarction associated with a citywide smoking ordinance. Circulation 2006;114:1490–6).

§ January 2002–June 2003.

¶ July 2003–December 2004.

** January 2005–June 2006.

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Table

TABLE. Number and rate* of hospitalizations for acute myocardial infarction (AMI) before and after smoking ordinance, by sex and area — city of Pueblo, Pueblo County outside city of Pueblo limits, and El Paso County, Pueblo Heart Study, January 2002–June 2006†

	Pre-implementation period§		Phase I post-implementation period¶		Phase II post-implementation period**		Relative rate (RR) for AMI (Phase I vs. pre-implementation)	Relative rate for AMI (Phase II vs. Phase I)	Relative rate for AMI (Phase II vs. pre-implementation)
Area	No.	Rate	No.	Rate	No.	Rate	RR (95% CI††)	RR (95% CI)	RR (95% CI)
City of Pueblo (intervention area)									
Male	233	150	175	113	157	101	0.75 (0.61–0.90)	0.90 (0.69–1.10)	0.67 (0.52–0.82)
Female	166	107	116	75	80	51	0.70 (0.53–0.87)	0.68 (0.51–0.87)	0.48 (0.36–0.60)
Total	399	257	291	187	237	152	0.73 (0.64–0.82)	0.81 (0.67–0.96)	0.59 (0.49–0.70)
Pueblo County outside city of Pueblo limits (comparison area)									
Male	55	83	55	83	63	95	1.00 (0.58–1.42)	1.15 (0.64–1.65)	1.15 (0.59–1.70)
Female	34	51	21	32	29	44	0.62 (0.28–0.95)	1.38 (0.70–2.06)	0.85 (0.38–1.32)
Total	89	135	76	115	92	139	0.85 (0.56–1.14)	1.21 (0.80–1.62)	1.03 (0.68–1.39)
El Paso County (comparison area)									
Male	872	106	849	103	815	99	0.97 (0.87–1.08)	0.96 (0.84–1.08)	0.93 (0.84–1.03)
Female	427	52	392	47	415	50	0.92 (0.78–1.05)	1.06 (0.90–1.21)	0.97 (0.84–1.10)
Total	1,299	157	1,241	150	1,230	149	0.96 (0.87–1.04)	0.99 (0.91–1.08)	0.95 (0.87–1.03)

* Per 100,000 person-years. Based on U.S. Census Bureau population data for 2006.

† Because of receipt of routinely amended coding data from the Colorado Hospital Association, certain data points for the pre-implementation and Phase I post-implementation periods differ from those published previously (Bartecchi C, Alsever RN, Nevin-Woods C, et al. Reduction in the incidence of acute myocardial infarction associated with a citywide smoking ordinance. Circulation 2006;114:1490–6).

§ January 2002–June 2003.

¶ July 2003–December 2004.

** January 2005–June 2006.

†† Confidence interval.

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#3

Hearing on HB 1213
January 29, 2009

House Political Subdivisions Committee
Statement from Sharon Buhr
President, Tobacco-Free North Dakota
Chair, City-County Health Board
Director, Young People's Healthy Heart Program

Chairman Wrangham and members of the House Political Subdivisions Committee. Thank you for letting me present testimony today.

My name is Sharon Buhr, and I am from Valley City. I currently serve as President of Tobacco-Free North Dakota (TFND), a statewide group of individuals and organizations dedicated to reducing the toll of tobacco addiction on all North Dakotans. I am here to state TFND's support for HB 1213.

I am a volunteer. What drives me to continue to work for a smoke free environment, particularly in places of work, is that I know we can effectively avert future disease, personal suffering, and unnecessary deaths here in North Dakota.

There are more than 40 years of irrefutable science validating my volunteer work -- and proving that secondhand tobacco smoke is toxic, and that it causes disease and death among nonsmokers who are exposed to it. I would like to share a few compelling findings that clearly underscore the need for North Dakota to protect all our citizens in all workplaces (including bars) from secondhand smoke.

Our U.S. Surgeon General, in 2006, declared:

> **"The debate is over. The scientific evidence is now indisputable... Secondhand smoke is not a mere annoyance, but a serious health hazard that causes premature death and disease in children and nonsmoking adults. There is NO risk-free level of exposure to second hand smoke. Even BRIEF exposure can cause immediate harm."**

In fact, secondhand smoke contains more than 4,000 chemicals, including at least 60 carcinogens. The Surgeon General found that secondhand smoke is a proven cause of lung cancer, heart disease, serious respiratory illnesses such as bronchitis and asthma, low birth weight and sudden infant death syndrome. In fact, secondhand smoke is responsible for tens of thousands of deaths in the United States each year. The Surgeon General and the U.S. Centers for Disease Control (CDC) agree that there is no safe level of exposure to secondhand smoke, and only smoke-free laws provide effective protection from secondhand smoke.

When it comes to preventing viral epidemics, food poisoning epidemics, and bioterrorism, we eagerly seek the guidance of the nation's top scientists and doctors at the CDC and the Surgeon General's office, and we gratefully and carefully follow their direction. Tobacco addiction and secondhand-smoke exposure kill more Americans each year than viral

epidemics and bioterrorism combined -- and we must, with equal care, follow the CDC's and the Surgeon General's directions to decrease this menace, as well.

What the CDC is telling us is: "Long-term exposure to secondhand smoke is associated with a 25 percent to 30 percent increased risk of heart disease in adult **non**smokers. Secondhand smoke exposure causes an estimated 46,000 heart disease deaths each year among U.S. nonsmokers." This knowledge should guide us to make secondhand-smoke pollution illegal in **all** indoor workplaces.

From Fargo data we know that when bars went smoke-free the air quality improved measurably and the pollutants decreased to a safe level.

We now have the science to show that we need smoke-free workplaces—to make ALL workplaces smoke free.

Just last month, new research affirmed the validity of smoke-free workplace laws. The CDC released a study showing that heart attack hospitalizations in the city of Pueblo, Colorado fell by 41% after implementation of a municipal law making workplaces and public places smoke-free, and this decrease was sustained over a three-year period. The Pueblo study was actually the ninth such study associating sharply reduced heart-attack hospitalizations with comprehensive smoke-free laws. It is important to note that the researchers also looked at two nearby areas that had not implemented smoke-free ordinances and found no significant decline in heart attack hospitalizations during the same time periods.

On behalf of TFND, I ask you to recognize the over 40 years of convincing scientific evidence which calls for the enactment of HB 1213. Enactment of this bill will reduce tobacco-caused disease, suffering, and deaths among our citizens, AND cut healthcare costs in North Dakota.

Thank you for your time.

Sharon E. Buhr
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701-845-5197

For every eight deaths from active smoking, there is one from secondhand smoke.

—Glantz and Parmley, 1991
—Taylor, Johnson, and Kazemi, 1991

#4

January 29, 2009

HB 1213
Testimony from Vicki Voldal Rosenau
House Political Subdivisions Committee

Good afternoon, Chairman Wrangham and members of the Committee. I am Vicki Voldal Rosenau, from Valley City, and I am speaking on my own behalf today. Thank you for this opportunity to present information in support of HB 1213

HB 1213 WILL HELP RELIEVE THE HEALTHCARE FUNDING CRISIS–

This bill is important to all North Dakotans because its adoption will significantly help to rein-in skyrocketing healthcare costs -- a problem that has reached the crisis level. We as a society, and you as elected policymakers, must take numerous remedial steps to curb healthcare costs, or the human tragedy that is already unfolding in America will soon be a full-blown catastrophe.

HB 1213 represents one of those key steps. Why? Because, by averting future tobacco-caused diseases and averting future tobacco-caused deaths, smoke-free workplace protections like those advanced in HB 1213 will also avert future healthcare expenditures. And the amount of healthcare dollars currently being spent to treat tobacco-caused illnesses is colossal. Each year in North Dakota alone, a whopping $250,000,000 is spent just for the healthcare expenditures that are caused by tobacco use and exposure to secondhand smoke. We all pay taxes to support the critical healthcare that our Medicaid program provides, but we would need to pony up a lot fewer dollars for Medicaid, if only we could remove the tremendous burden that tobacco-caused disease places on that system. Every year, specifically for smoking-related illnesses in North Dakota, **the Medicaid program alone** lays out $47,000,000 ! **[ND Dept. of Health website]**

Smoke-free workplace regulations not only protect everyone from secondhand smoke, they also help many smokers to quit. How do we know that? Well, if we didn't want to believe our own research, we could just refer to the tobacco companies themselves. An internal Philip Morris document clearly reveals why Big Tobacco fights so hard to stop smoke-free laws. They KNOW that people smoke fewer cigarettes—and purchase fewer cigarettes—when smoke-free laws are in place: "Smoking bans are the biggest challenge we have ever faced. Quit rates go from 5 percent to 21 percent when smokers work in nonsmoking environments." [Philip Morris internal document, Bates No. 2054893642/3656]

A remarkable report published by the Society of Actuaries in 2005 dramatically underscores the need to curb secondhand smoke exposure in order to control healthcare and health-insurance costs. I have included a portion of this study, "Economic Effects of Environmental Tobacco Smoke," in the supplemental materials I am sharing with you today. A major conclusion of this paper is that in the United States, the annual costs of excess medical care, mortality and morbidity caused by secondhand smoke **exceed $10 billion**.
[http://www.soa.org/files/pdf/ETSReportFinalDraft(Final%203).pdf]

There is absolutely no doubt that by enacting HB 1213, you will both help smokers get healthier by quitting tobacco, and will prevent costly diseases among nonsmokers who will no longer be exposed to this toxin. It is important to note that those positive effects on health and on the healthcare-funding crisis **will increase over time**. This is how Dr. Stan Glantz, a cardiology professor at the University of San Francisco and a world-renowned researcher, sums it up:

> "In the United States, the first thing that will happen with a smoking ban is that the number of people having heart attacks will drop by about 20 percent ... The laws' popularity will grow over time, and people will quit smoking or cut down on their smoking, which is why the tobacco companies are so hysterical about these laws."

The same smoke-free laws that make tobacco companies hysterical make all the rest of us ecstatic, because those laws will play a helpful role in getting the healthcare crisis under control.

HB 1213 WILL NOT REDUCE BAR/HOSPITALITY REVENUES IN NORTH DAKOTA –

It is important to point out that, while a stronger smoke-free workplace law will reduce healthcare costs, it will NOT reduce business owners' revenues. The tobacco industry, armed with their unlimited bank accounts, have worked very hard to create and perpetuate the myth that bars and restaurants would lose profits after going smoke-free. But it is a ruse. The 1998 legal settlements between states and cigarette companies publicly released many internal documents delineating the nationwide legislative strategy of cigarette giant Philip Morris and the Tobacco Institute. Those internal documents revealed the cigarette industry's devious strategy to methodically scare the hospitality industry into believing that their businesses would lose revenue if smoke-free workplace laws were enacted. Big Tobacco's goal was to recruit the hospitality industry to aggressively lobby against smoke-free workplace legislation in every state, based on those false fears.

FACTS VS. FEARS -- While all objective studies (using official tax filings of hospitality businesses) have found that revenues either increased or remained the same following the implementation of smoke-free laws, the cigarette industry has funded and widely publicized dozens of unscientific push polls falsely claiming that smoke-free laws caused business losses in the hospitality industry. There is a mountain of genuine fact-based (as opposed to opinion-based) research proving that smoke-free laws do not cause bars, restaurants, etc. to lose business. Near the top of that mountain are the findings of the nation's leading scientists as released in the landmark 2006 ***"Report of the Surgeon General on the Health Consequences of Involuntary Exposure to Tobacco Smoke."*** The Surgeon General found that: "Evidence from peer-reviewed studies shows that smoke-free policies and regulations do not have an adverse economic impact on the hospitality industry."

In community after community, and in state after state, objective studies of businesses' tax receipts published the same conclusion: Either neutral or positive economic impacts follow implementation of smoke-free bar laws.

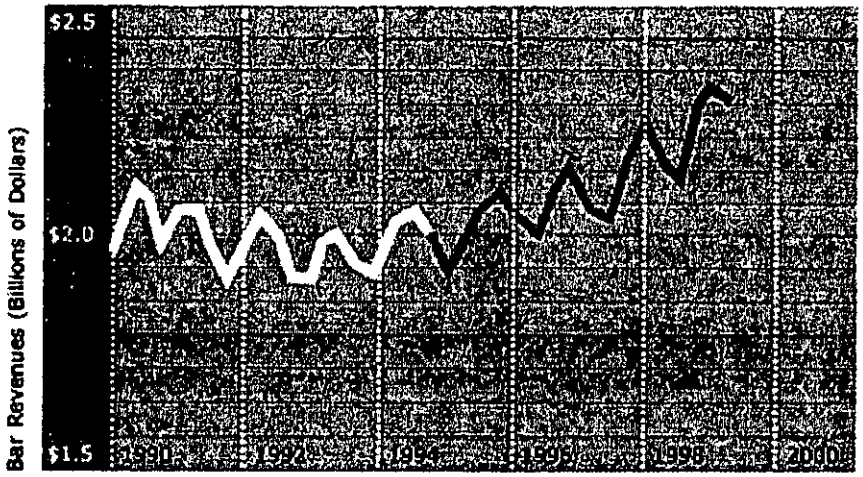
For example, in 2005, Washington State voters overwhelmingly passed "I-901," an initiated measure that made all restaurants, bars, nightclubs, taverns, bowling centers, and casinos 100% smoke-free. Did the bar industry in Washington bite the dust? No, just the opposite. Washington Department of Revenue data collected across several years found that the average growth rate for bars and taverns actually was stronger in the two years after "I-901" than in the years preceding the ballot initiative.

In New York City, a study released one year after the city implemented its comprehensive smoke-free workplace ordinance (in 2003) found that:

- Business tax receipts in restaurants and bars were **up 8.7%,**
- Employment in restaurants and bars **increased by 10,600 jobs,**
- Air quality in bars and restaurants **improved dramatically,**
- **150,000 fewer New Yorkers were exposed to secondhand smoke** on the job, and
- New Yorkers **overwhelmingly supported** the law.

The New York report stated: "One year later, the data are clear. . . Since the law went into effect, business receipts for restaurants and bars have increased, employment has risen, virtually all establishments are complying with the law, and the number of new liquor licenses issued has increased—all signs that New York City bars and restaurants are prospering." [March 2004 report issued by the New York City Department of Finance, Department of Health and Mental Hygiene, Department of Small Business Services, and Economic Development Corporation]

Likewise, in California, hospitality industry revenue flourished following smoke-free law implementation:



With seasonal fluctuations occurring as usual, revenues from California restaurant bars and free-standing bars continued to climb after restaurants became smoke-free in mid-1994 (light blue) and after free-standing bars went smoke-free in 1998 (dark blue). [University of Southern Califronia's "Tobacco Scam" project: http://tobaccoscam.ucsf.edu/fake/fake_sdl.cfm]

If you are interested in reviewing a much longer list of *bona fide* studies on the economic impact of smoke-free bar laws, you can visit: http://www.tobaccoscam.ucsf.edu/fake/fake_sdl_studies.cfm

Finally, publicly-released company documents once again seal the argument by exposing the tobacco industry's own lies about imaginary business losses. I quote David Laufer, Regional Director of Government Affairs at Philip Morris:

> "The economic arguments which only a year ago prevented a ban in Los Angeles and San Francisco, are losing the ability to persuade, as more and more communities, small and large, have banned smoking **without apparent economic effect** (Glantz' 'studies' are still more credible to the media and elected officials than restaurateurs' anecdotal accounts of lost business)." [Bates #: 2065532834/2835 http://legacy.library.ucsf.edu/tid/mjs43a00]

So, the truth is that the only recipient of negative economic impact from adoption of HB 1213 will be Big Tobacco, because they'll sell fewer cigarettes. In the industry's own words:

> "The immediate implication for our business is clear: if our consumers have fewer opportunities to enjoy our products, they will use them less frequently and the result will be an adverse impact on our bottom line." [Philip Morris internal document, Bates No. 2041183751/3790]
>
> "If smokers can't smoke on the way to work, at work, in stores, banks, restaurants, malls and other public places, they are going to smoke less. Overall cigarette purchases will be reduced and volume decline will accelerate." [Philip Morris. January 14, 1994. Bates No.: 2044333753/3836]

In closing, I'd just like to mention that our neighbors to the south are moving ahead with a comprehensive smoke-free law, too. About a week ago, I read a news story indicating that South Dakota Senate Majority Leader Dave Knudson will sponsor a bill to prohibit smoking in all businesses, including bars, casinos and motel rooms. Sen. Knudson said his bill is what the citizens want, and the article cited a survey showing that almost two-thirds of the people in South Dakota want smoking prohibited in all indoor workplaces. The most recent surveys done in North Dakota show that citizen support for smoke-free bars in our state is at almost exactly that same level. Sen. Knudson also said he thinks that if a comprehensive smoke-free mandate were placed on South Dakota's ballot, citizens would easily pass it.

I urge you to adopt HB 1213, because: (1) it will help more smokers succeed in their quit campaigns; (2) it will protect the public's health without harming anyone's business; and (3) it will curb future healthcare costs in the state of North Dakota and help get the healthcare crisis under control.

Thank you.

Vicki Voldal Rosenau
521 – 4th Ave. NW
Valley City, ND 58072
701-845-4760

NORTH DAKOTA DEPARTMENT OF HEALTH

December 2008

TOBACCO *Facts*

Tobacco's Toll on North Dakota

Health Impacts

Each year, 877 North Dakota adults die prematurely due to the effects of smoking. Tobacco use is the leading preventable cause of death and disability in North Dakota.[1]

- Average annual smoking-attributable deaths among North Dakotans[1]:
  - Cancer – 342
  - Cardiovascular disease – 290
  - Respiratory disease – 245
- Approximately 11,000 North Dakota youth are projected to die prematurely due to smoking.[2]

State Revenue From Cigarette Excise Taxes Collected[3]

2002	$18,595,554
2003	$18,298,320
2004	$18,359,869
2005	$19,519,804
2006	$21,172,230
2007	$21,044,947

Economic Impacts

Each year, North Dakota spends $691 per capita on direct medical expenditures and lost productivity due to smoking.[1]

- Smoking-attributable direct medical expenditures[1]:
  Total **$250,000,000**
  Annual cost per capita $391
- Smoking-attributable productivity costs[1]:
  Total **$192,000,000**
  Annual cost per capita $300
- Medicaid expenditures for smoking-related illnesses and diseases[2]:
  $47,000,000 annually

In summary, North Dakota brings in less than $22,000,000 in revenue annually from cigarette taxes, yet pays out $442,000,000 in direct medical and lost productivity expenditures related to smoking.

[1] U.S. Centers for Disease Control and Prevention CDC. Smoking-Attributable Mortality, Morbidity and Economic Costs (SAMMEC) report, 2008.
[2] CDC Data Highlights, 2006.
[3] North Dakota Tax Department. Office of State Tax Commissioner, Statement of Collections 2002, 2003, 2004, 2005, 2006 and 2007.

NORTH DAKOTA DEPARTMENT of HEALTH

For more information, contact:
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North Dakota Department of Health
600 E. Boulevard Ave., Dept. 301
Bismarck, N.D. 58505-0200
701.328.3138 or 800.280.5512 / www.ndhealth.gov/tobacco

DIVISION of TOBACCO PREVENTION & CONTROL

CA
A Cancer Journal for Clinicians

The Economic Impact of Clean Indoor Air Laws

Michael Eriksen and Frank Chaloupka

CA Cancer J Clin 2007;57;367-378
DOI: 10.3322/CA.57.6.367

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Key excerpts from "CA: A Cancer Journal for Clinicians" --

The Economic Impact of Clean Indoor Air Laws

CA Cancer J Clin 2007; 57:367-378 doi: 10.3322/CA.57.6.367

Michael Eriksen, ScD and Frank Chaloupka, PhD
http://caonline.amcancersoc.org:80/cgi/content/full/57/6/367

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Dr. Chaloupka is Distinguished Professor, Health Policy Center and Department of Economics, University of Illinois at Chicago, Chicago, IL.

This article is available online at http://CAonline.AmCancerSoc.org

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ABSTRACT

Clean indoor air laws are easily implemented, are well accepted by the public, reduce nonsmoker exposure to secondhand smoke, and contribute to a reduction in overall cigarette consumption. There are currently thousands of clean indoor air laws throughout the Unites States, and the majority of Americans live in areas where smoking is completely prohibited in workplaces, restaurants, or bars. **The vast majority of scientific evidence indicates that there is no negative economic impact of clean indoor air policies, with many studies finding that there may be some positive effects on local businesses**. This is despite the fact that tobacco industry-sponsored research has attempted to create fears to the contrary. Further progress in the diffusion of clean indoor air laws will depend on the continued documentation of the economic impact of clean indoor air laws, particularly within the hospitality industry. This article reviews the spread of clean indoor air laws, the effect on public health, and the scientific evidence of the economic impact of implementation of clean indoor air laws.

SUMMARY

Clean indoor air laws creating completely smoke-free environments are rapidly spreading throughout the world and are low-cost, safe, and effective, many of the characteristics associated with rapidly diffusing innovations. Experience to date demonstrates that clean indoor air laws protect nonsmokers from involuntary exposure to secondhand smoke, contribute to a reduction in overall cigarette consumption, protect hospitality workers from adverse respiratory conditions, and are well accepted by the general public. **Contrary to the fears raised by the tobacco industry** and others, comprehensive reviews of research on the economic impact of smoke-free air policies from the Surgeon General,[3] the Task Force on Community Preventive Services,[24] and others[58,59] **consistently conclude that these policies do not have a negative economic impact**. The 2006 Surgeon General's Report, for example, states that "**evidence from peer-reviewed studies shows that smoke-free policies and regulations do not have an adverse economic impact on the hospitality industry**."[3]

PUBLISHED BY THE SOCIETY OF ACTUARIES -- March 31, 2005
http://www.soa.org/files/pdf/ETSReportFinalDraft(Final%203).pdf

"Economic Effects of Environmental Tobacco Smoke"
By Donald F. Behan, Michael P. Eriksen and Yijia Lin

Abstract: Environmental tobacco smoke (ETS) has been shown to be associated with increases in rates of cancer, morbid conditions of the respiratory and cardiovascular system and increases in the rates of spontaneous abortion and perinatal mortality. The authors combine exposure data, data on increased morbidity and medical and indirect cost data, all derived from published reports, to estimate the total economic cost of ETS exposure in the United States. Total annual costs for conditions with well-documented increases in morbidity, excluding economic losses related to pregnancy and the newborn, are estimated at over $5 billion in direct medical costs and over $5 billion in indirect costs.

Executive Summary –

Cigarette smoking has long been identified as a major cause of preventable death and has been factored into underwriting decisions and individual risk ratings. The 2004 Surgeon General's Report (U.S. Dept. of Health and Human Services, 2004) reiterates that over 400,000 Americans die each year as a result of cigarette smoking and that, on average, a smoker loses about 12-13 years of life expectancy.

In this paper the authors combine published data on mortality and morbidity associated with exposure to secondhand smoke with published estimates of medical costs for the related conditions and standard estimates of economic value to derive estimates of the medical and other costs associated with exposure to secondhand smoke. We performed a literature review of the effects of ETS on mortality and morbidity, and on the basis of the available data, we calculated quantitative estimates of total ETS-related excess morbidity and mortality in the U. S. population. As documented in Appendix I, chronic exposure to secondhand smoke has been established as a cause for many of the same diseases caused by active smoking. While the number of deaths caused by chronic exposure to secondhand smoke is substantially less than the number caused by active smoking, the public health concern is elevated because secondhand--smoke deaths are occurring among individuals who have decided not to smoke, and thus their increased risk for disease and death is involuntary. We have also identified areas for consideration by insurance companies that might wish to evaluate the feasibility of using exposure to ETS as an underwriting criterion.

In terms of relative harm caused by active smoking versus chronic exposure to secondhand smoke, there are not any clearly agreed-to metrics, however most scientists would agree that the risk of death from chronic exposure to secondhand smoke is likely an order of magnitude lower than that of active smoking. The Centers for Disease Control and Prevention (CDC) estimates 440,000 active smokers (out of 50 million) die per year compared to around 50,000 passive smokers (out of 150 million). Thus, while deaths from passive smoking are tragic, real and preventable, their actuarial impact is less (possibly by an order of magnitude) compared to deaths of active smokers.

Introduction –

Exposure of nonsmokers to ETS is a source of widespread excess morbidity and mortality, imposing significant costs on nonsmokers and society as a whole. Exposure to ETS is defined as the exposure of a nonsmoker to the combustion products of cigarettes and other tobacco products. Typically, former smokers are excluded from the group of nonsmokers for which the effects of exposure or absence of exposure to ETS are compared. Definitions in the literature have slight variations, as presented in detail in Appendix 4, but the different definitions are consistent enough to permit aggregation of the results of various studies of mortality and morbidity. A special situation is the case of a fetus of a smoking mother. The literature typically classifies the effects of smoking on the fetus of a smoking mother as an effect of smoking, rather than as exposure to ETS. While the effects of ETS are subtle in comparison to active smoking, the number of people exposed is so large that the costs are substantial. **A major conclusion of this paper is that in the United States, the annual costs of excess medical care, mortality and morbidity caused by ETS exceed $10 billion.**

Handed out #5

Written Testimony from Jason Bergstrand in support of HB 1213 Submitted to House Political Subdivisions Committee Hearing on January 29, 2009

From: Jason Bergstrand <jebergstrand@prtel.com>
Date: January 28, 2009
To: dwrangham@nd.gov
Chairman Wrangham and Members of the House Political Subdivisions Committee

Please support HB 1213, which has life saving power. Five years ago, I had a 48-year-old cousin die of a heart attack related to secondhand smoke. He left behind a family of four.

My father-in-law a smoker at the time had a stroke and heart attack, which ultimately resulted in him needing 3 heart surgeries. After being on the heart transplant list for 14 months he final got a second chance at life and received a heart transplant. His surgeries cost over $1,000,000 what a burden to our healthcare system. After dozens of trips to the University of MN over the course of 2 years our family spent $10,000 in hotel rooms alone. The physical, emotional, and financial strains on our family have been more then most families could endure. I don't want others to have to experience what we have gone through.

The National Association of Local Boards of Health reports that smoking bans prevent smoking and chronic diseases.

A recent 3-year study was completed on Pueblo, Colorado's smoking ban. It resulted in a sustained reduction in heart attack admissions during the 3 year study.

Journal of Allergy and Clinical Immunology concluded that smoke free laws reduced asthma emergency room visits by 22% in Kentucky.

Going smoke free and protecting workers and the public is not a new concept. California has smoke free workplace law for in effect for 10 years now. They experience reductions in cancer rates and reduced healthcare costs when other states continue to have increases in these areas.

Boston University School of Public Health, May 2008 found that kids living in communities with strong smoking bans were 40% less likely to become a regular smoker. A community intervention whereby tobacco is socially less desirable is an effective strategy to reduce youth initiation to tobacco.

Did you know that secondhand smoke doubles risk for dementia for a nonsmoker? (University of California Berkley)

→ → →

A California study by Dr. Glantz at University of California San Francisco found that 59% of bartenders who had respiratory problems before the ban no longer had them one year later. Similar results were found in several European countries as well as Italy & Scotland.

In the last 2 years, 14 other states have adopted comprehensive smoke free workplace laws. Minnesota and Montana have made the move and South Dakota is considering a statewide ban this year. 77% of Minnesotans favor their law just after one year of implementation. Over 2/3 of North Dakotans want to see a comprehensive smoke free law passed. (Winkelman report)

The science behind secondhand smoke is clear and overwhelming. Evidence keeps tipping the ship each day. When will a responsible government make a move to protect its citizens against these deadly toxins?

Authorities took action when we learned asbestos caused cancer. Secondhand smoke contains 250 toxins, 50 of which are known to cause cancer. (U.S. Surgeon General Report on SHS 2006) It's time to clear the air.

You have been given a unique position in our society. Because the science of secondhand smoke is clear and convincing I would ask that you do your part by stepping forward to protect the citizens of ND. We've done it for many other public health crises why not now? The excuses for not doing would go against current public opinion.

Please support HB 1213; lives are depending on it.

Sincerely,

Jason Bergstrand

#6

Chairman Wrangham and members of the committee.

My name is Mike Motschenbacher. I am not representing any group today, I am simply testifying on a common sense platform.

I want to clarify one thing before I continue. I am a non-smoker. I hate cigarette smoke. I hate coming home smelling like an ashtray after an evening out. I even shake my head when I see people light up. So, you might ask, why would someone like me testify against passage of HB 1213.

I was born with a brain. My brain allows me to make decisions. It allows me to decide what is dangerous and what is not. I decide whether or not to go into bars or other places that I will be subject to second hand smoke. I also choose not to work at a place where I will be subject to smoke. These are decisions I make on a daily basis.

Proponents of the bill are missing the point. Smoking in bars isn't the problem. Smoking in hotel rooms isn't the problem. Smoking is the problem. As long as smoking is legal, smokers will need a place to smoke. If a business allows their patrons to smoke, and someone doesn't like it, I would encourage that person to not patronize that establishment. There are plenty of bars that don't allow smoking. Send the message to the bar owner that you don't agree with their policies, therefore, you will patronize a bar that does not allow smoking. Business owners make decisions on a daily basis that affect their business. It is their time, money, blood, sweat, and tears that go into their business, so they deserve the right to make those decisions.

Here in the United States of America, we have another great freedom. It is the freedom to choose where we work. When I am out job hunting, I get to choose where I go to apply. I fill out an application and hope that the business calls me. I then sit through an interview, hoping that I impress them enough to get hired. If I'm lucky, I start work on Monday. Apparently, there must be another scenario I wasn't aware of. That being the following. I am innocently walking down the street when an owner of a bar grabs me by the arm and drags me into his smoking establishment. He then forces me to work for him. When I decide that I don't like the smoke filled environment, I try to quit but my boss won't let me. To date, I've never seen the second scenario happen. All employees that work at the smoking establishment were hired by the first process I explained. They work there by choice, and nobody is forcing them to stay.

If I walk into a bank, and I don't like the color of the carpet and it bothers me that bad, I will choose to go to another bank. I don't try to pass a law that I want all banks to have blue carpet because I like blue carpet. If I don't like their carpet, I leave and go to a bank that has blue carpet.

HB 1213 also makes it illegal to smoke in hotel rooms. This will cause another problem. That is the gathering of people that will be standing outside the entrances smoking. This will cause all non-smokers to be forced to walk through the smoke to get from their hotel room to their car. As it stands now, smokers are put in rooms that allow smoking in them, away from all the nonsmokers, where the nonsmokers are not subject to the cigarette smoke. It would be better to keep the smokers in their rooms, let them smoke there, rather than having them gather outside where everyone has to put up with it.

I am strongly urging you to vote NO on HB 1213. Government has enough on their hands; they don't need to hold mine.

Mike Motschenbacher

#7

Testimony of Bill Shalhoob
Select Inn Bismarck
Managing Partner
HB 1213

Mr. Chairman and members of the committee, thank you for the opportunity to appear before your committee. I am testifying on behalf of the Select Inn Bismarck and in opposition to HB 1213.

I have been in the hotel business in North Dakota since 1974 and am here to address the question of smoking rooms in hotels. When I opened my first hotel more than a majority of North Dakotans smoked. All of our rooms were smoking. As the number of smokers decreased and demand for non-smoking rooms grew, the mix in my properties and in every hotel in North Dakota changed. More non smoking rooms were added. The Select Inn has 90 rooms and today 73 of them are non-smoking and 17 are smoking. We took an informal poll of hotels in Bismarck-Mandan. Of the 28 hotels we talked to 9 have become completely smoke free. Nineteen have smoking rooms and although we did get specific numbers, I'm sure all have similar percentages as the Select Inn, which is 81% non smoking. A list of the hotels in our survey is attached. Somehow we managed to make these changes without legislative mandates, responding to our customer's demands.

We fully understand the value of having non smoking rooms and have considered making our hotel rooms smoke free. The rooms become easier to maintain and soft goods last longer. We balance that against the desire to meet the needs of all of our customers. For us the deciding factor was knowing some guests will smoke in rooms regardless of any designation. By confining smoking to a limited number of rooms we are able to provide true non smoking rooms to the majority of guests that want them.

Thank you for the opportunity to appear before you today. Please give HB 1213 a do not pass. I would be happy to answer any questions.

11 Smoking yes

7 Non smoking No

#8

HOTEL QUICK REFERENCE

AMERICINN	250-1000	yes
BIS MOTOR HOTEL	223-2474	yes
BUDGET INN	255-1450	yes
COLONIAL	663-9824	yes
COMFORT INN	223-1911	yes
COMFORT SUITES	223-4009	no
COUNTRY INN	258-4200	no
DAYS INN	223-9151	yes - some
DOUBLEWOOD	258-7000	no
EXPRESSWAY INN	222-2900	yes
EXPRESSWAY SUITES	222-3311	no
FAIRFIELD NORTH	223-9077	no
FAIRFIELD SOUTH	223-9293	no
~~HILLSIDE MOTEL~~	~~CLOSED~~	
HI-WAY MOTEL	223-0506	yes
HOLIDAY INN EXPRESS	221-0850	yes
KELLY INN	223-8001	yes
MOTEL 6	255-6878	yes
Hampton	751-3100	no
NORTH COUNTRY INN	663-6497	yes
PRAIRIE KNIGHTS	800-425-8277	yes
RADDISON	255-6000	yes
RAMADA SUITES	221-3030	yes
RAMKOTA	258-7700	no
RIVERTREE	663-9856	yes
SEVEN SEAS	663-7401	no
SUPER 8	255-1314	yes
THE RIDGE	663-8686	yes
TP MOTEL	663-6426	yes
OUTSIDE BIS/MANDAN		
LONESTEER/exit 200	475-2221	
SCOTWOOD/BEULAH	873-2850	
GLADSTONE/JAMESTOWN	866-748-4466	

~~Hampton — 751-3100~~

Candlewood Suites 751-8900 yes (8)

~~223-8041~~

#8

Chairman Wrangham and members of the committee my name is Lisa Hixson and I am here representing myself and my partners who own the Stadium Sports Bar here in Bismarck.

To begin I would like everyone to know I am a non smoker and all of my partners are non smokers, we believe that having smoking in our bars is important for our business to survive. Some bars in our state solely depend on their customers who smoke. Are you the government going to close their businesses down and not give them the chance to survive? When the smoking ban took affect in Minnesota over 300 bars closed. The top floor of the Mall of America that used to be lined with Gators, Great American Sports Bar, and Hooters, just to name a few on that level, all have closed with exception of one. My partners and I at The Stadium have recently decided to offer both smoking and non smoking to our customers. We are in the process of opening up a non smoking bar for our non smoking customers. We chose to make this addition to our business instead of just making our bar non smoking because our core customer base are smokers. We wanted to make our own decision on this we felt this was important for our business. So we chose to take the risk of opening a new bar.

We have over 20 employees. We only have four including myself that are non smokers. Everyone who we have interviewed and offered a position to have chosen to work in our establishment. Not one said I would chose to work at another bar. They depend on their tips and the customers that chose to come into our smoking bar are the ones who pay for their livelihood. Why is it the decision of government to take that away from all of them?

I have been fighting this bill myself for my businesses for the past 8 years. I sat at the 2001 committee meeting where former Rep. Mike Gross introduced the bill that said if cigarette smoke is so bad for people then why we are not banning the sale of cigarettes. I also sat in that meeting absolutely flabbergasted that the only opponents of this bill were the health Associations and medical associations. If cigarette smoke is so bad why worry about the very small percentage of places that allow smoking, ban the sale of cigarettes. Out of 71 bars in Bismarck, only 14 allow smoking. That leaves 19% of bars have smoking and 81% do not allow smoking. Who are the minorities in this situation? In the Unites States I thought all people should retain the rights they were bestowed and the freedom to have a choice in where they want to go and I have a choice in the way I decide to run my business. I am asking you to support small businesses and allow the free market to dictate to us whether we should have smoking in our bars and not the government. Please give HB 1213 a Do Not Pass. I will be open for any questions that you have.

#9

Good afternoon chairman Wrangham and committee members. Thank you for your time today.

My name is Allan Leier, and I own and manage the Main Bar in Bismarck. I am opposed to the house bill 1213, and I'm asking you for a do not pass vote.

The reasons why I am asking for a do not pass vote are included in the following. In the city of Bismarck non-smoking establishments out number smoking establishments 3 to 1. At the Main Bar 60% of my patrons are smokers! All of my employees smoke. If the proponents supporting this bill did a survey of bartenders and servers they would find that an estimated 80% of service workers are smokers themselves! So I ask the question, "Who are they trying to clean the air for?"

I am here today testifying against HB1213 by my "choice." House bill 1213 will cause a 20 to 50% loss of revenue in my bar. I wonder what other legislation this session is going to cut incomes by 20 to 50%? If the proponents don't think it will have a negative effect on my business I dare any one of them to step up and take the same cut to their income that i would have to. If my business decreases by 35% then they would take a 35% cut in pay, or even a 15% cut. To

many a 15% reduction in income would have devastating effects on their lives as it would the lives of my employee's, my family, and my and business.

At 21 years of age you should be able to make your own choice on whether or not you want to be exposed to smoke filled air or clean air. I don't think we need a special interest group to make those choices for us. There are many things in society that I don't like, and far more things that I do like. The things that I don't like I don't support and the things I do like I do support. I don't need a special interest group telling me what I like and don't like. If I am given the information and the options I will choose what is best for me.

For the last 3 or 4 North Dakota legislative sessions I have been here testifying against smoking bills. I have done all of this on my own dollar, not tax dollars, special grant money, or tobacco money. I am not a special interest group trying to tell people how to use a legal product. If I were a special interest group worrying about the damage tobacco products can cause I would try to out-law them, not let 18 year olds buy them.

I have been in business for 15 years. I have thrown many people out of my bar, but I have

never thrown anyone in my bar. I have never forced any one to work for me. To stay in my bar you have to behave, or not behave and leave, that is their choice. To work for me is a choice. The word choice is part of out freedom given to us by our for-fathers. Now it seems that special interest groups want to legislate choice.
I urge a No Pass vote on HB 1213.
Thank you for your time.
I will try to answer any questions at this time.

#10

Testimony
HB No. 1213
House Political Subdivisions Committee
January 29, 2009, 2:00 p.m.

Good afternoon Chairman Wrangham and members of the House Political Subdivisions Committee. My name is Kathleen Mangskau and I am the chair of the Tobacco Prevention and Control Advisory Committee. I am here to provide testimony in support of HB 1213 to expand protections from secondhand smoke. The Advisory Committee supports efforts to fully protect all workers and patrons from exposure to secondhand smoke. As written, HB 1213 will expand those protections in bars and motel and hotel rooms, but still leaves some workers and patrons unprotected.

The Tobacco Prevention and Control Advisory Committee has primary goals of preventing youth from starting to use tobacco, helping youth and adults to quit tobacco use, eliminating exposure to secondhand smoke and identifying and eliminating tobacco use disparities. Implementing evidence-based, statewide tobacco control programs that are comprehensive, integrated, sustained and accountable have been shown to reduce smoking rates, tobacco-related deaths, and diseases caused by smoking. These programs will prevent or accelerate declines in heart disease, lung diseases and disorders, and once again make lung cancer a rare disease. A Best Practice approach would include protecting all workers and patrons from dangerous secondhand smoke. From the experience in other states, we know that laws that are not comprehensive and do not protect all workers often are difficult to change to fully

protect those last segments of the population who are still being exposed to secondhand smoke.

Dr. Richard Carmona in the 2006 Surgeon General's Report stated, "The scientific evidence is now indisputable: secondhand smoke is not a mere annoyance. It is a serious health hazard that can lead to disease and premature death in children and nonsmoking adults." Secondhand smoke is known to cause cancer in humans. It contains more than 4,000 chemicals including more than 50 cancer-causing chemicals. 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 business.

Each part of a comprehensive program must be based on science and must have been proven effective to prevent, treat, and otherwise reduce tobacco use in our state. The *Surgeon General's Report on Reducing Tobacco Use* strongly recommends smoking bans and restrictions as an effective means to reduce exposure to secondhand smoke. While we would like to see no exemptions in North Dakota's smoke free law, this bill does increase the number of workers and patrons that will be protected from secondhand smoke.

This concludes my testimony on House Bill 1213. I am happy to answer any questions you may have. Thank you.

#10
HB 1213

MEMORANDUM

To: Chairman Dwight Wrangham and Members of the House Political Subdivisions Committee

From: Kathleen Mangskau, Chair, Tobacco Prevention and Control Advisory Committee

Date: January 30, 2009

RE: Studies of Economic Impact of Smoke-free Laws or Ordinances conducted in North Dakota

Attached are two economic impact studies conducted in North Dakota as requested by the committee:

- Statewide study assessing the economic impact of the smoke-free law passed in 2005
- Economic Evaluation of the smoke free law and Bismarck Ordinance on the local restaurant/bar

Attachments

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An Economic Evaluation of the Effects of the North Dakota Smoke Free Law and Bismarck Ordinance Enacted in 2005 on the Local Bismarck Restaurant/Bar Market.

Final Report for the Bismarck Tobacco-Free Coalition

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11-08-2007

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Introduction

On October 11, 2005, Bismarck, the capitol city of North Dakota enacted a local smoke free ordinance. Years prior to the ordinance passage, the Bismarck Tobacco Free Coalition led broad community educational efforts using science-based data on the health dangers to the nonsmoker being exposed to secondhand smoke. Over 20 community organizations including the Bismarck/Mandan Chamber and the Convention and Visitors Bureau received a presentation addressing the health, legal, and economic issues of smoke free laws. At that time, Scollo et al (2003) reported that studies done reported no impact of smoke free restaurant and bar laws on sales or employment. The present rate of adult smoking in North Dakota during this policy change activity in 2005 was 20% at which it remains today.

The newly passed Bismarck ordinance mirrored the provisions of a statewide smoke free law that went into effect only a few months before the Bismarck ordinance was enacted. The Bismarck ordinance, like the statewide legislation, was not 100% comprehensive. Stand alone bars, hotel bars, and truck stops were exempt from smoking prohibitions. However, the Bismarck ordinance was more restrictive by prohibiting enclosed smoking sections in restaurant/bar establishments. Unlike the state law the Bismarck Ordinance prohibited smoking in outdoor restaurant seating areas where food is served.

At the time the Bismarck smoke free ordinance was passed, twelve states and over 2200 municipalities had passed clean indoor air restriction laws where smoking was not allowed in restaurants, workplaces, and in some states, bars. Opinion surveys preceding the ordinance passage showed that 75% of the Bismarck community and the small adjoining community of Mandan would support the passage of a law that eliminated all tobacco smoke from restaurants (Winkelman, 2004).

During the discussion over passage of Bismarck's ordinance, the North Dakota Hospitality Organization claimed the ordinance would create economic hardship for the restaurant/bar establishments. A survey, completed 4 months prior to enactment of the ordinance, showed that if all restaurants became completely smoke-free 67% of respondents indicated they would eat out just as often and 26% responded that they would eat out more often (Winkelman, 2004). The Bismarck Tobacco Free Coalition maintained their public education campaign based on the growing body of peer review research including evidence of health benefits to workers restricted from the dangers of secondhand exposure such as cancer risk, heart and respiratory disease. The opposition to the ordinance speculated lost revenue from smoking customers would not be offset by nonsmoking customers and on argued against government interference with free markets.

It is necessary to understand the economic implications of government policy. The announcement and enactment of policy that alters expectations of consumers and producers can result in externalities or effects beyond the specific targeted response anticipated by the policy. Externalities can be either beneficial or detrimental. Certain externalities can be identified by responses in prices or revenue. A common reaction to new policy is to assume that additional constraints lead to negative economic

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consequences. This leads to the perception the suppliers are bearing the cost of social policy even if it is in the best interest of the consumer (Pool 1994). Price effects resulting from government policies are tools used by policymakers to affect behavior and to limit public exposure to costly negative consequences of events or behavior. The Association of Bay Area Governments enacted regulation requiring disclosure of high probability damage because of location within earthquake fault zones when purchasing real property. Land development companies and realty associations contested these regulations, but few would argue the benefits to an informed public from such policy (Pool 1994). Other examples of policies of this sort include the National Flood Insurance Program, environmental laws, and even excise taxes. All of these regulatory policies are tools to reduce the public's exposure to risks from specific activities.

The tobacco industry has been subject to regulation at many levels for decades. San Luis Obispo California was the first city to regulate smoking of tobacco in restaurants in 1990. Since then there has been large-scale adoption of smoking bans in public buildings and private sector business. Bans on smoking in public buildings have been accepted by the public, however there is still significant debate around restaurant and bar smoking bans. The health benefits of cessation have been addressed in several studies and the medical costs have been studied at length (Picone and Sloan 2001). These data have been used as part of the justification for the bans in public buildings.

Smoking bans in bars and restaurants have both direct and indirect costs and benefits. Most of the debate however is centered on the impacts on local sales revenue and employment. To date the majority of the rhetoric has revolved around economic theory rather than empirical evidence from observational studies. This leaves both sides on uncertain footing because of the assumptions defining either side of the debate. There have been a few local studies of the impacts of these laws (e.g., Hyland et al, 1999) but most have been opinion surveys (e.g., Dunham and Marlow 2000).

Economic Theory

There are two mechanisms through which altered behavior from policy will be detected. The first of which is the announcement effect and the second is a direct effect from the point the policy is enacted. The announcement of a new policy often leads to actions by the public prior to enactment of the policy. This is widely seen by market reactions to announcements in monetary policy by the Federal Reserve Chairman. The public begins to act on the information about an interest rate change even before the rate change is enacted. The same reaction can be expected of the parties involved in smoking bans. It is consistent to anticipate the owners of businesses pro-actively alter their business practices so that compliance is assured and to capture market positioning prior to the enactment of the forthcoming policy.

Patrons that are affected by the policy will respond differently depending on whether they perceive themselves to be benefactors of or deprived by the policy. Those who benefit will summarily await the altered environment before engaging. Those who are deprived of smoking in public will not adjust their behavior or abandon the establishment until the

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barrier to behavior is enacted. This can be seen when graphed as revenue for the industry over time (Figure 1).

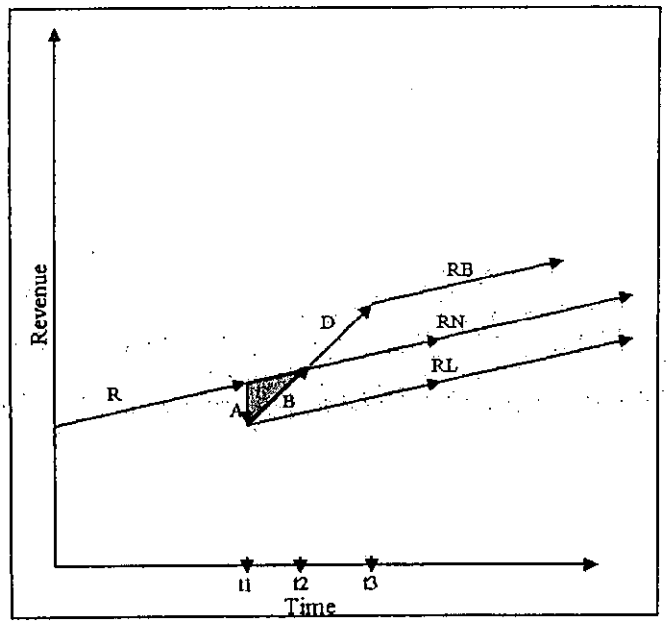

Figure 1. Expected responses from the market to regulation.

The figure shows R as the historic revenue stream over time. T1 can reflect either an announcement or enactment of policy. At t1 smokers are expected to withdraw from patronage "A" leaving a drop in revenue. If this loss of patronage persists then RL will be the new revenue stream for the market. If either a combination of repatriation by smokers or new recruitment of customers begin to frequent the industry over time "B"; revenue will increase and return to RN where long term market effects are neutral, or possibly increase "D" to RB where industry will benefit through greater market participation from the effects of regulation. "C" represents the loss to industry as a result of a market shock to equilibrium and the resulting return to market equilibrium over the time period t1 to t2. This would be the case if regulation did not recruit new patrons and smokers returned or if all disenfranchised smokers were replaced by equivalent additional participation in the market.

Data and Methods

State reported taxable sales revenue was used as a substitute for total revenue to quantify the impacts of regulation to the local restaurant and bar market. The sales revenue data were provided by the North Dakota Office of Tax Commissioner (NDOTC). These data

were subject to legal disclosure and privacy constraints. The NDOTC is limited by ND Century Code 57-39.2-23 and policy, such that, data had to be delivered in blocks large enough that proprietary information about any individual entity was sufficiently obfuscated to meet privacy standards. Subsequent to several negotiations the NDOTC provided taxable revenue for all full-service restaurants. Bar-only businesses were not made available because of limitations of numbers to satisfy privacy laws and the lack of precision from low observation numbers when these data were grouped. Analyzing these data would not lead to significant inferential information because there are too few observations before and after policy enactment.

The taxable sales reported by full-service restaurants in Bismarck, in groups of five, for all quarters starting with calendar year 2002 through fourth quarter 2006 were delivered by the NDOTC on 13 August 2007. The data were sorted at NDOTC on total taxable sales for all 5 years and then separated into groups of five in descending order. Liquor sales were included for those businesses that report liquor under the same permit as food sales.

There were thirteen "new entrants" that did not have returns filed for all periods. New entrants were grouped into a final last category and used only in evaluation of the overall market. There were also some full-service restaurants that "exited" and did not file some of the most recent quarters of returns. Sales for those businesses that closed at some point through the history can be derived by subtracting all the other reported categories from the totals shown on the final sheet. All of the restaurants were monthly filers. Therefore, the return count showed three returns per business per quarter. There were no delinquencies in the data.

The length of time for the analysis spans the market preceding the implementation of smoking bans and far enough afterwards to capture the new character of the revenue function over time.

The data were analyzed as a whole and broken down to their component parts when the number of firms and observations are large enough for statistical inferences to be credible. Analyses were performed using a before and after effects model (Pool 1994). Firm size was represented as a parameter in the overall model and a General Linear Model (GLM) with an intercept and temporal dummy variable was used to compare distinct before and after effects (Steele and Torrey 1980). Further differentiation by license class was not possible subject to NDOTC data delivery limitations.

Results

Based on the grouping of the data there are several key findings that help us better understand the local market. As may be expected the allocation of firms to specific revenue categories led to results showing that revenues between groups were significantly different ($F = 104.6$, $df = 98$). Where Group 1 is the largest market share restaurants and Group 5 is the smallest market share restaurants, Group 2 had the highest revenue growth rate of approximately $11,000 per year and Group 1 second with

approximately $5,000 per year. The overall market, adjusted for inflation, showed a 3.2% annual growth rate prior to 12 October 2005 and a 7.2% annual growth rate after the effective date of the ban. Much of the increase is attributable to four new entrants into the restaurant industry and a probable redistribution of revenue based on consumer interest in "new dining establishments". This "crowding out" effect had the least impact on Group 2 restaurants which achieved a 2.7 % real annual growth rate even though new entrants grew to capture greater than 23% of the total market revenue. The lowest annual growth rates were in Groups 4 and 5, each at a nominal rate of approximately $300 per year which translates to a 2% annual reduction in real inflation adjusted revenue per year. Group was the most important variable in describing the changes in revenue over the five year period, followed by year and then quarter.

Revenues differed significantly among quarters. Revenues increase from the first quarter to the fourth quarter in a curvilinear fashion. This effect was consistent among years, which suggests if there are seasonal business cycles they are currently overwhelmed by the overall growth of the market.

Discussion

The smoking statute had no discernable impact on overall revenues among the five groups. The overall quarterly group effect of the ordinance was indistinguishable from zero. Overall growth in the market was 3.2% per annum prior to regulation and in fact increased to 7.2% after regulation. Without further analysis this may have been attributed to the ban, but market share for new restaurants increased from 14.2% to 23.4% over the same period. Consistent with earlier market entries the increase in revenue is likely attributable to the increase in restaurants rather than the change in statute.

It is evident from this analysis that the Bismarck Restaurant/Bar market is both growing and becoming more competitive. During the timeframe of the study we lost no observations from the five categories and we gained a total of thirteen new firms in the overall market. Competition between existing and with new firms seems to be the greatest contributor to revenue distribution between firms. Moderately larger firms seem to be the most competitive and the smaller than average firms are the most vulnerable to competition from new firms with average and large restaurants remaining resilient and only slightly affected. The data available for this study were limiting. It is possible that measures of taxable revenue do not adequately characterize profitability. Differences in sources of revenue may affect entrepreneurial income. It may not be necessary to analyze for these differences if there have been applicable studies published that decompose profitability and total revenue. For the purposes of this investigation we have assumed that negligible changes in total revenue are a sufficient proxy to suggest regulatory costs are not being transferred to restaurant owners and the smoking ban should not cause reductions in overall industry employment.

In order to ascertain the maintenance of customer base or substitution of smokers with new clientele as a result of the smoking ban, we suggest you incorporate several key questions into your sampling surveys. The questions should address dining and drinking

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participation and behavior before and after the ban and whether the respondent is a smoker. Questions should address whether families dine with their children more often after the ban than before and the ages of those children.

The health benefits of smoke free environments have been well documented. These benefits are not offset by any significant direct or indirect cost to restaurateurs in Bismarck, North Dakota.

This study has made advancements by using proprietary data from the office of Tax Commissioner for evaluating public agency policy effects and still maintained proprietary disclosure standards. Sub-setting these data gave the analyses greater observational power and we therefore have greater confidence in the results. We recommend this approach to future researchers when individually reported data are not accessible by public law.

The methods and the data used in this analysis are repeatable and are consistent with recent works in peer-reviewed journals. These data represent the population. Therefore, the common assumptions of sample based analysis are not applicable and this reflects a measure of and not an estimation of market characteristics.

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Appendix 1 – Graphs and Charts

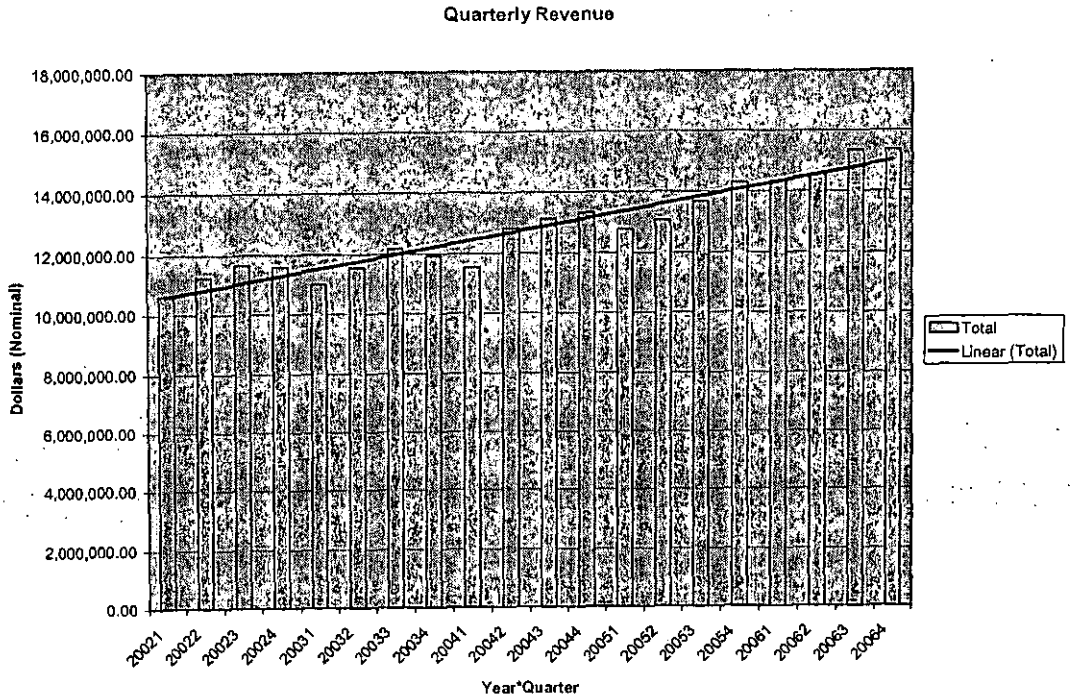

Figure 2 - Total revenue.

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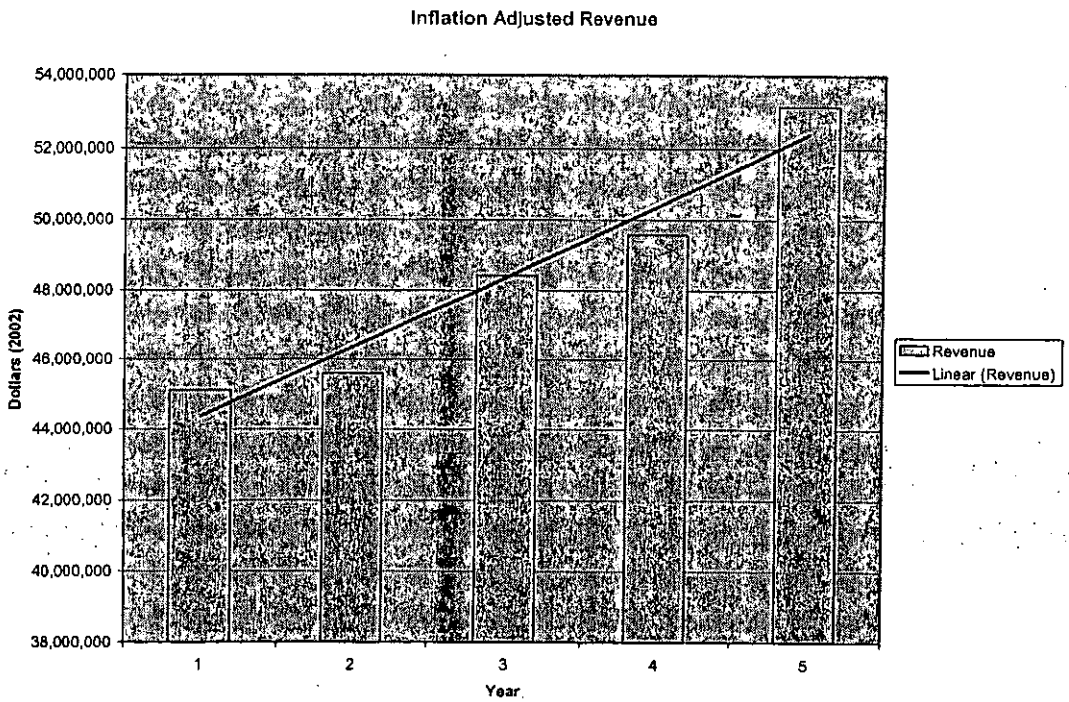

Figure 3 - Inflation adjusted taxable revenue.

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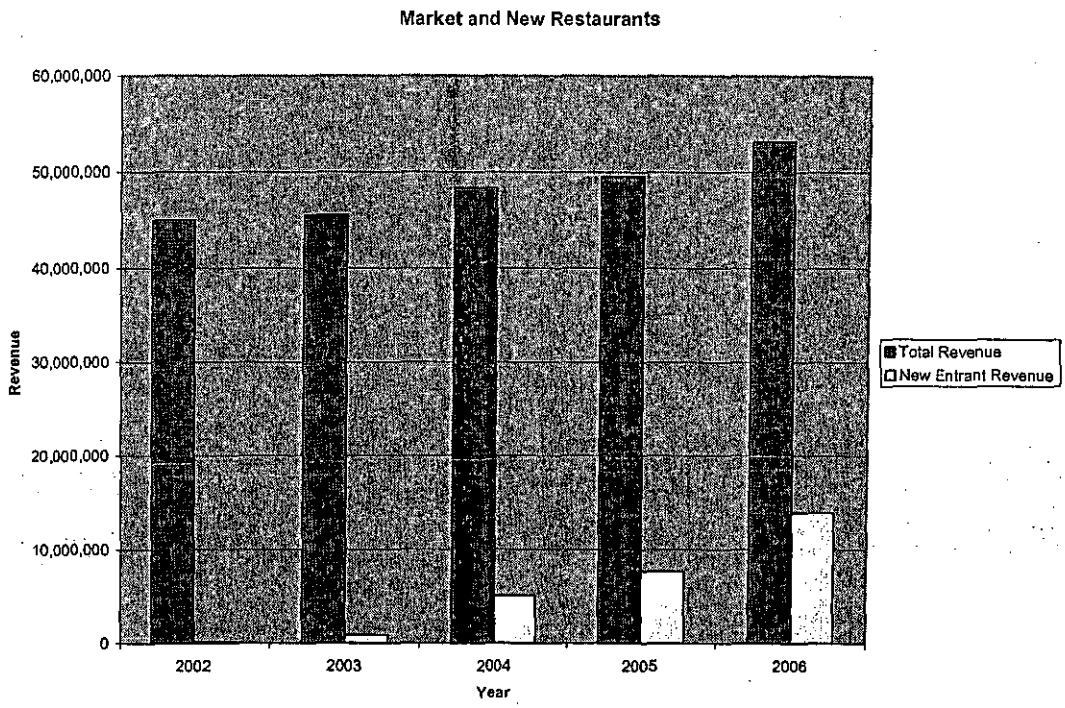

Figure 4 - Increasing market share of new competition.

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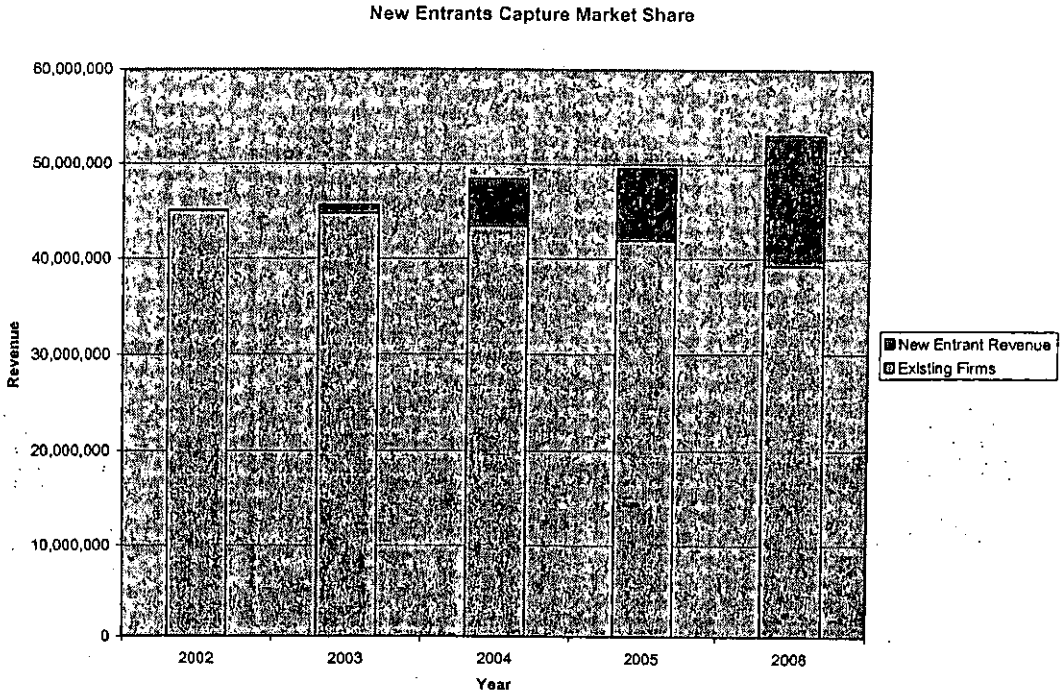

Figure 5 - New competition effects.

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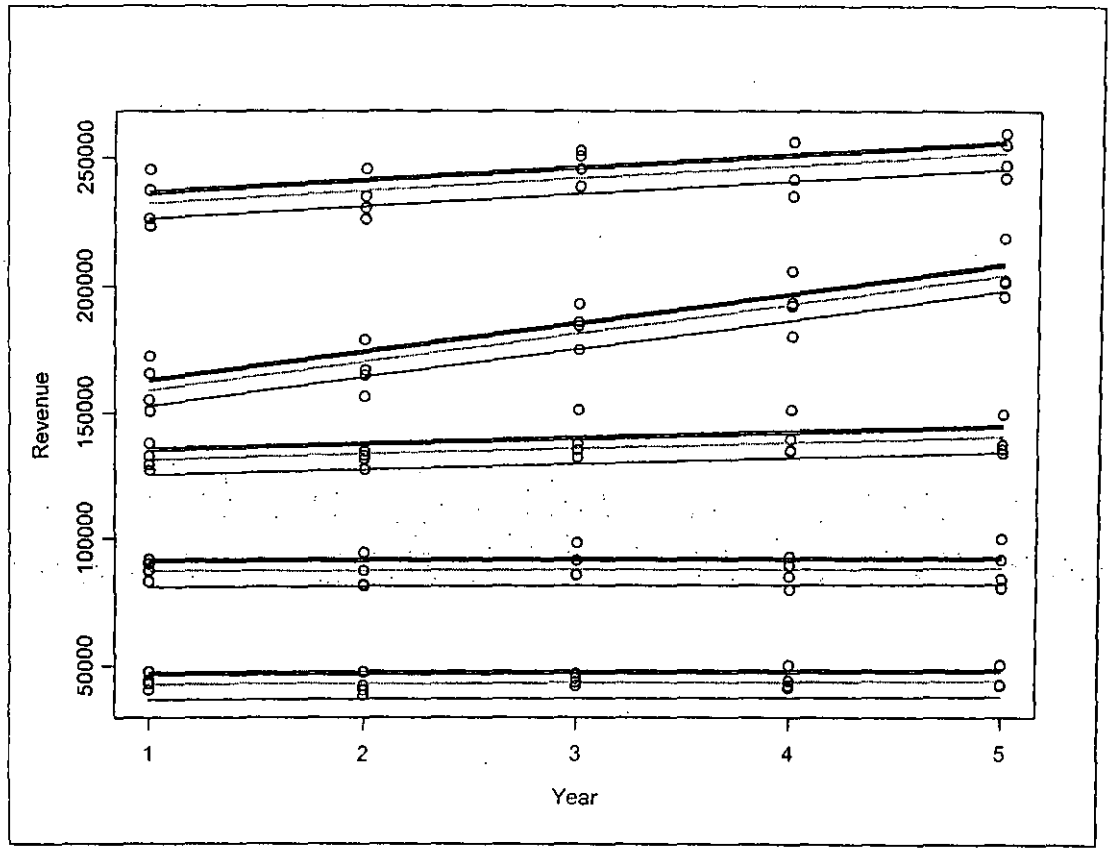

Figure 6 - Groups showing quarterly growth by year. (Year 1 = 2002)

The Impact of North Dakota's Smoke-Free Law on Restaurant and Bar Taxable Sales

NORTH DAKOTA
DEPARTMENT *of* HEALTH

The Impact of North Dakota's Smoke-Free

Law on Restaurant and Bar Taxable Sales

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August 8, 2007

Introduction

According to the U.S. Surgeon General, secondhand smoke causes early death and illness in children and adults who do not smoke. There is no risk-free level of exposure to secondhand smoke, and exposure to adults has immediate adverse effects on the cardiovascular system. The establishment of smoke-free environments is the only effective way to fully protect nonsmokers from the dangers of secondhand smoke (U.S. Department of Health and Human Services [USDHHS], 2006). In April 2005, North Dakota's 59th Legislative Assembly amended North Dakota Century Code (NDCC) 23-12-09 relating to smoking in public places and places of employment. Effective August 1, 2005, the law required most public places and workplaces to be smoke free with some exemptions. The exemptions included freestanding bars; separately enclosed bars in restaurants, hotels and bowling centers; and hotel and motel rooms and other lodging establishments. Prior to the 59th Legislative Session, smoking was restricted to designated areas in public places, government buildings, health-care facilities, schools and restaurants (NDCC 23-12-09), and prohibited in licensed early childhood facilities at any time during which a child who received services from that facility was present and receiving such services (NDCC 50.11-02.2).

Prior to passage of this legislation, some argued that the smoke-free law would be harmful to the hospitality economy in North Dakota. The purpose of this study was to assess whether these predictions have any merit based on taxable sales data before and one year after the North Dakota smoke-free law went into effect.

The economic impact of smoke-free laws has been studied in numerous localities. Scollo, Lal, Hyland and Glantz (2003) identified all then-known smoke-free economic impact studies and evaluated the studies utilizing criteria for well-designed studies as defined by Siegel (as cited in Scollo et al., 2003). Siegel's criteria included: utilization of objective data, inclusion of several

years of data, use of statistical methods that control for trends and fluctuations and test for significance, and control for changes in economic conditions. Twenty-one studies met the most rigorous methodological criteria, of which none showed a negative economic impact in restaurants and bars. It was noted that studies that found a negative impact generally had weaker study designs such as relying on subjective measures of economic impact. Since Scollo, et al. (2003), the U.S. Surgeon General's Report (USDHHS, 2006, p. 16) reviewed additional studies and stated that "evidence from peer-reviewed studies show that smoke-free policies and regulations do not have an adverse economic impact on the hospitality industry."

Methods

The North Dakota Office of the Tax Commissioner provided quarterly data on taxable sales from 2003 through the third quarter of 2006 for the North American Industry Classification System (NAICS) Codes of 44 - 45 Retail Trade Sector and the 722 Food Services and Drinking Places Subsector and its industry group subsets. Data previous to 2003 was not obtained, as a different classification system was utilized previous to 2003 by the Tax Commissioner's office. The NAICS is an industry classification system utilized by the U.S. Census Bureau (2006) that allows comparison of business activity statistics. The NAICS Codes, with their respective definitions, utilized in this study included:

- 44-45 Retail Trade Sector: establishments engaged in retail merchandise and rendering services incidental to the sale of merchandise.
- 722 Food Services and Drinking Places Subsector: establishments that prepared meals, snacks and beverages to customer order for immediate consumption.
    - 7221 Full-Service Restaurants Industry Group: provided food services to patrons who ordered and were served while seated and paid after eating. Establishments that

combine other services such as takeout services remained classified as full-service restaurants.

- 7222 Limited-Service Eating Places Industry Group: provided services where the patrons ordered and paid before eating, some may have brought food to seated customers or may have provided off-site delivery, including limited-service restaurants, cafeterias and snack and nonalcoholic beverage bars.
- 7223 Special Food Services Industry Group: included food service contractors, caterers, and mobile food services.
- 7224 Drinking Places (Alcoholic Beverages) Industry Group: included bars, taverns, nightclubs, or other drinking places that served beverages for immediate consumption. These establishments may also have provided limited food services.

The taxable sales of Food Services and Drinking Places Subsector and the Industry Groups subsets relative percentage change from a given quarter to the previous quarter of the previous year was calculated. As the ND smoke-free law became effective August 1, 2005, the start of the second month of the third quarter, third quarter data was included as post-law data.

Data on the taxable sales for the Food Services and Drinking Places Subsector and each industry group was also calculated as a fraction of the Retail Trade Sector taxable sales. Comparisons of a given quarter to the same quarter in the previous year were calculated. The calculation of the fraction of the indicators to the overall retail trade controlled for underlying economic trends, and the quarterly comparisons controlled seasonal factors and fluctuations. The Special Food Services Industry Group was not analyzed, as it typically included contractors, caterers, and mobile food services. The fractions were calculated as follows:

1. Taxable Sales from Food Services and Drinking Establishments Subsector / Retail Sales
2. Taxable Sales from Full Service Restaurant Industry Group / Retail Sales

3. Taxable Sales from Limited-Service Eating Places Industry Group / Retail Sales
4. Taxable Sales from Drinking Places Industry Group / Retail Sales

Results

Quarterly taxable sales data from 2003 through the third quarter of 2006 for the NAICS Codes related to the retail trade sector and restaurant and bar establishments were obtained from the North Dakota Office of the Tax Commissioner.

Table 1 presents the taxable sales of Food Services and Drinking Places Subsector and the Industry Groups subsets (Full-Service Restaurants, Limited-Service Eating Places, Special Food Services, and Drinking Places) from 2003 through the third quarter of 2006 with pre-law and post-law quarters indicated. Also, the relative percentage change from a given quarter to the same quarter in the previous year is shown in parentheses. When comparing a given quarter to the same quarter of the previous year, the taxable sales and the relative percentage change of taxable sales of the Food Services and Drinking Places Subsector and all industry group subsets continued to increase after the smoke-free law was implemented.

Table 1.

Taxable Sales of Food Services & Drinking Places Subsector & Industry Groups (in Millions)

Quarter	Pre-law 2003	Pre-law 2004	Pre-law 2005	Post-law 2005	Post-law 2006
			Food Services & Drinking Places Subsector		
1	147.8	158.0 (6.9%)	168.3 (6.5%)		181.1 (7.6%)
2	164.9	175.9 (6.7%)	188.2 (7.0%)		195.3 (3.8%)
3	174.8	187.7 (7.4%)		195.0 (3.9%)	205.9 (5.6%)
4	166.5	180.6 (8.4%)		189.2 (4.8%)	
			Full Service Industry Group		
1	73.2	75.7 (3.4%)	79.0 (4.4%)		85.1 (7.8%)
2	77.8	80.5 (3.4%)	85.2 (5.9%)		88.3 (3.6%)
3	82.5	85.6 (3.8%)		87.9 (2.6%)	93.1 (6.0%)
4	81.0	85.1 (5.0%)		87.5 (2.9%)	
			Limited Service Industry Group		
1	55.6	60.0 (7.9%)	64.9 (8.3%)		69.0 (6.2%)
2	66.8	71.9 (7.6%)	76.5 (6.5%)		79.4 (3.8%)
3	70.1	76.4 (9.0%)		78.7 (3.0%)	81.0 (3.0%)
4	63.4	69.4 (9.6%)		72.8 (4.8%)	
			Drinking Industry Group: Exempt from Current Regulations		
1	18.2	21.7 (19.3%)	23.6 (8.5%)		26.1 (10.8%)
2	19.5	22.8 (16.9%)	25.6 (12.2%)		26.6 (4.1%)
3	20.6	23.9 (16.0%)		26.5 (11.2%)	28.6 (7.8%)
4	21.3	25.1 (17.5%)		27.9 (11.1%)	

Note. The 2005 third quarter data includes one month pre-law and two months post-law data and was characterized as post-law in the table. Data in parentheses is the calculation of the relative percentage change from a given quarter to the same quarter of the previous year.

Figures 1 - 4 present the taxable sales of the Food Services and Drinking Places Subsector and Industry Groups.

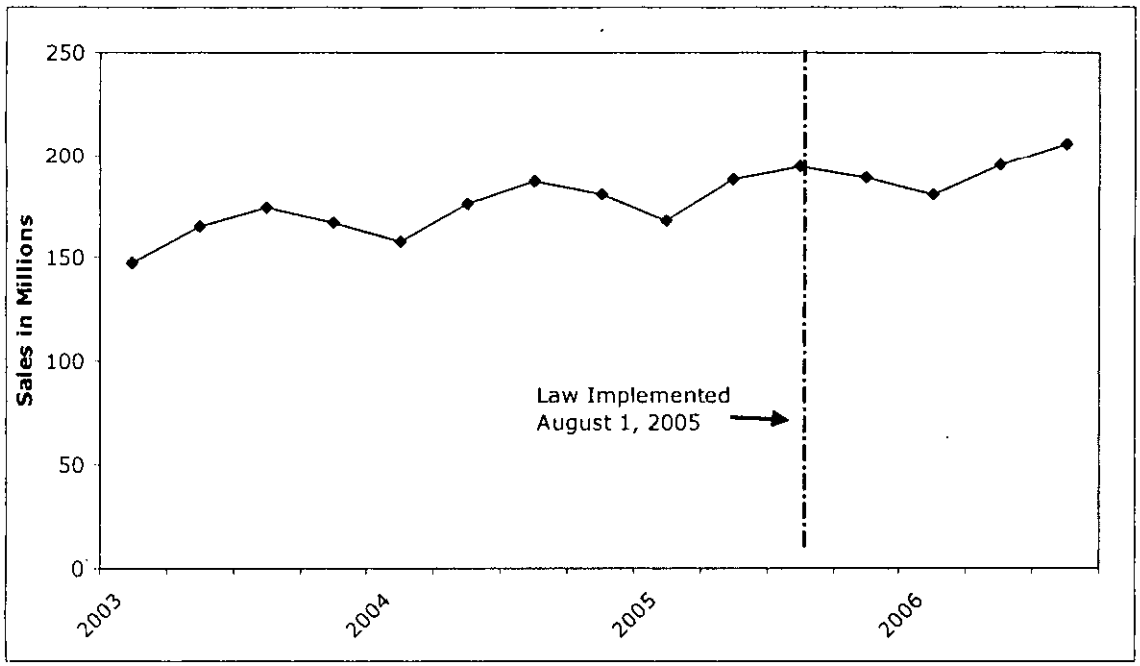

Figure 1. Taxable sales of Food Service & Drinking Places before and after implementation of the law.

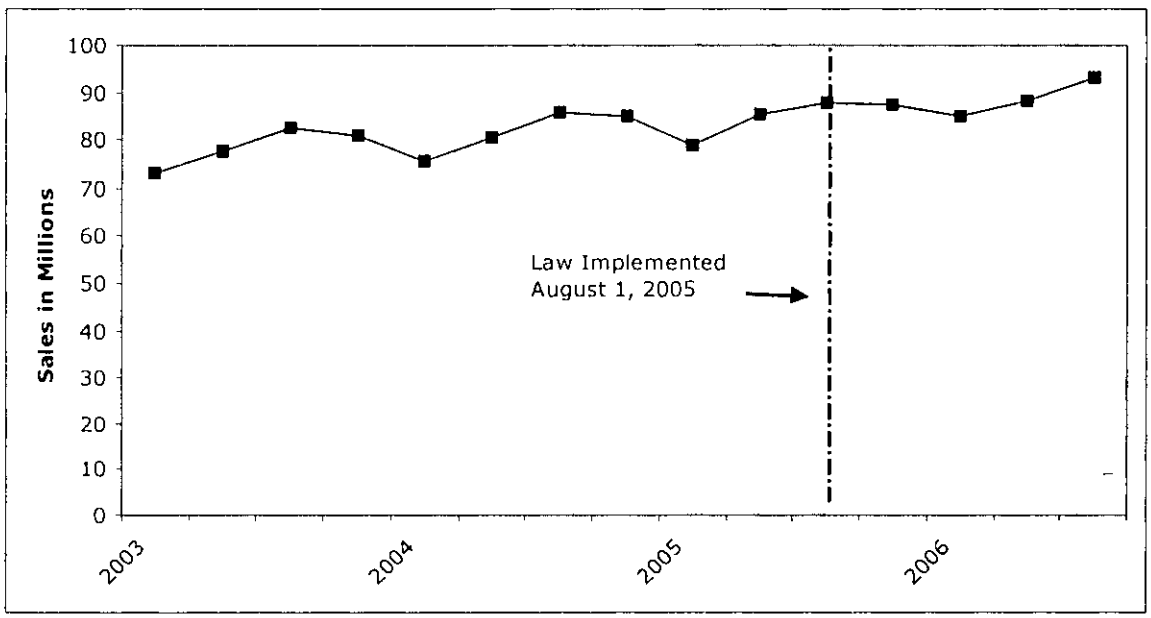

Figure 2. Taxable Sales of Full Service Restaurant Industry Group before and after implementation of the law.

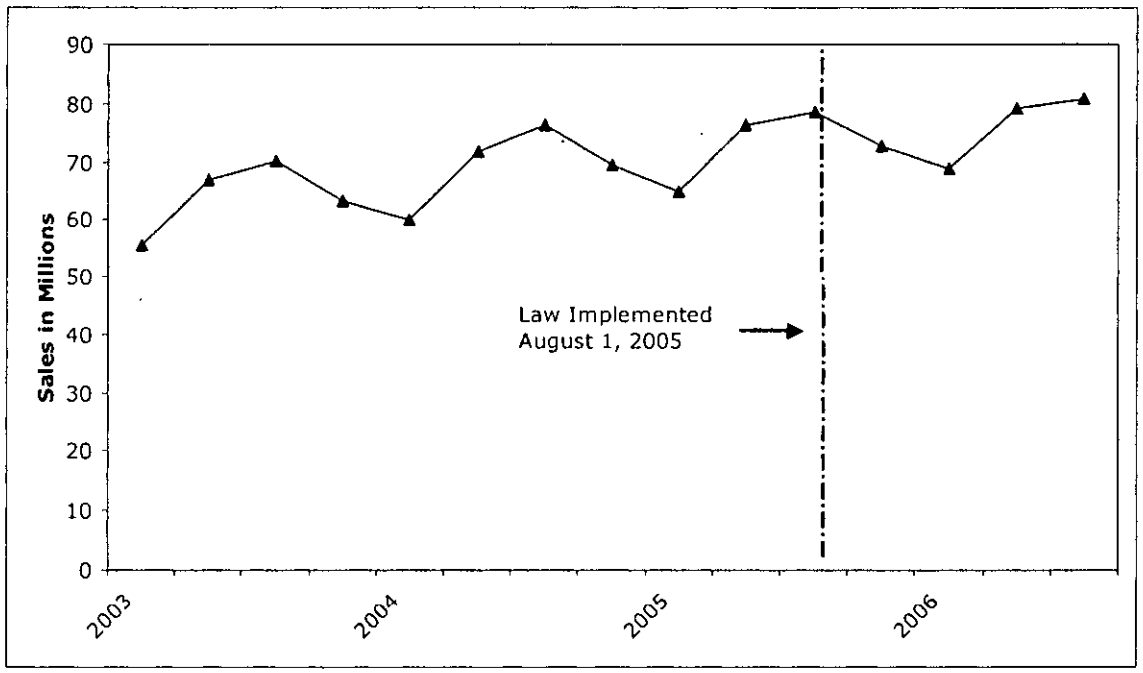

Figure 3. Taxable Sales of Limited-Service Eating Places before and after implementation of smoke-free law.

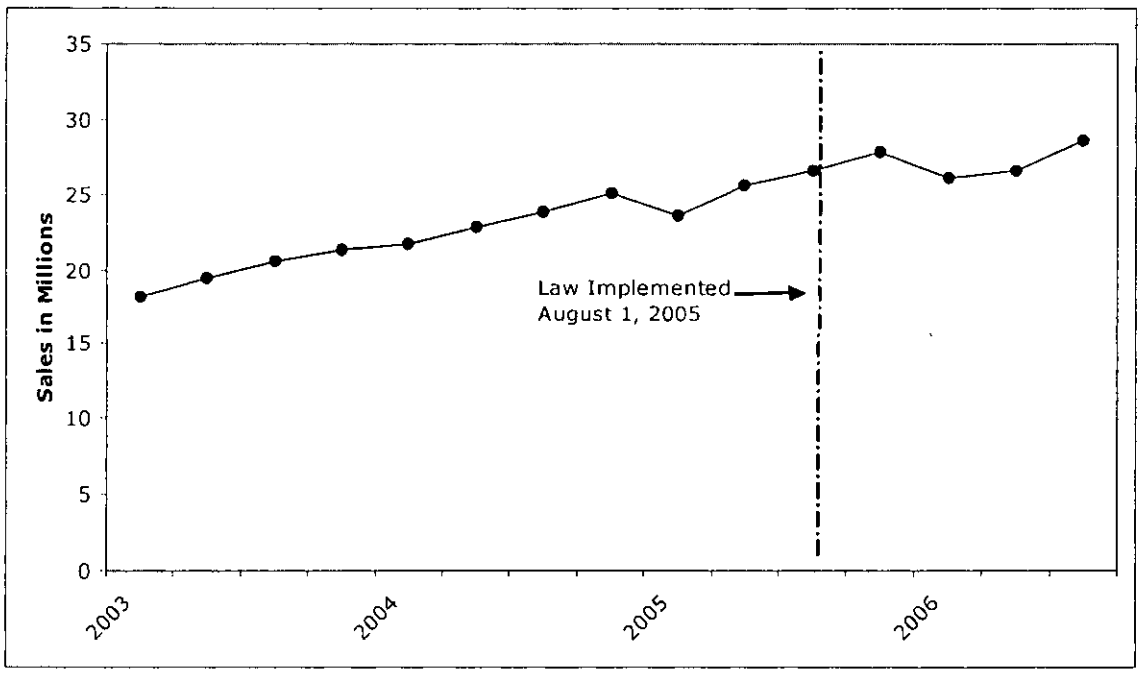

Figure 4. Taxable Sales of Drinking Places Industry Group before and after implementation of the law.

Table 2 presents trends over time of the fractions of the total retail sales for restaurant and bar establishments, with quarter-to-quarter comparisons. The fractions of the total retail sales for restaurant and bars fluctuated slightly, no more than 0.5%, with the quarters. Fluctuations of a given quarter to the same quarter in the previous year were minimal both during the pre-law and post-law quarters, with the greatest increase being two-tenths of one percent and the greatest decrease being one-half of one percent. There appears to be no consistent change of trends after the smoke-free law was implemented.

Table 2

Taxable Sales of Food Services & Drinking Places Subsector & Industry Groups (Fractions of Sales)

Quarter	Pre-Law 2003	Pre-Law 2004	Pre-Law 2005	Post-Law 2005	Post-Law 2006
		Food Services & Drinking Places Subsector			
1	10.7%	10.3% (-0.4%)	10.4% (0.0%)		10.0% (-0.3%)
2	9.7%	9.4% (-0.2%)	9.6% (0.1%)		9.1% (-0.5%)
3	9.8%	9.9% (0.2%)		9.6% (-0.4%)	9.6% (0.0%)
4	8.9%	9.1% (0.2%)		8.7% (-0.3%)	
		Full Service Industry Group			
1	5.3%	4.9% (-0.3%)	4.9% (-0.1%)		4.7% (-0.2%)
2	4.6%	4.3% (-0.2%)	4.3% (0.0%)		4.1% (-0.2%)
3	4.6%	4.5% (-0.1%)		4.3% (-0.2%)	4.3% (0.0%)
4	4.3%	4.3% (-0.1%)		4.0% (-0.2%)	
		Limited Service Industry Group			
1	4.0%	3.9% (-0.1%)	4.0% (0.1%)		3.8% (-0.2%)
2	3.9%	3.9% (0.0%)	3.9% (0.0%)		3.7% (-0.2%)
3	3.9%	4.0% (0.1%)		3.9% (-0.2%)	3.8% (-0.1%)
4	3.4%	3.5% (0.1%)		3.4% (-0.1%)	
		Drinking Industry Group: Exempt from Current Regulations			
1	1.3%	1.4% (0.1%)	1.5% (0.0%)		1.4% (0.0%)
2	1.1%	1.2% (0.1%)	1.3% (0.1%)		1.2% (-0.1%)
3	1.1%	1.3% (0.1%)		1.3% (0.0%)	1.3% (0.0%)
4	1.1%	1.3% (0.1%)		1.3% (0.0%)	

Note. The 2005 third quarter data includes one month pre-law and two months post-law data and was characterized as post-law in the table. Data in parentheses is the calculation of the relative percentage change from a given quarter to the same quarter of the previous year.

Figures 5 – 8 present visually the fraction of retail sales for the Food Services and Drinking Places Subsector and each industry group analyzed.

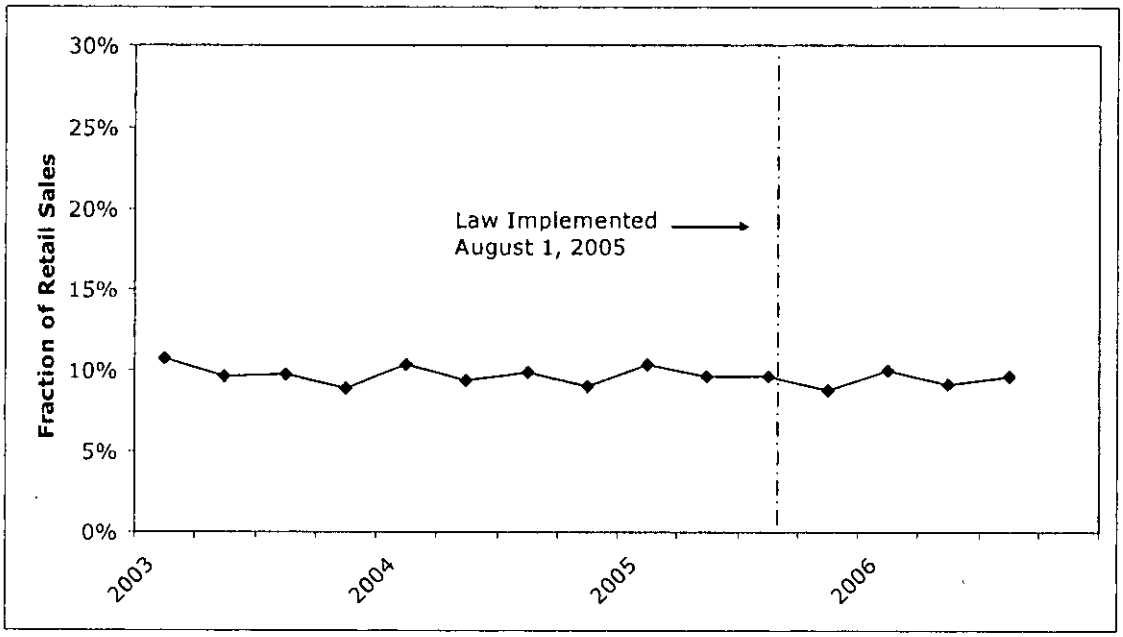

Figure 5. Fraction of Retail Sales of Food Service & Drinking Places before and after implementation of smoke-free law.

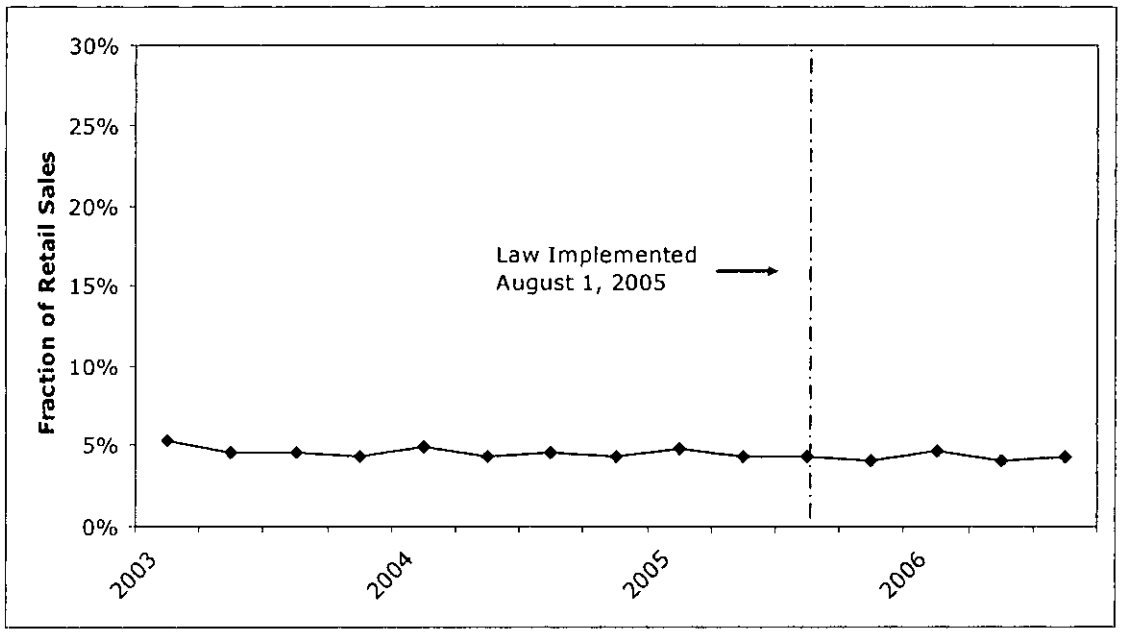

Figure 6. Fraction of Retail Sales of Full Service Restaurant Industry Group before and after implementation of smoke-free law.

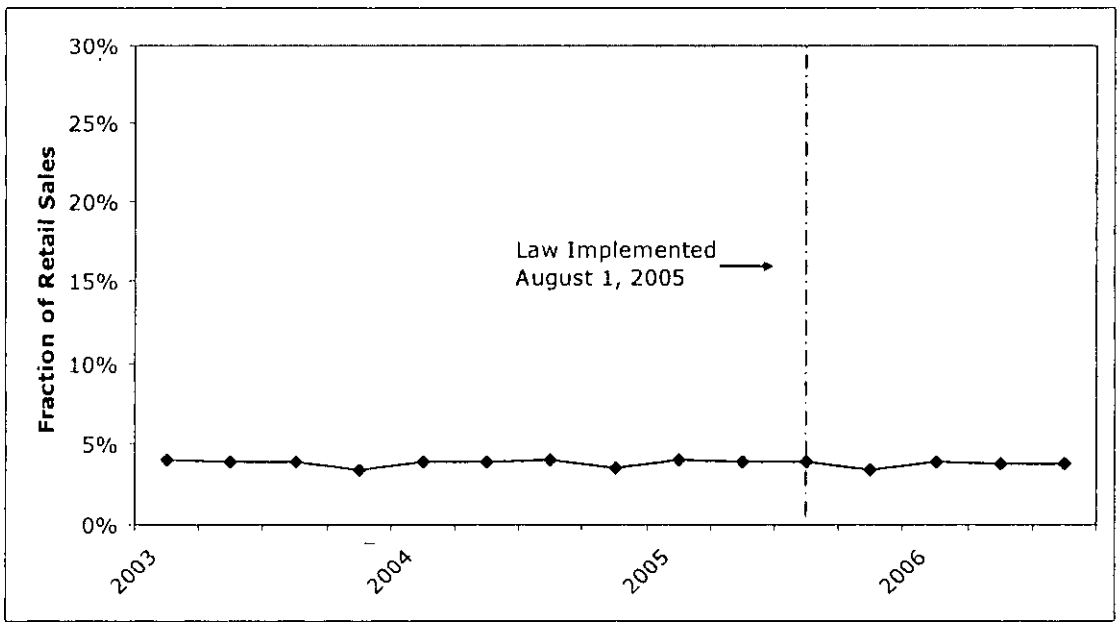

Figure 7. Fraction of Retail Sales of Limited-Service Eating Places before and after implementation of smoke-free law.

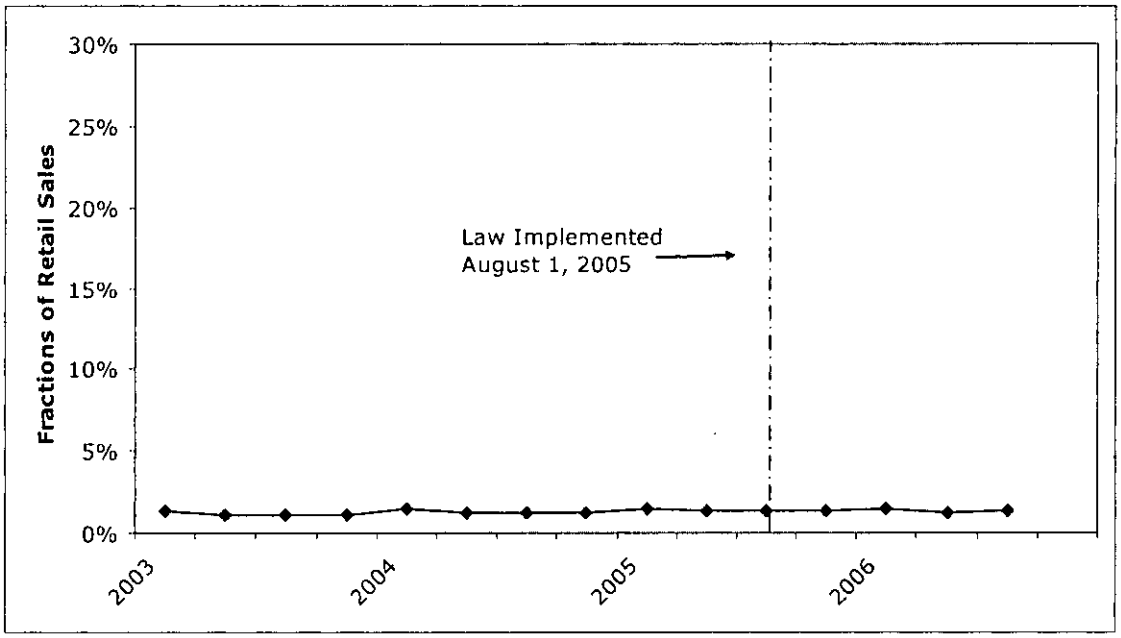

Figure 8. Fraction of Retails Sales of 7224 Drinking Places Industry Group before and after implementation of smoke-free law.

Discussion

This study examined the taxable sales of North Dakota's restaurant and bar establishments in relation to implementation of North Dakota's statewide smoke-free law. The taxable sales of the restaurant and bar establishments continued to increase after the smoke-free law was implemented. The fractions of the total retail sales for restaurant and bar establishments of a given quarter to the same quarter in the previous year fluctuated minimally during the pre-law and post-law quarters. There appeared to be no consistent change of trends after the smoke-free law was implemented. Based on these data, the statewide smoke-free law had a neutral impact on the taxable sales of the restaurant or bar establishments in North Dakota.

Limitations of this study included the limited data available, as the pre-law data was only available in a consistent coding scheme since 2003 and the post-law data was available only through the third quarter of 2006. Given the limited data points, this study attempted to control for underlying economic trends by calculating the fractions of the indicators to the overall retail

trade and for seasonal fluctuations by comparing a given quarter to the same quarter of the previous year. A longer post-implementation time frame and the accrual of more data points would have allowed for more rigorous statistical analysis. However, this study suggests that the law has not impacted taxable sales in the restaurant and bar industry one year post-implementation. Future analysis with more data points and other economic indicators, such as employment data, would strengthen these findings.

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Author's Note

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Minot State
UNIVERSITY

#11

North Dakota House Bill 1213 Testimony
House Political Subdivisions Committee
Thursday, January 29, 2009 2:00 P.M.
State Capitol Prairie Room

Good afternoon Chairman Wrangham and Members of the Committee.

My name is Chelsey Matter and I work as the Tobacco Cessation Coordinator for Fargo Cass Public Health and am also a ~~member of~~ the Smoke Free Air for Everyone coalition, and a current member of the Board of Directors for the American Lung Association of North Dakota.

The mission of the American Lung Association is the "prevention and control of lung disease". Exposure to second hand smoke is a serious lung health hazard as described in the Surgeon General's Report of 2006. Reducing exposure to these toxic chemicals for workers and the public is a top priority.

On June 2, 2008, the first part of an air quality study was released in Fargo, ND.

The air quality study was conducted by trained volunteer researchers in Fargo and supervised by researchers at the Roswell Park Cancer Institute in Buffalo, New York, the national leader in studying effects of secondhand smoke on indoor air quality.

During the first phase, indoor air quality was assessed in 10 randomly selected Fargo bars where indoor smoking was permitted and 6 similar establishments were also sampled in Moorhead, where smoking was not allowed.

The measurements were taken in early May of 2008 using a small personal aerosol monitor. This monitor measures the concentration of fine particle air pollution. The particles are so small that they are easily inhaled deeply into the lungs, causing a variety of adverse health effects.

During the first phase it was found that Fargo's bars that allowed smoking had air quality levels that were classified as hazardous, or 4.5 times higher than what is recommended safe by the United States Environmental Protection Agency. Neighboring Moorhead, MN, where establishments had gone smoke-free several months before, had air quality comparable with what would be found outdoors.

In June 2008, shortly after the release of the air quality results, Fargo and West Fargo voters passed a smoking ban measure, now making workplaces such as bars smoke-free. In order to determine the difference in air quality, we conducted a second phase to the air quality study.

Indoor air quality was assessed in the same 10 randomly selected Fargo bars that were sampled in the first phase. The new smoking ban went into effect July 1, 2008. Therefore, second phase measurements were taken between the end of September and beginning of October.

The result; Indoor particle pollution levels declined 98% in Fargo as a result of the smoke-free air law. These levels are so low, they can now be compared to those found in outdoor air.

This study provides more evidence that indoor smoking causes exposure to harmful levels of indoor air pollution and that comprehensive smoke-free air policy that prohibits indoor smoking is extremely effective in eliminating exposure.

Thank you for your time and I would be happy to answer any questions you have.

Executive Summary

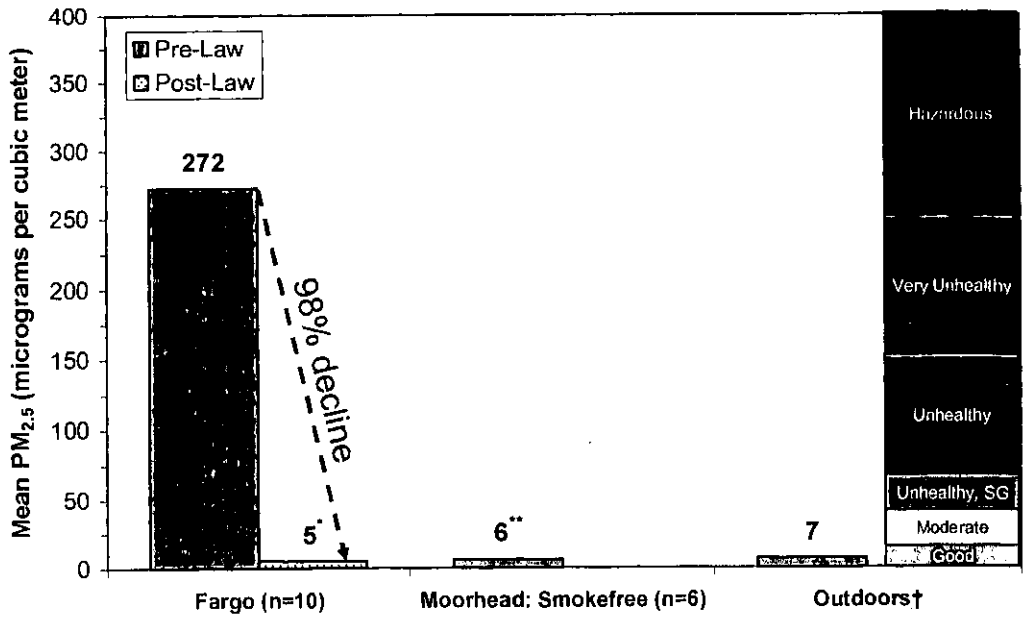
Indoor air quality was assessed in 10 randomly selected Fargo, ND bars both before and after a smoke-free indoor air ordinance. Six similar establishments were also randomly selected and sampled in Moorhead, MN where indoor smoking is prohibited. The concentration of fine particle air pollution, $PM_{2.5}$, was measured with a TSI SidePak AM510 Personal Aerosol Monitor. $PM_{2.5}$ is particulate matter in the air smaller than 2.5 microns in diameter. Particles of this size are released in significant amounts from burning cigarettes, are easily inhaled deep into the lungs, and cause a variety of adverse health effects including cardiovascular and respiratory disease and death.

Key findings of the study include:

- Before the Fargo smoke-free air ordinance, the average level of fine particle indoor air pollution was 45 times higher in Fargo locations sampled compared to the places in smoke-free Moorhead.
- Employees working full-time in the establishments sampled in Fargo before the law were exposed annually to fine particle air pollution levels 4.5 times higher than the safe annual limit established by the U.S. Environmental Protection Agency (EPA).
- Indoor particle pollution levels declined 98% in Fargo as a result of the smoke-free air law to low levels, similar to those found in outdoor air.

Consistent with the findings of the U.S. Surgeon General, this study provides further evidence that indoor smoking causes exposure to harmful levels of indoor air pollution and that comprehensive smoke-free air policies, prohibiting indoor smoking, are extremely effective in eliminating these exposures.

Effect of Smoke-free Air Ordinance on Indoor Air Pollution in Fargo Hospitality Venues



* p<0.001 for comparison of pre-law to post-law Fargo (paired samples *t* test of log-transformed values)

** p<0.001 for comparison of Fargo to Moorhead (Independent samples *t* test of log-transformed values)

† Used for comparison purposes. Based on the 2007 average $PM_{2.5}$ level from the 5 EPA monitoring sites in North Dakota. http://www.epa.gov/air/data/

Note: The color-coded EPA Air Quality Index is shown to illustrate the magnitude of the measured particle concentrations. (SG=sensitive groups)

#12

Testimony of Rudie Martinson
ND Hospitality Association
Executive Director
HB 1213

Mr. Chairman and Committee Members, thank you for the chance to appear before you today. My name is Rudie Martinson. I represent the ND Hospitality Association and I am here today to oppose HB 1213.

We oppose this bill for a number of reasons. We believe that it is a business owner's right to determine what goes on in their business. We aren't talking about the faceless "bar owners" that the opposition would have you think we represent. We represent homegrown North Dakota businesses from all over the state. Our members are North Dakotans from your hometown, and they work as hard at their businesses as you do at yours. Should they not have the right to run their business as they see fit under the law?

We also believe that it is the business patron's right to chose the environment in which they will spend their leisure dollar. Both smoking and non-smoking environments are available to any who care to go out for a cocktail and they are becoming more prevalent all of the time. Any patron who is uncomfortable with an environment that allows smoking is free to vote with their feet and choose another business to patronize.

Additionally, bars do not expose minors to second hand smoke. We are talking about rooms full of adults who have made a voluntary decision to be there, and can make a voluntary decision to leave at any time.

The proponents of the bill will tell you that it will not affect businesses here in North Dakota, and they will try to wow you with studies that seem to bear this claim out. One such study is from Minneapolis, and I have included it with my testimony. I'd like to highlight the following paragraph for you (the emphasis is mine):

> **City staff who presented the report noted that these findings do not directly address the question of whether the Indoor Smoking Ordinance had a beneficial or adverse economic impact on the local hospitality industry.** Many factors affect alcohol and food sales, including the local economy, the weather, and the attractions offered by local entertainment venues. The study also does not take inflation into account. In addition, **staff pointed out that revenues do not constitute profits, and profitability is a better gauge of business success than gross revenues.**

We can quibble over the particulars of each study, and we can listen to the experts that claim it won't hurt business. Or, we can listen to the people that showed up to testify today. They do this business for a living every day, on the front lines, and they are telling you that this law will close businesses.

At the end of the day, Mr. Chairman and Committee Members, we are talking about small business owners in the state of North Dakota. They do their business for the same reason that we all do – to put kids through college, retire, take care of aging parents, and live their lives. In these economic times, are you willing to tell them that they can't run their business as they choose? Are you willing to tell them that they have to close their doors?

If you vote "yes" on this bill, you are choosing to do exactly that. The ND Hospitality Association, as a group of North Dakota small business owners, asks you to vote "DO NOT PASS" on HB 1213.

#12

Chairman Wrangham, and members of the committee:

My name is Dick Prozinski. I'm a businessman from Devils Lake. I've been a business owner over 21 years. For 17 years, myself & my wife, have owned & operated Proz Sportsbar, Grille & Caboose. Recently we purchased a new business in Devils Lake, called The Warehouse on 3rd Entertainment Shack.

People say Rural North Dakota is a bad investment or you don't have enough people to justify the expense. My response to them is "Well,..... Its' my Choice, and I have that right to do what I feel is the best decision for my business."

My family & my wifes family, were all born, raised & educated in North Dakota. Of my 4 children, my 2 oldest are going to Universities in North Dakota, my 3rd oldest is a sophomore in a North Dakota High School & my youngest is a 2nd grader in a North Dakota School.

My great grandfather, 1 of my grandfathers, my father-in-law, & 2 of my uncles all were over seas in wars or conflicts. One of which, is in Afghanistan as we speak. My best friend died in Beirut, Lebanon. Shortly before he left, for what was to be his last & final mission, I asked him, Why?

His response was, "I'm proud to be from North Dakota, and honored to be an American. I will stand up & if needed, fight for our freedom & the ability to make our own choices. We are free & we are proud, so that's Why."

I am not a smoker. When I go out for dinner or cocktails, I have the choice to pick if I want to go to a smoking or non-smoking establishment, being I have the opportunitee to do so. I want to keep my freedom of choice, personally & in my businesses.

I am strongly urging you to vote NO on HB 1213. Government has enough issues at hand.

Thankyou,

Dick Prozinski
Proz Inc.
Proz Sportsbar, Grille & Caboose
The Warehouse on 3rd Entertainment Shack
Devils Lake, N.Dak. 58301
701-662-2101
701-740-7458
701-662-8972

4 15

North Dakota House Bill 1213 Testimony
House Political Subdivisions Committee
Thursday, January 29, 2009 2:00 P.M.
State Capitol Prairie Room

Chairman Wrangham and Members of the House Political Subdivisions Committee:

My name is Bette Deede and I work as Community Tobacco Coordinator at Fargo Cass Public Health. Part of my responsibility is a seat on the Fargo Area SAFE - Smoke-Free Air for Everyone – Coalition.

On July 1, 2008, comprehensive smoke-free ordinances became effective in the communities of Fargo and West Fargo. The ballot measures were supported by 61% of the voters in Fargo and 57% in West Fargo. I'd like to share our implementation experience with regard to retail tobacco stores.

The new Fargo and West Fargo ordinances are identical to the present North Dakota law, except exemptions for bars, truck stops and public access rentals/leases were removed.

Smoking was still allowed in retail tobacco stores.

After July 1, a number of businesses in Fargo attempted to define themselves as "retail tobacco stores" in order to maintain indoor smoking for their customers. One bar set up a cash register in an adjoining gaming room; another placed a cigarette machine in a closet and allowed customers to smoke in that enclosed area. Another facility installed a cigarette machine in a store room and allowed smoking in that space, which was directly open onto a three-story elevator shaft.

There are currently two stores in the Fargo metro area that sell tobacco products, almost exclusively. They have been in business a number of years. Neither has ever allowed smoking in their facility.

Our Fargo experience is evidence the elimination of the exemption for retail tobacco stores would both insure those North Dakota workers protection from the health risks of secondhand smoke, and simplify implementation of a new state law. At the same time, it would not prevent legitimate retail tobacco stores from selling their products.

Thank you for the opportunity to share our city ordinance process. Are there any questions?

Handed out - NO one spoke. #15

Testimony in Support of House Bill No. 1213
January 29, 2009
House Political Subdivisions Committee

NORTH DAKOTA MEDICAL ASSOCIATION

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

(701) 223-9475
Fax (701) 223-9476
www.ndmed.org

Chairman Wrangham and Committee Members, I'm Bruce Levi, representing the North Dakota Medical Association. The Medical Association is the professional membership organization for North Dakota physicians, residents, and medical students.

The North Dakota Medical Association joins with the bill sponsors and the healthcare community in encouraging you to support HB 1213, the primary goal of which is to further protect our workforce and the public from the negative impacts of tobacco smoke. Physicians in North Dakota are in the unique position of seeing the tragic effects of smoking and second-hand smoke in their patients on a daily basis, including cases of heart disease, lung cancer, emphysema, bronchitis, pneumonia, sinusitis, and ear infections in both adults and children.

The 2006 U.S. Surgeon General's study cites scientific evidence in concluding that there is no risk-free level of exposure to secondhand smoke. Secondhand smoke contains toxic chemicals and gases, including cyanide, formaldehyde, ammonia, benzene, carbon monoxide, toluene, and arsenic. Exposure to secondhand smoke has immediate adverse effects on the cardiovascular system and causes coronary artery disease and lung cancer.

The Surgeon General has also concluded that smoke-free workplace policies are the only effective way to eliminate second-hand smoke exposure in the workplace, and that separating smokers from nonsmokers, cleaning the air, and ventilating buildings cannot eliminate exposure.

The North Dakota Medical Association supports the removal of the exemptions for bars and hotel and motel rooms from section 23-12-10 as a step closer to a more comprehensive smoke-free law.

We urge the committee to support a "Do Pass" recommendation on HB 1213.

ND Petroleum Marketers Association
ND Retail Association

#16

Testimony HB 1213

January 29, 2009 – House Political Subdivision Committee

Chairman Wrangham and members of the House Political Subdivision Committee:

For the record, my name is Mike Rud. I'm the president of the North Dakota Retail and Petroleum Marketers Associations. On behalf of our nearly 800 members and the thousands of people we employ, NDRA and NDPMA are seeking a "**DO NOT PASS**" on HB 1213.

While we all agree with the potential health dangers associated with smoking, we rise in opposition to this bill because we believe the decision to allow smoking in business establishments should rest with the operators of the business, not the government.

We strongly believe the customers frequenting any place of business can and will have a profound effect on individual business policies. If sales begin to drop off because of smoking, any good business person will take a look at those numbers and make the needed changes on their own for the betterment of their establishment. They can reach such a conclusion without a law.

Again, NDRA and NDPMA recommend a "DO NOT PASS" on HB 1213. Thank you for your time and consideration.

1025 North 3rd Street • PO Box 1956 • Bismarck, ND 58502 • 701-223-3370 • Fax 701-223-5004
Web Address: ndretail.org • ndpetroleum.org

#14

TESTIMONY IN SUPPORT OF HB 1213 ~~WITH AMENDMENTS~~

By:
Carol M. Russell, MPH
897 Southport Loop
Bismarck, ND 58504
701-255-1025

I was born and grew up in Minot and retired to Bismarck in 2006. Before I retired I was Chief of Program Services for the landmark Californian Tobacco Program of the California Department of Public Health. I was with that program since its beginning in 1989-90. Over the years I have been anxious for the North Dakota legislature to exert more leadership on behalf of the health of the people it represents.

I want to share with you what I know:

- This cigarette kills when used as directed.
- It also emits toxic fumes – carcinogens clearly known to hurt or kill us.
- In 1993 the U.S. Environmental Protection Agency named second hand smoke as a Class A carcinogen – the same as asbestos.
- Just recently, we've learned that these fumes go on living in our clothes, carpets, drapes, and furniture. Have you ever had someone sit down next to you who had been smoking? What you smell are toxic fumes and what are now called "third hand smoke" – smoke that keeps on giving. This is why child day care facilities should be smoke free 24/7. Enough bad things happen to children in this world. We don't need to add to that.
- With my testimony I've included a copy of the 1997 Executive Summary of the California Environmental Protection Agency on the "Health Effects of Exposure to Environmental Tobacco Smoke" This is the state-of-the-art science on this subject. It was so important that the National Cancer Institute published it in its entirety as a monograph in 1999. This is a copy of that monograph. The science is irrefutable. It is clear.

I've been through this entire legislative process before. January 1, 1995 California workplaces became smoke free. January 1, 1998, the exemption for bars was removed and bars became smoke free as well. That was TEN years ago.

The tobacco companies did everything they could to stop us. Should you have any doubt about that I've included with my testimony the organization chart for Philip Morris's "California Action Plan" that shows the allies it was marshalling to defeat us. Their plan didn't work because most of the people truly wanted smoke free environments, even smokers who wanted to quit.

In terms of business, a California legislator said, "A bar shouldn't have to rely on toxic air to stay in business." Still I know there are business concerns about revenue dropping. We found, as have other states, that in a very few cases some smokers may be a bar drop-out, but the business builds right back up and in most cases increases. How do we know this? TAX RECEIPTS. Not second guessing or opinion polls. Tax receipts. Hard, cold data.

Business-wise you have to ask yourself is it smarter to cater to 20% of our population or 80%. If Steve Jobs told Apple's sales force it could only sell I-Pods to 20% of the population, he would have been laughed off the stage.

Another business concern is liability. What is the liability of a business owner who knowingly and willfully allows employees to be exposed to carcinogenic second hand smoke? A recent study in the August, 2007American Journal of Public Health, reaffirmed the effects on workers of a particularly potent carcinogen (NNK) in second hand smoke. In a related study in that same issue experts in public health law noted that employers across the country are already being held legally accountable for this exposure. This is something serious to think about.

What it boils down to now is your choice. How willing are you to protect the health of North Dakotans from toxic environmental tobacco smoke?

Health Effects of Exposure to Environmental Tobacco Smoke

Final Report
September 1997

CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

Executive Summary

Exposure to environmental tobacco smoke (ETS) has been linked to a variety of adverse health outcomes. Many Californians are exposed at home, at work and in public places. In the comprehensive reviews published as *Reports of the Surgeon General* and by the U.S. Environmental Protection Agency (U.S. EPA) and the National Research Council (NRC), ETS exposure has been found to be causally associated with respiratory illnesses, including lung cancer, childhood asthma and lower respiratory tract infections. Scientific knowledge about ETS-related effects has expanded considerably since the release of these reviews. The State of California has therefore undertaken a broad review of ETS, covering the major health endpoints potentially associated with ETS exposure: perinatal and postnatal manifestations of developmental toxicity, adverse impacts on male and female reproduction, respiratory disease, cancer, and cardiovascular disease. A "weight of evidence" approach has been used to describe the body of evidence to conclude whether or not ETS exposure is causally associated with a particular effect. Because the epidemiological data are extensive, they serve as the primary basis for assessment of ETS-related effects in humans. The report also presents an overview on measurements of ETS exposure, particularly as they relate to characterizations of exposure in epidemiological investigations, and on the prevalence of ETS exposure in California and nationally.

ETS, or "secondhand smoke", is the complex mixture formed from the escaping smoke of a tobacco product, and smoke exhaled by the smoker. The characteristics of ETS change as it ages and combines with other constituents in the ambient air. Exposure to ETS is also frequently referred to as "passive smoking", or "involuntary tobacco smoke" exposure. Although all exposures of the fetus are "passive" and "involuntary", for the purposes of this review *in utero* exposure resulting from maternal smoking during pregnancy is not considered to be ETS exposure.

General Findings

ETS is an important source of exposure to toxic air contaminants indoors. There is also some exposure outdoors, in the vicinity of smokers. Despite an increasing number of restrictions on smoking and increased awareness of health impacts, exposures in the home, especially of infants and children, continue to be a public health concern. ETS exposure is causally associated with a number of health effects. Listed in Table ES.1 are the developmental, respiratory, carcinogenic and cardiovascular effects for which there is sufficient evidence of a causal relationship, including fatal outcomes such as sudden infant death syndrome and heart disease mortality, as well as serious chronic diseases such as childhood asthma. There are in addition effects for which evidence is suggestive of an association but further research is needed for confirmation. These include spontaneous abortion, cervical cancer, and exacerbation of asthma in adults (Table ES.1). Finally, it is not possible to judge on the basis of the current evidence the impact of ETS on a number of endpoints, including congenital malformations, changes in female fertility and

fecundability, male reproductive effects, rare childhood cancers and cancers of the bladder, breast, stomach, brain, hematopoietic system, and lymphatic system.

TABLE ES.1
HEALTH EFFECTS ASSOCIATED WITH EXPOSURE TO ENVIRONMENTAL TOBACCO SMOKE

Effects Causally Associated with ETS Exposure
Developmental Effects
Fetal Growth: Low birthweight or small for gestational age
Sudden Infant Death Syndrome (SIDS)
Respiratory Effects
Acute lower respiratory tract infections in children (*e.g.*, bronchitis and pneumonia)
Asthma induction and exacerbation in children
Chronic respiratory symptoms in children
Eye and nasal irritation in adults
Middle ear infections in children
Carcinogenic Effects
Lung Cancer
Nasal Sinus Cancer
Cardiovascular Effects
Heart disease mortality
Acute and chronic coronary heart disease morbidity
Effects with Suggestive Evidence of a Causal Association with ETS Exposure
Developmental Effects
Spontaneous abortion
Adverse impact on cognition and behavior
Respiratory Effects
Exacerbation of cystic fibrosis
Decreased pulmonary function
Carcinogenic Effects
Cervical cancer

Many Californians are exposed to ETS, and the number of people adversely affected may be correspondingly large. Table ES.2 presents morbidity and mortality estimates for health effects causally associated with ETS exposure. For cancer, cardiovascular and some respiratory endpoints, estimates are derived from figures published for the U.S. population, assuming that the number affected in California would be 12% of the total. The estimates for middle ear infection, sudden infant death syndrome and low birthweight were derived using information on prevalence of ETS exposure in California and the U.S.

Relative risk estimates associated with some of these endpoints are small, but because the diseases are common the overall impact can be quite large. A relative risk estimate of 1.3 for heart disease mortality in nonsmokers is supported by the collective evidence; this corresponds to a lifetime risk of death of roughly 1 to 3% for exposed nonsmokers and approximately 4,000 deaths annually in California. The relative risk estimate of 1.2 to 1.4 associated with low birthweight implies that ETS may impact fetal growth of 1,200 to 2,200 newborns in California, roughly 1 to 2% of newborns of nonsmokers exposed at home or work. ETS may exacerbate asthma ($RR \approx 1.6$ to 2) in 48,000 to 120,000 children in California. Large impacts are associated with relative risks for respiratory effects in children such as middle ear infection ($RR \approx 1.62$), and lower respiratory disease in young children ($RR \approx 1.5$ to 2). Asthma induction ($RR \approx 1.75$ to 2.25) may occur in as many as 0.5 to 2% of ETS-exposed children. ETS exposure may be implicated in 120 SIDS deaths per year in California ($RR \approx 3.5$), with a risk of death to 0.1% of infants exposed to ETS in their homes. Lifetime risk of lung cancer death related to ETS-exposed nonsmokers may be about 0.7% ($RR \approx 1.2$). For nasal sinus cancers, observed relative risks have ranged from 1.7 to 3.0, but future studies are needed to confirm the magnitude of ETS-related risks.

Specific Findings and Conclusions

Exposure Measurement and Prevalence

ETS is a complex mixture of chemicals generated during the burning and smoking of tobacco products. Chemicals present in ETS include irritants and systemic toxicants such as hydrogen cyanide and sulfur dioxide, mutagens and carcinogens such as benzo(a)pyrene, formaldehyde and 4-aminobiphenyl, and the reproductive toxicants nicotine, cadmium and carbon monoxide. Many ETS constituents have been identified as hazardous by state, federal and international agencies. To date, over 50 compounds in tobacco smoke have been identified as carcinogens and six as developmental or reproductive toxicants under California's Proposition 65 (California Health and Safety Code 25249.5 *et seq.*).

Exposure assessment is critical in epidemiological investigations of the health impacts of ETS, and in evaluating the effectiveness of strategies to reduce exposure. Exposure can be assessed through the measurement of indoor air concentrations of ETS constituents, through surveys and questionnaires, or more directly through the use of personal monitors and the measurement of biomarkers in saliva, urine and blood. There are advantages and

TABLE ES.2

ESTIMATED ANNUAL MORBIDITY AND MORTALITY IN NONSMOKERS ASSOCIATED WITH ETS EXPOSURE

Condition	Number of People or Cases[a]	
	in the U.S.	in California
Developmental Effects		
Low birthweight	≈ 9,700 - 18,600 cases[b]	≈ 1,200 - 2,200 cases[b]
Sudden Infant Death Syndrome (SIDS)	≈ 1,900 - 2,700 deaths[b]	≈ 120 deaths[b]
Respiratory Effects in Children		
Middle ear infection	0.7 to 1.6 million physician office visits[b]	78,600 to 188,700 physician office visits[b]
Asthma induction	8,000 to 26,000 new cases[c]	960 to 3120 new cases[c]
Asthma exacerbation	400,000 to 1,000,000 children[c]	48,000 to 120,000 children[c]
Bronchitis or pneumonia in infants and toddlers (18 months and under)	150,000 to 300,000 cases[c] 7,500 to 15,000 hospitalizations[c] 136 - 212 deaths[c]	18,000 to 36,000 cases[c] 900 to 1800 hospitalizations[c] 16 - 25 deaths[c]
Cancer		
Lung	3000 deaths[c]	360 deaths[c]
Nasal sinus	N/A[d]	N/A[d]
Cardiovascular Effects		
Ischemic heart disease	35,000 - 62,000 deaths[c]	4,200 - 7,440 deaths[c]

[a] The numbers in the table are based on maximum likelihood estimates of the relative risk. As discussed in the body of the report, there are uncertainties in these estimates, so actual impacts could be somewhat higher or lower than indicated in the table. The endpoints listed are those for which there is a causal association with ETS exposure based on observations of effects in exposed human populations.

[b] California estimates for low birthweight, SIDS, and middle ear infection (otitis media) are provided in Chapters 3, 4, and 6, respectively. U.S. estimates are obtained by dividing by 12%, the fraction of the U.S. population residing in California.

[c] Estimates of mortality in the U.S. for lung cancer and respiratory effects, with the exception of middle ear infection (otitis media), come from U.S. EPA (1992). U.S. range for heart disease mortality reflects estimates reported in Wells (1988 and 1994), Glantz and Parmley (1991), Steenland (1992). California predictions are made by multiplying the U.S. estimate by 12%, the fraction of the U.S. population residing in the State. Because of decreases in smoking prevalence in California in recent years, the number of cases for some endpoints may be somewhat overestimated, depending on the relative impacts of current versus past ETS exposures on the health endpoint.

[d] Estimates of the impact of ETS exposure on the occurrence of nasal sinus cancers are not available at this time.

disadvantages associated with the various techniques, which must be weighed in interpreting study results. One important consideration in epidemiologic studies is misclassification of exposure. Studies on the reliability of questionnaire responses indicate qualitative information obtained is generally reliable, but that quantitative information may not be. Also, individuals are often unaware of their ETS exposure, particularly outside the home. In studies using both self-reporting and biological markers, the exposure prevalence was higher when determined using biological markers.

Available data suggest that the prevalence of ETS exposure in California is lower than elsewhere in the U.S. Among adults in California, the workplace, home and other indoor locations all contribute significantly to ETS exposure. For children the most important single location is the home. Over the past decade ETS exposures in California have decreased significantly in the home, workplace and in public places. Over the same period, restrictions on smoking in enclosed worksites and public places have increased (*e.g.*, Gov. Code, Section 19994.30 and California Labor Code, Section 6404.5) and the percentage of the adults who smoke has declined. Decreases in tobacco smoke exposure may not be experienced for some population subgroups, as patterns of smoking shift with age, race, sex and socioeconomic status. For example, from 1975 to 1988, the overall smoking prevalence among 16 to 18 year olds declined, but after 1988 the trend reversed.

Perinatal Manifestations of Developmental Toxicity

ETS exposure adversely affects fetal growth, with elevated risks of low birth weight or "small for gestational age" observed in numerous epidemiological studies. The primary effect observed, reduction in mean birthweight, is small in magnitude. But if the distribution of birthweight is shifted lower with ETS exposure, as it appears to be with active smoking, infants who are already compromised may be pushed into even higher risk categories. Low birthweight is associated with many well-recognized problems for infants, and is strongly associated with perinatal mortality.

The impact of ETS on perinatal manifestations of development other than fetal growth is less clear. The few studies examining the association between ETS and perinatal death are relatively non-informative, with only two early studies showing increased risk associated with parental smoking, and with the sparse data on stillbirth not indicative of an effect. Studies on spontaneous abortion are suggestive of a role for ETS, but further work is needed, particularly as a recent report did not confirm the findings of four earlier studies. Although epidemiological studies suggest a moderate association of severe congenital malformations with paternal smoking, the findings are complicated by the use of paternal smoking status as a surrogate for ETS exposure, since a direct effect of active smoking on sperm cannot be ruled out. In general, the defects implicated differed across the studies, with the most consistent association seen for neural tube defects. At this time, it is not possible to determine whether there is a causal association between ETS exposure and this or other birth defects.

Postnatal Manifestations of Developmental Toxicity

Numerous studies have demonstrated an increased risk of sudden infant death syndrome, or "SIDS," in infants of mothers who smoke. Until recently it has not been possible to separate the effects of postnatal ETS exposure from those of prenatal exposure to maternal active smoking. Recent epidemiological studies now have demonstrated that postnatal ETS exposure is an independent risk factor for SIDS.

Although definitive conclusions regarding causality cannot yet be made on the basis of available epidemiological studies of cognition and behavior, there is suggestive evidence that ETS exposure may pose a hazard for neuropsychological development. With respect to physical development, while small but consistent effects of active maternal smoking during pregnancy have been observed on height growth, there is no evidence that postnatal ETS exposure has a significant impact in otherwise healthy children. As discussed in greater detail below, developmental effects of ETS exposure on the respiratory system include lung growth and development, childhood asthma exacerbation, and, in children, acute low respiratory tract illness, middle ear infection and chronic respiratory symptoms.

Female and Male Reproductive Toxicity

Though active smoking by women has been found to be associated with decreased fertility in a number of studies, and tobacco smoke appears to be anti-estrogenic, the epidemiological data on ETS exposure and fertility are not extensive and show mixed results, and it is not possible to determine whether ETS affects fecundability or fertility. Regarding other female reproductive effects, while studies indicate a possible association of ETS exposure with early menopause, the analytic methods of these studies could not be thoroughly evaluated, and therefore at present, there is not firm evidence that ETS exposure affects age at menopause. Although associations have been seen epidemiologically between active smoking and sperm parameters, conclusions can not be made regarding ETS exposure and male reproduction, as there is very limited information available on this topic.

Respiratory Effects

ETS exposure produces a variety of acute effects involving the upper and lower respiratory tract. In children, ETS exposure can exacerbate asthma, and increases the risk of lower respiratory tract illness, and acute and chronic middle ear infection. Eye and nasal irritation are the most commonly reported symptoms among adult nonsmokers exposed to ETS. Odor annoyance has been demonstrated in several studies.

Regarding chronic health effects, there is compelling evidence that ETS is a risk factor for induction of new cases of asthma as well as for increasing the severity of disease among children with established asthma. In addition, chronic respiratory symptoms in children, such as cough, phlegm, and wheezing, are associated with parental smoking. While the

results from all studies are not wholly consistent, there is evidence that childhood exposure to ETS affects lung growth and development, as measured by small, but statistically significant decrements in pulmonary function tests; associated reductions may persist into adulthood. The effect of chronic ETS exposure on pulmonary function in otherwise healthy adults is likely to be small, and unlikely by itself to result in clinically significant chronic disease. However, in combination with other insults (*e.g.*, prior smoking history, exposure to occupational irritants or ambient air pollutants), ETS exposure could contribute to chronic respiratory impairment in adults. In addition, regular ETS exposure in adults has been reported to increase the risk of occurrence of a variety of lower respiratory symptoms.

Children are especially sensitive to the respiratory effects of ETS exposure. Children with cystic fibrosis are likely to be more sensitive than healthy individuals. Several studies of patients with cystic fibrosis, a disease characterized by recurrent and chronic pulmonary infections, suggest that ETS can exacerbate the condition. Several studies have shown an increased risk of atopy (a predisposition to develop IgE antibodies against common allergens, which can then be manifested as a variety of allergic conditions) in children of smoking mothers, though the evidence regarding this issue is mixed.

Carcinogenic Effects

The role of ETS in the etiology of cancers in nonsmokers was explored, as smoking is an established cause of a number of cancers (lung, larnyx, oral cavity, esophagus and bladder), and a probable cause of several others (cervical, kidney, pancreas, and stomach). Also, ETS contains a number of constituents which have been identified as carcinogens.

Reviews published in the 1986 *Report of the Surgeon General,* by the National Research Council in 1986, and by the U.S. EPA in 1992 concluded that ETS exposure causes lung cancer. Three large U.S. population-based studies and a smaller hospital-based case control study have been published since the completion of the U.S. EPA review. The population-based studies were designed to and have successfully addressed many of the weaknesses for which the previous studies on ETS and lung cancer have been criticized. Results from these studies are compatible with the causal association between ETS exposure and lung cancer already reported by the U.S. EPA, Surgeon General, and National Research Council. Of the studies examining the effect of ETS exposure on nasal sinus cancers, all three show consistent associations, presenting strong evidence that ETS exposure increases the risk of nasal sinus cancers in nonsmoking adults. Further study is needed to characterize the magnitude of the risk of nasal sinus cancer from ETS exposure.

The epidemiological and biochemical evidence suggest that exposure to ETS may increase the risk of cervical cancer. Positive associations were observed in two of three case-control studies and a statistically nonsignificant positive association was observed in the only cohort study conducted. Findings of DNA adducts in the cervical epithelium as well as nicotine and cotinine in the cervical mucus of ETS-exposed nonsmokers provides biological plausibility.

For other cancer sites in adults, there has been limited ETS-related epidemiological research in general: there is currently insufficient evidence to draw any conclusion regarding the relationship between ETS exposure and the risk of occurrence. A review of the available literature clearly indicates the need for more research. For example, although compounds established as important in the etiology of stomach cancer are present in tobacco smoke, only a single cohort study has been performed for this site. Precursors of endogenously formed N-nitroso compounds suspected of causing brain tumors are present in high concentrations in ETS, and the one cohort and two case-control studies available suggest a positive association, but the results are based on small numbers and may be confounded by active smoking. In biochemical studies of nonsmokers, higher levels of hemoglobin adducts of the established bladder carcinogen, 4-aminobiphenyl, have been found in those exposed to ETS. However, no significant increases in bladder cancer were seen in the two epidemiological studies (case-control) conducted to date, although both studies were limited in their ability to detect an effect. Several compounds in tobacco smoke are associated with increased risk of leukemia, but only one small case-control study in adults, reporting an increased risk with ETS exposure during childhood, has been performed. Finally, all four studies on ETS exposure and breast cancer suggest an association, but in two of the studies the associations were present only in select groups, and in three studies there is either no association between active smoking and the risk of breast cancer or the association for active smoking is weaker than for passive smoking. Moreover, there is no indication of increasing risk with increasing intensity of ETS exposure. Still, results from a recent study suggest that tobacco smoke may influence the risk of breast cancer in certain susceptible groups of women, and this requires further investigation.

Regarding childhood cancers, it is unclear whether parental smoking increases risk overall, or for specific cancers such as acute lymphoblastic leukemia and brain tumors, the two most common cancers in children. The lack of clarity is due to the conflicting results reported and the limitations of studies finding no association. The epidemiological data on ETS exposure and rare childhood cancers also provide an inadequate foundation for making conclusions regarding causality. Some studies found small increased risks in children in relation to parental smoking for neuroblastoma, Wilm's tumor, bone and soft-tissue sarcomas, but not for germ cell tumors. Studies to date on these rare cancers have been limited in their power to detect effects. The impact of ETS exposure on childhood cancer would benefit from far greater attention than it has received to date.

Cardiovascular Effects

The epidemiological data, from prospective and case-control studies conducted in diverse populations, in males and females and in western and eastern countries, are supportive of a causal association between ETS exposure from spousal smoking and coronary heart disease (CHD) mortality in nonsmokers. To the extent possible, estimates of risk were determined with adjustment for demographic factors, and often for other factors related to heart disease, such as blood pressure, serum cholesterol level and obesity index. Risks

associated with ETS exposure were almost always strengthened by adjustment for other cofactors. For nonsmokers exposed to spousal ETS compared to nonsmokers not exposed, the risk of CHD mortality is increased by a factor of 1.3. The association between CHD and risk is stronger for mortality than for non-fatal outcomes, including angina.

Data from clinical studies suggest various mechanisms by which ETS causes heart disease. In a number of studies in which nonsmokers were exposed to ETS, carotid wall thickening and compromise of endothelial function were similar to, but less extensive than those experienced by active smokers. Other effects observed include impaired exercise performance, altered lipoprotein profiles, enhanced platelet aggregation, and increased endothelial cell counts. These findings may account for both the short- and long-term effects of ETS exposure on the heart.

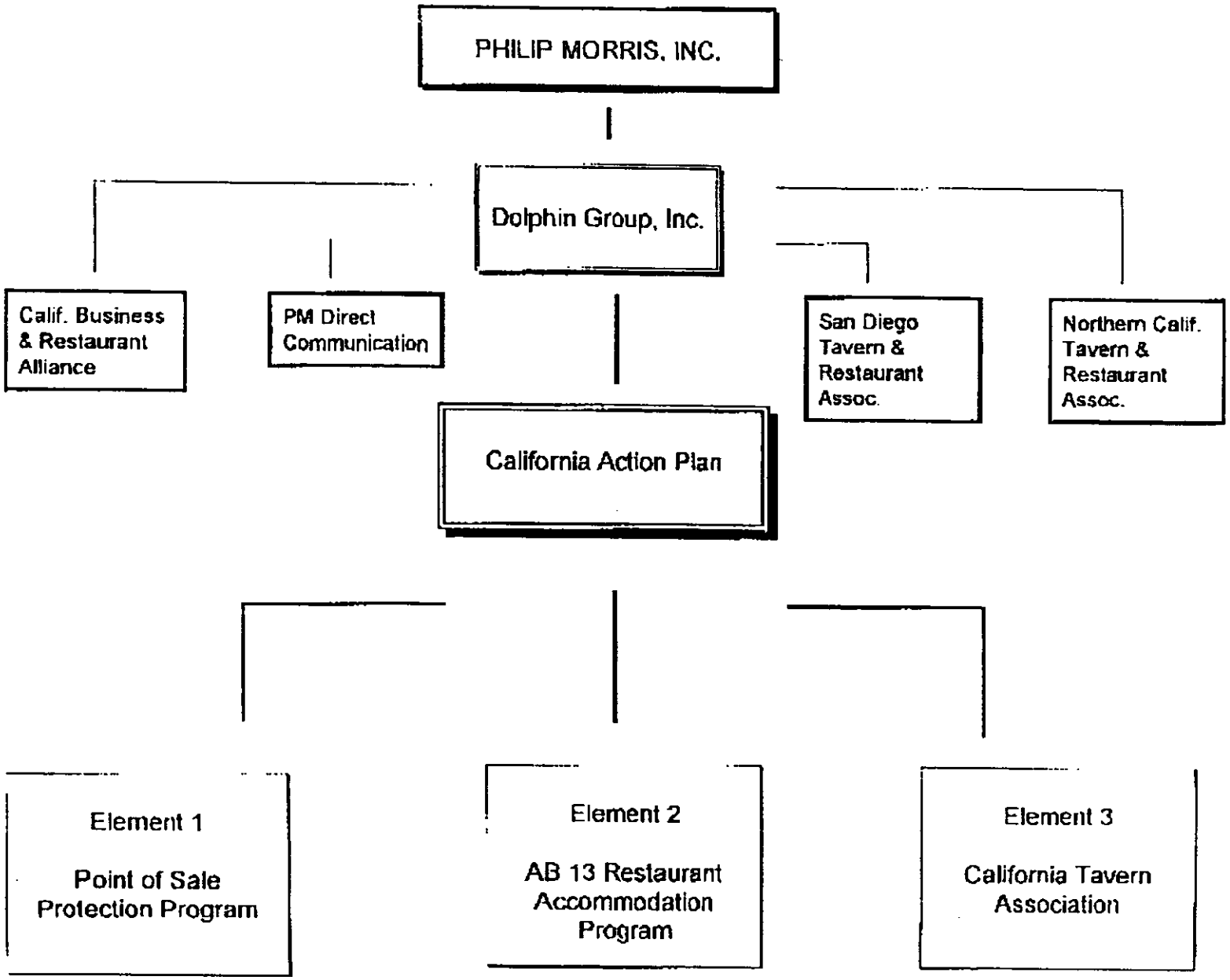
Attachment I

Review of the OEHHA Assessment of Environmental Tobacco Smoke by the Scientific Review Panel (SRP)

Interest in the health effects of second hand tobacco smoke on the part of members of the Scientific Review Panel (SRP) on Toxic Air Contaminants led to a request by the SRP for a health assessment of environmental tobacco smoke, and a collaborative agreement between the Office of Environmental Health Hazard Assessment (OEHHA) and the Air Resources Board (ARB) to initiate such an assessment. SRP members reviewed the drafts as they were developed and participated in each of the workshops held as the document underwent public review (see Preface for details). The Final Draft reflected the input of SRP members, as well as that of other reviewers.

Specific changes made at the request of the SRP following its review of the Final Draft include the addition of new studies (e.g., the results of Kawachi *et al.*'s analysis of cardiovascular disease risk in the Nurse's Health study, published after the release of the Final Draft, in which it was reported as an abstract), a discussion of issues related to misclassification of smoking status and cancer risk, and clarifying language in the presentation of attributable risk estimates; minor editorial changes were also requested and made. The SRP discussed the assessment and made findings on the health effects of exposure to environmental tobacco smoke as a result of its review; these findings are included in this Attachment.

1994



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3. Research current City Council/elected officials and their positions on tobacco marketing/sales legislation.
4. Organize and educate business owners and operators including, but not limited to:

    a. Distributors
    b. Grocers
    c. Convenience Store Operators
    d. Retailers
    e. Supermarket Operators
    f. Gas Station Operators
    g. Pharmacy Operators
    h. Wholesale Store Operators

5. Establish a Local Government Alert & Action System to train key PM employees and retailers on how to be good local government monitors and government relations communicators.
6. Design and implement a Company Civic Action Element aimed at increasing PM's effectiveness in communicating its concerns at the local level.
7. Implement Philip Morris' "It's the Law" program.
8. Identify and utilize business owners within cities with POS restrictions who have encountered negative experiences and economic hardship.
9. Supervise phonebanks, direct mail, batch fax programs, and door-to-door campaigns.
10. Supervise Media Affairs, including:

    a. Identifying, recruitment, training and briefing of a POS spokesperson on economic impacts and other salient arguments.
    b Develop statements and releases.

#18

Testimony on behalf of the
March of Dimes

Before the Political Subdivisions Committee
RE: House Bill 1213 "Smoke –free Workplaces Expansion"

January 29 2009

Submitted by:

Melany Jenkins
Associate Director of Program Services
March of Dimes – North Dakota Chapter

March of Dimes - North Dakota Lead Public Affairs Staff

march of dimes

The March of Dimes is a national, voluntary health organization whose mission is to improve the health of babies by preventing prematurity, birth defects and infant mortality. Founded in 1938, the Foundation is a partnership of scientists, clinicians, parents, members of the business community, and other volunteers and has a track record of lifesaving advances for America's infants and children.

My name is Melany Jenkins. I am the Associate Director of Program Services for the March of Dimes North Dakota Chapter. I live and work in Fargo.

The mission of the March of Dimes is to improve the health of babies by preventing birth defects, premature birth and infant mortality. I am here to testify to you about a very important item related to our mission that directly affects the health of our tiniest North Dakotans, the HB 1213 which requests an Act to amend and reenact section 23-12-10 of the North Dakota Century Code, relating to smoking restrictions in public places and places of employment.

House Bill 1213 a[redacted]will protect public health and provide individuals smoke-free air in all enclosed areas. Secondhand smoke represents a dangerous health hazard to an unborn baby, infants and children because secondhand smoke can also damage developing organs, such as the lungs and brain. Environmental exposure to tobacco products, passive or second-hand smoke, is also unhealthy for pregnant women and their newborns. Exposure to second-hand smoke during pregnancy and after birth increases the risk of sudden infant death syndrome (SIDS), a key contributor to infant mortality. In addition to perinatal effects, smoking is detrimental to the overall health of women and has been shown to cause lung disease, heart disease, and various cancers including cervical and lung cancer.

One of the most effective ways to reduce the use of tobacco products, prevent children from starting to use tobacco products and reduce exposure to secondhand smoke is through passage of state laws and local ordinances that increase the number of smoke-free worksites and public places

The March of Dimes asks that House Bill 1213 [redacted] be enacted to protect public health of pregnant women and infants from the dangers of second hand smoke by placing smoking restrictions in public places and places of employment.

In November of 2008 the March of Dimes release the first ever Prematurity Report card accessing each states prematurity rate. I have attached a copy with this testimony. North Dakota's preterm birth rate is at 11.5%, which is more than 50% higher that the Healthy People 2010

objective of 7.6% and has increased by nearly 14% between ~~1195~~ 1995 and 2005. According to the U.S. Surgeon General's 2006 Report, *The Health Consequences of Involuntary Exposure to Tobacco Smoke*, exposure to secondhand smoke by non-smoking pregnant women may lead to premature birth. Premature birth affects **1** in every **8** babies born North Dakota, making it one of the most serious health problems facing our state today. The Institute of Medicine reports that in 2005, the annual societal economic cost (medical, educational, and lost of productivity) from birth through early childhood associated with preterm birth in the United States was at least $26.2 billion. During that same year the average first year costs, including both inpatient and outpatient care were about 10 times greater for preterm ($32,325) than for term infants ($3,325). The average length of stay was 9 times as long for a preterm infant (13 days) compared with an infant born at term (1.5 days). While research continues as to the causes of preterm births and lowbirth weight babies, the state of North Dakota can address one of the known contributing factors which, is exposure to second hand smoke and take measures toward prevention.

March of Dimes believes in doing its part. The March of Dimes promotes the health benefits of smoking prevention and cessation by providing educational materials for consumers, promoting evidence-based smoking cessation methods, and encouraging research related to smoking cessation during pregnancy. However, this is far from enough to compensate for the growing need of maintaining a strong tobacco prevention and cessation program in the state to offset the increasing number of women of child bearing age who are smoking in North Dakota.

Again, **March of Dimes asks that House Bill 1213 [redacted] be enacted to protect public health of pregnant women and infants from the dangers of second hand smoke by placing smoking restrictions in public places and places of employment.**

On behalf of the March of Dimes, thank you for the opportunity to comment on the need to protect public health especially pregnant women and infants from the dangers of second hand smoke in North Dakota. We thank you for all that you are doing to improve maternal and child health in the state.

march of dimes

2008 Premature Birth Report Card

North Dakota
Preterm Birth Rate: **11.5%**
U.S. Rank: **16th**
Grade: **D***

North Dakota's preterm birth rate is more than 50% higher than the Healthy People 2010 objective of 7.6% and increased by nearly 14% between 1995 and 2005. Disparities exist among population subgroups. While research continues on the causes of preterm birth, the nation can address some contributing factors and prevention opportunities. Three of these are below.

Selected Contributing Factors	Rate (%)	Comments
Uninsured Women	**13.3%**	About 1 in 8 women of childbearing age in North Dakota has no health insurance coverage. Health care access before and during pregnancy can help identify and manage conditions that contribute to premature birth.
Women Smoking	**24.4%**	About 1 in 4 women of childbearing age in North Dakota is a smoker. Smoking cessation programs can reduce the risk of premature birth.
Late Preterm Births	**8.3%**	About 1 in 12 live births in North Dakota is late preterm (34-36 weeks gestation). The rise in late preterm births has been linked to rising rates of early induction of labor and c-sections.

March of Dimes Call for Action

1. We urge the federal government to increase support for prematurity-related research and data collection as recommended by the Institute of Medicine and the Surgeon General's Conference on the Prevention of Preterm Birth, to: (a) identify the causes of premature birth; (b) test strategies for prevention; (c) improve the care, treatment and outcomes of preterm infants; and (d) better define and track the problem of premature birth.
2. We urge federal and state policymakers to expand access to health coverage for women of childbearing age and to support smoking cessation programs as part of maternity care.
3. We call on hospitals and health care professionals to voluntarily assess c-sections and inductions which occur prior to 39 weeks gestation to ensure consistency with professional guidelines.
4. We call on the business community to create workplaces that support maternal and infant health.
5. We invite all concerned citizens to sign the 2008 "Petition for Preemies" at marchofdimes.com/petition and learn how you can help.

* Grade based solely on preterm birth rate, not on rates of contributing factors.

#1

Language added to the Minnesota smoking ban was as follows:

(c) "Dislocated worker" means an individual who is a resident of Minnesota at the time employment ceased or was working in the state at the time employment ceased and:
(1) has been permanently separated or has received a notice of permanent separation from public or private sector employment and is eligible for or has exhausted entitlement to unemployment benefits, and is unlikely to return to the previous industry or occupation;
(2) has been long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including older individuals who may have substantial barriers to employment by reason of age;
(3) has been self-employed.....and is unemployed as a result of

(4) has been permanently separated from employment in a restaurant, bar, or lawful gambling organization from October 1, 2007, to October 1, 2009, due to the implementation of any state law prohibiting smoking;

Sec. 13. DISLOCATED WORKER PROGRAM; ALLOCATION OF FUNDS. The Job Skills Partnership Board must enable the dislocated worker program under Minnesota Statutes, section 116L.17, to provide services under that program to employees of bars, restaurants, and lawful gambling organizations who become unemployed from October 1, 2007, to October 1, 2009, due to the provisions of this act.

#2

This was brought forward from a bar owner in West Fargo. He and his workers like being smoke-free but has lost some business. He wants this to pass but thought a grace period before the effective date would give owners a chance to prepare a business plan for the change.

Therefore, the amendment moves the effective date out 1 ½ years.

Thank you.

Rep. Joyce Kingsbury

#2

February 12, 2009

House Political Subdivisions Committee

Representative Dwight Wrangham – Chair
Representative Craig Headland – Vice-Chair
Representative Patrick Hatlestad
Representative Nancy Johnson
Representative Lawrence Klemin
Representative Kim Koppelman
Representative William Kretschmar
Representative Vonnie Pietsch
Representative Kari Conrad
Representative Jerome Kelsh
Representative Robert Kilchowski
Representative Corey Mock
Representative Steve Zaiser

Dear Representatives,

Please read the following letter to the editor we placed in the Bismarck Tribune today. Please pass HB1213 to extend the health benefits of smoke-free places to bars and hotel/motel rooms.

Sincerely,

Dr. Charles Allen, Bismarck
Dr. Robert Bathurst, Bismarck
Dr. Robert Beattie, Grand Forks
Dr. Heidi Bittner, Devils Lake
Dr. James Buhr, Valley City
Dr. Paul J.T. Fetterly, Devils Lake
Dr. Jeff Hostetter, Huff
Dr. Jim Hughes, Bismarck
Dr. Eric Johnson, Grand Forks
Dr. Dale Klein, Mandan
Dr. Gordon Leingang, Bismarck
Dr. Nicholas Neumann, Bismarck
Dr. Jon R. Rice, Fargo
Dr. Ben Roller, Bismarck

LETTERS TO THE EDITOR

Smoking is a deadly 'choice'

By CHARLES ALLEN
Bismarck

The Feb. 10 Bismarck Tribune editorial got it right when it called smoking a death-inducing habit. Tobacco does contain hundreds of toxins and leads to a host of diseases and chronic conditions. As physicians, we see it every day.

But where the Tribune got it wrong was in their objection to HB1213, a bill designed to protect workers and the public from deadly secondhand smoke. Smoking in bars and hotels is not just a matter of individual choice.

The protection provided by HB1213 is not targeted only toward people who choose to visit a bar or a hotel room where secondhand smoke exists. It is more importantly targeted toward protecting the people who work in those places. People who rely on tips, need second jobs that fit into their schedules or work in a family business should not have to sacrifice their health in order to make a living.

And the costs of treating both these people who "choose" to smoke and their secondhand smoke victims affect us all — at last count, $250 million each year for smoking-caused medical expenditures in North Dakota alone. Remember, for every eight deaths from active smoking, there is one death from secondhand smoke exposure. HB1213 is simply common sense regulation when it comes to keeping health care costs down.

And finally, the legislature represents the people of North Dakota, and the people have indicated an overwhelming support for a comprehensive ban. In a recent public poll, 66 percent of North Dakotans supported a comprehensive statewide public ban, and the city of Fargo also passed a comprehensive ban in 2008.

HB1213 deserves to pass, and it is our hope that legislators will vote with the people of North Dakota on this issue.

(Dr. Charles Allen is one of 14 doctors from North Dakota who were listed as those signing this letter. Others are Dr. Robert Bathurst, Bismarck; Dr. Robert Beattie, Grand Forks; Dr. Heidi Bittner, Devils Lake; Dr. James Buhr, Valley City; Dr. Paul J.T. Fetterly, Devils Lake; Dr. Jeff Hostetter, Huff; Dr. Jim Hughes, Bismarck; Dr. Eric Johnson, Grand Forks; Dr. Dale Klein, Mandan; Dr. Gordon Lein-

Thursday, February 12, 2009