

Critique of the Report of the Committee on Smoking in Public Places

Submitted By

**Michael J. McFadden
August 30th, 2005**

Dear Sirs and Madams,

I ask you to read and carefully consider the contents of this document, not just in making a decision about the recommendation for Welsh power to make a decision, but in making the wider decisions about governmentally imposed smoking bans in general.

My criticisms will be very harsh, and I believe quite deservedly so. I am acting on behalf of no lobbying group, and have no funding from Big Tobacco or Big Hospitality. I am concerning myself with the affairs of the United Kingdom because your decisions over there will ultimately affect the situation here in America and in my home town of Philadelphia just as our decisions are affecting you.

My critique will not be exhaustive but will instead concentrate on the introduction and health aspects sections of the Report of the Committee on Smoking in Public Places. I will pick selected passages from its body in order to demonstrate why the Report should be discarded and a new one commissioned under a different group.

I do not have a medical background myself, but am well educated and well-grounded in my readings in the area of concern. I have had two years of graduate training in statistics and propaganda analysis under a University Fellowship at the University of Pennsylvania's Wharton School, have authored numerous letters and short articles in newspapers and on the internet, have written and published a 400 page book with over 600 references entitled "Dissecting Antismokers' Brains," and have had a number of Rapid Responses published in your own British Medical Journal. The content of my work has always been careful and exacting in its statement of facts and has never been criticized for such statement. The great bulk of the argument against exposure to secondary smoke in public places comes from epidemiological research which is far more statistical than medical in nature: thus my lack of an M.D. should not be treated as an excuse to dismiss my observations and arguments.

I hope you will seriously read and consider my presentation: your decision in this matter will have consequences reaching far beyond simply granting the National Assembly for Wales the power to ban smoking in workplaces.

Sincerely,

Michael J. McFadden
4424 Ludlow St.
Philadelphia, Pennsylvania 19104
USA
Cantiloper@aol.com
215-386-8430
215-266-5083

I will start with noting that the material in the very first paragraph of the “Chair’s Foreward” exposes the bias that I found evident throughout the Report. At the end of that paragraph it is noted that the Welsh Assembly Government “seeks the power to ensure that we can have clean air indoors.”

Actually, what the Assembly is seeking has nothing to do with seeking the power to “ensure... clean air indoors.” Clean indoor air is already quite well ensured by laws regulating all the pollutants of concern, whether we are speaking of carbon monoxide, nicotine, particulates or arsenic. What the Assembly is seeking is simply the power to regulate smoking. Whether the air in a pub is “clean” or not after such a ban is not addressed in this Report as a concern. The bias of the document is evident in that the Committee starts out with the assumption that a venue that allows smoking will perforce have air that is “unclean,” something that is obviously not a necessary follow-on given the capabilities of modern filtration and ventilation systems.

Antismoking extremists will assert that any practical degree of ventilation will be inadequate to remove all the elements of smoke from the air. To some small extent they are being truthful. It is also truthful that no practical degree of ventilation will remove all traces of fumes of the highly volatile Class A carcinogen ethyl alcohol from the air of any venue that serves alcoholic drinks.

The question is not whether such zero-levels can be achieved but rather whether they are necessary. In the case of alcohol fumes few would argue that a zero level is necessary despite the carcinogenic classification of the substance. That would be true for tobacco smoke as well if there were not the political and social engineering push by extremists for its outright banning.

The relevant point here is simply as stated in my second paragraph: the deliberate confusing of the terms “clean air” and “smoking ban” is full evidence of the bias that will follow in the body of the Report.

I will demonstrate that the Committee not only failed to present a sound case for the necessity of such bans, but it even failed miserably in presenting a competent review of the available factual and scientific materials at hand.

I will not be analyzing every sentence of the Report. There are some statements contained therein that are reasonable and well stated. However the prevalence of problematic statements will be made clear by the ones I have actually chosen to pull and analyze.

Section 1: Introduction

Section 1.1

This section notes a previous vote that affirmed “the well-documented and proven life-threatening dangers” of secondary smoke. As will be shown in Appendix A attached to this critique such dangers are far from being “proven” although they could be argued to have evidence favoring their existence. Only about 15% of the studies in that Appendix were able to pass even the most basic of simple scientific tests for correlation, that of statistical significance, to say nothing of “proving” causality of effect. Again, being so near the beginning of this Report such a statement foreshadows the bias evident in its body.

Section 1.3

The Committee was instructed to “consider current evidence on.... The economic impact of restrictions on smoking in public places” and to “consider the experiences in other countries where a ban has been introduced.” The material in Appendix B to this critique shows clearly that the Committee failed to fulfill this directive. There is no mention in its report of the significant body of real world data exemplified by the sample shown in that Appendix, nor is there mention of the well publicized research carried out by David Kuneman and myself and published two months before the Report. Incredible statements such as “There was a trend in moving away from drinking in pubs and pubs” as an excuse for the economic downturn after the introduction of Ireland’s smoking ban were taken at face value rather than being questioned. (The example just given certainly begs for the question “Why would you **think** there might be a trend away from drinking in pubs after you banned smoking in them?”)

Section 1.4

Here is the first mention of the importance of “The impact of a ban in reducing the prevalence of smoking, i.e. whether a ban would encourage people to give up smoking or not to take it up.”

This is a far cry from the Committee’s official charge to examine the effects of secondary tobacco smoke and should not have been included here. I do not believe a directive to recommend plans for social engineering was, nor should it have been, in the original scope of the request for the report.

Section 2: Summary of Conclusions and Recommendations

Section 2.1

“The Committee concluded that:

A) there is overwhelming evidence that environmental tobacco smoke is damaging to health.”

This conclusion is meaningless without reference to concentrations and exposure levels. There is also overwhelming evidence that carbon dioxide can kill a person, but obviously exposures to it in the amounts usually encountered from being in a room with other people exhaling it are not damaging. There is overwhelming scientific consensus that the ultraviolet radiation in sunlight is a dangerous carcinogen, yet going out briefly to grab the morning paper would not be considered “damaging to health” by any sane definitions of the words.

The Committee’s conclusion contains an unstated premise that is of prime importance in foreshadowing their ultimate recommendation. What they are actually trying to say, but know they have no grounds for saying openly, is that they have concluded “that ANY TRACE EXPOSURE, NO MATTER HOW MICROSCOPIC AND UNDETECTABLE to environmental tobacco smoke is damaging to health.” Such a statement as an opening conclusion would have given away the bias of the conclusions and recommendations to come and thus those words were left out although they were fully intended to be “understood.”

This conclusion also blithely ignores the fact that of the 130 studies on secondary smoke and lung cancer listed and detailed in Appendix A of this critique, only about 15% passed the bare minimum scientific test of statistical significance, to say nothing of the more stringent standards required for a true determination of causation. The evidence for heart disease and secondary smoke is so much weaker that even the US EPA refused to include speculation about it in its infamous report of 1993.

It is clear that the evidence is **far** from being “overwhelming” and that the Committee’s conclusion on this point needs to be revisited.

The Committee also concluded that:

B) “ventilation equipment is not capable of removing the majority of health damaging particulates from the atmosphere.”

Now wait a moment here. Has anybody on the Committee completed high school math and physics? If I have 10 grams of Bubonic Plague dust in the air of a room, and I swirl 51% of that air out of the room and replace it with fresh air, then I have clearly "removed the majority" of Bubonic Plague dust. What laws of physics is the committee referring to that would claim that a restaurant providing 15 air changes per hour (not an unusual amount in decent smoking-allowed restaurant) could not remove "the majority" of particulates from the air? 15 air changes an hour, even without the addition of filtration systems, would remove well over 99% of the particulates from the air. Adding high quality filtration systems could improve the quality of such air to a level that it might actually be more particulate-free than the "fresh air" outside and certainly cleaner than the air in a “smoke free” restaurant without such equipment and ventilation.

This particular claim of the Committee is patent nonsense that should never have been allowed in an official government document. The people responsible for this claim should be fired and any funds spent to support or pay them during its production should be returned to the taxpayers.

The Committee also concluded that:

C) "There is no evidence that the introduction of a ban would have an overall negative impact on the economy."

There is an enormous difference between saying "There is **inadequate** evidence" and "there is **no** evidence." Since there clearly **is** evidence of such impact (Once again, see Appendix B for examples of both the real world impact a ban has had in a single US State and for a study of the wider impact bans have had across several states.) and assuming that the Committee made a serious effort to research such material, one can only conclude that the Committee is grossly negligent and incompetent or that it is outright lying. In either event the remedy outlined in the critique of the previous section should again be implemented.

The Committee also concluded that:

D) “The majority of the public who do not smoke should be able to go to their place of work... without risk to the health.”

We will ignore the prejudicial qualities of referring to concern for the “majority who do not smoke” other than to point out that the conclusion would be no more or less valid if it concerned a “minority who did not smoke.”

However we will not ignore the final four words of this conclusion.

"Without risk to their health." As an absolute statement this is arrant nonsense. If I am working as a counter person I am constantly at risk of catching and dying from influenza brought in by customers I am serving. This could be prevented by airlock arrangements similar to those proposed for smoking areas but does the Committee demand such? As a bar-bouncer I am constantly at risk of being stabbed by drunken patrons. Does the Committee insist I be required to wear a Kevlar vest while on duty? As a waiter assigned to an outdoor patio I am forced to work in a carcinogenic environment that may result in deadly melanomas despite any degree of sunscreen I put on. All three examples deal with relatively low levels of risk, but all three deal with risks that are probably greater and certainly far less disputed in terms of their reality than the risk posed by low levels of exposure to ETS. And yet the Assembly is doing nothing about them.

The Committee's first responsible action, after noting the complete absence of any compelling scientific studies showing a risk from the low levels of exposure to ETS normally encountered in any decently ventilated business, should have been to dissolve itself and save the taxpayers' money. The fact that it did not do so once again indicates a need for the remedy heretofore proposed.

Section 2.2.1

The Committee therefore recommends:

“Employers should not... require non-smokers to service or clean designated areas.”

Clean? Why should an employer not be able to require that a cleaning person clean in an area where there was smoking? There has **never** been a study showing any health threat from simply cleaning an area where there was smoking. It would seem that this particular recommendation was thrown in for two simple reasons: One, to add one more difficulty for any employer who wanted to have designated smoking areas (thereby encouraging them to avoid such a decision); and Two, to add to the overall mystique of the concept that even the most microscopic traces of tobacco smoke or its “residue” are somehow incredibly and magically deadly.

Section 2.2.7

The Committee also therefore recommends:

.... What appears to be a fairly expensive massive media and education campaign about the “dangers” of secondary smoke and how to make smoking bans appear attractive. They make no mention of where the money for this should come from or whether the cost for this should be estimated and presented to the public at the time of consideration of such a ban, nor do they mention what groups or organizations might be the recipients of funding for such a campaign. Obviously any committee member who might have or have had any connection to any such group should have excused him or herself from Committee membership given this particular recommendation.

Did they?

Section 3: The Evidence:

The Committee leans heavily upon “six key documents.”

Section 3.3

The first of these, from the California EPA, was produced by an organization very heavily devoted to and influenced by the most radical elements of the American Antismoking movement. Anyone within that organization who disagreed with the concept that secondary smoke is one of the most deadly substances ever known to humankind would quickly be shown the back door. This report was no more produced by a “neutral body of scientists” than one emanating straight out of the labs of British American Tobacco or Philip Morris.

The general methodology and approach used in reaching their conclusions is very similar to that used by the US EPA and discredited by the Osteen decision of 1998 that found the EPA predetermined its conclusion, cherry picked its data, and thoroughly misinterpreted what was left in order to condemn secondary smoke. The Osteen decision was eventually overruled, but the overruling was done on procedural grounds having to do with the court’s sphere of authority over the EPA while at the same time affirming that the content of Osteen’s ruling was indeed valid and proper.

Section 3.4

This section, based on SCOTH's 1998 report, states - again without reference to the extent of exposure, thus implicitly implying the patently false assertion that **any** exposure produces the following effects – that secondary smoke “is a cause of ischaemic heart diseases” and then goes on to speculate that **if** estimates of risk were validated then it would be a “substantial public health hazard.” Note that it does not state there **is** a hazard, only speculating that **if** there was one it could be substantial. This is no more valid as a basis for legislative action than if they produced a report stating that **if** there was a health hazard from candle wick fumes that it might be substantial.

It goes on to speak of parental smoking in front of their children, something that really is not within the purview of powers that I believe Wales is seeking unless it intends to monitor people's homes.

And then goes on to speak of sudden infant death syndrome, noting there is an “association” but carefully declining to outright state that the association is causal because the members of the Committee know full well that it has not been proven to be so. However they dance around this by simply saying the association has been “judged” to be causal.

And finally the Report goes further to speak of middle ear disease being linked to (note: not “caused by”) parental smoking, which is again outside the purview of any laws being considered openly by the Assembly at this time.

These last three elements of this section of “The Evidence” have nothing at all to do with what the Welsh Assembly Government is actually seeking the power to do: namely ban by law the smoking of tobacco products in pubs and restaurants regardless of whether they allow children on the premises, and in the face of the fact that even if they do allow such visitation the exposure of the children would be orders of magnitude less than the at-home parental exposures those concerns are based upon. Their inclusion in the body of “The Evidence” once again points up the biased nature of the Report in that it here clearly seeks to use the reader's ingrained love of children and biologically hard-wired instinct to protect children in order to advance its goal of regulating the public smoking behavior of adults in largely adult venues.

Section 3.6

This section, relying on a WHO publication of 1999 as the Committee's fourth "key document," continues the misdirection of Section 3.4 and also ignores the fact that in the previous year, 1998, the WHO published its own massive international case-control study of the effects of secondary smoke. That study was notable in that it failed to deliver almost any significant findings with regard to harm from exposure to secondary smoke.

Note that I said "almost," because the single scientifically significant finding that **did** come out of that report has been buried deeply by Antismoking publicists. Referencing the study itself in Appendix A one finds that the WHO did indeed find something significant: children of smokers eventually developed **22% LESS** lung cancer than matched children of nonsmokers. The pressure against admitting such a finding publicly was so great that the authors themselves classified it as simply indicating "no association" in their study abstract despite the fact that it was the single significant finding in their entire report.

For the Committee to emphasize the 1999 finding while ignoring the 1998 study is a clear case of misdirection and misfeasance of their charter. Again, the proper remedy as recommended earlier should be applied.

And, again as well, findings based upon intense at-home exposures to secondary smoke by children have nothing to do with the charter of this Committee unless the Welsh Assembly Government is seeking the power to regulate smoking within private homes.

Section 3.7

This section speaks of maternal smoking during pregnancy. Is the Welsh Assembly Government seeking the power to prosecute women who smoke during pregnancy? If not, then this has no proper place within this document. If so, then it should be made clear to the public that this is the power the Assembly is seeking. The part of this section dealing with secondary smoke exposure by pregnant women points up the cautionary note I made earlier about causality and SIDS since it merely says such exposure may (**or may not!**) contribute in some unspecified way to the risk of SIDS.

Section 3.8

The fifth “key document” cited is an introduction to a 2002 report by the Chief Medical Officer for England. The Committee notes that his introduction stated that secondary smoke exposure (again without reference to amount) ***can*** “increase the risk of contracting smoking related diseases.” Note that the CMO was careful to say “can” rather than “does.” That distinction is not trivial: it indicates the important difference between knowledge and speculation. If the Committee were advised to base its recommendations upon speculation rather than knowledge such advice should have been clearly stated in its original directive. Again, as in previous sections noted, there is an emphasis on protecting infants and young children who would primarily be exposed to secondary smoke at home. The extent of this emphasis in this document and its implications for the sort of governmental control powers being sought is highly disturbing. It is doubtful the general public would approve of such powers if it was aware they were being sought.

Section 3.9

The sixth “key document” cited is cited without a title and a look at the reference indicates why. This document is not a scientific document at all: it is an advocacy piece titled “Towards Smoke Free Public Places.” It was produced in collaboration with a group that has as the first two points in its mission statement “**promoting** tobacco control” and “**supporting** national medical associations in their tobacco control activities.”

Reading a bit further in this section we find that this document is actually simply a summary of previous knowledge as largely already referenced in the Cal EPA and SCOTH documents. If seventeen more such documents were produced by various bodies, each summarizing the results of the previous ones, we would then have **twenty** documents supporting the eventual recommendations of the Committee. This is not generally how science is conducted of course.

This section again heavily references children and twangs the heart strings with images of pregnant women and ends with a particularly telling statement: “There is no safe level of exposure to tobacco smoke.” This statement has become a veritable mantra among Antismoking Lobby groups in the last five to ten years.

Scientifically of course it’s nonsensical on any realistic level. It is quite similar to the aforementioned risk of getting the morning paper. Technically, in some arcane way, it is a risk: sunlight causes skin cancer and during your brief outing you will, even if you slather yourself with SPF 100 sunscreen, be exposed to sunlight. There is no safe level of such exposure: sunlight is a carcinogen. Alcohol faces a similar fate on our scales: if you are in a restaurant and a couple at a table 50 feet away from you toast each other with champagne it could be argued that you are being exposed to a “dangerous” level of the volatile carcinogenic element, ethyl alcohol.

Are the words “dangerous” and “no safe level of exposure” properly used when describing such exposures to alcohol and sunlight? Of course not. No sane person would claim so. However many sane people have come to accept the same sorts of statements about secondary smoke simply due to its social opprobrium and the constant repetition of such claims by interests who have strong access to the media.

Section 3.10

This seems to be a reference to a seventh key document produced by the WHO that once again merely reviewed previous work that was done.

Section 3.12

This section cites and rests entirely upon the “Great Helena Heart Miracle” study. There are two very significant problems with this that point up once again the bias of the Committee and the lack of professionalism displayed in its selection of evidence to support its recommendations.

The first problem, as responsible members of the Committee should have been fully aware, is that the authors of the study have steadfastly refused to respond to well over a dozen substantive criticisms of their work in the Rapid Responses section of the BMJ. Peer review does not only refer to the process by which an article is approved for publication, but refers as well to the wider peer review that it receives once it is published. The Helena study failed miserably to pass the test of this wider peer review process and should never be cited by any respectable body.

The second problem, as even a quick review of the study itself and the Responses to it will readily show, is that the Helena study simply **did not examine the effects of secondary smoke on health**. While the authors’ opinions and previous research on secondary smoke are discussed extensively throughout the study, the study itself specifically refused to cite figures indicating any findings with regard to effects of secondary smoke on the nonsmokers in Helena.

The overall tone and intent of study, as clearly shown by statements of the authors, Antismoking activists, and even the head of ethics at the BMA itself, was to frighten nonsmokers with the thought that half the heart attacks in innocent people were being caused by the smoke of others around them. Given that tone, even a slight reduction in heart attacks among nonsmokers would have been touted as a “reduction” even if the authors had to admit it was too slight to be significant. The absence of such a statement would strongly indicate that heart attacks may have stayed virtually the same during the smoking ban or may have even **increased** rather than **decreased**.

“The Great Helena Heart Miracle” would be more accurately called “The Great Helena Heart Fraud” when it is cited as evidence of the danger of secondary smoke. To cite the Helena study as the basis for justification to pass laws affecting the lives and livelihoods of millions of people is disgraceful. The Committee should be ashamed. The further citation of the Pechachek article (as footnote 11) is not much of a saving grace: Pechachek saw fit to introduce his entire thesis with an uncritical acceptance of Helena as a prime supporting example.

Section 3.13

This section cites a single finding from the MONICA study while neglecting to note that the finding lacked any real clinical significance in terms of perceptible health effects. It also fails to note that far from indicting ETS, MONICA was mainly renowned for failing to even show a connection between **primary** smoking and heart disease!

Section 3.14

Section 3.14 makes two assertions:

- 1) that workers in smoking workplaces reported more respiratory and irritation symptoms than workers in smoke-banned workplaces.

There have actually been several studies using this methodology, including one in California in 1998 and one in New York in 2003. All these studies suffer from a common defect: the tendency for study participants to be self-selected to choose participants happy with the introduction of a ban and therefore more likely to report a decrease in symptoms. They also suffer due to the fact that self-reported symptomology focusing on things like “eyes irritated by smoke” are obviously, without any study necessary, going to decrease in the absence of smoke.

And

- 2) that concentrations of salivary cotinine are associated with risks of cancer and heart disease.

Tracing the references down for this assertion leads through a chain that concludes at two final end points: the Kawachi 1999 study in *Environmental Health Perspectives* v. 107 which was simply a review of other studies and did not focus specifically on cotinine exposures, and Lubin 1999 in the same volume of EHP. The term “cotinine” does not appear even a single time in the Lubin article.

The Committee’s assertion that these studies strongly support its contention about the concentrations of cotinine seems to be somewhat misguided.

Section 3.15

This section cites one non-published and non-peer-reviewed study by a smoking cessation specialist that, not surprisingly, concludes a smoking ban would save lives.

Section 3.16

This section, taking its information from Ireland's Office of Tobacco Control, appears to state some important facts, namely that particulate levels in air have been reduced by 53% and breath carbon monoxide in bar workers by 45% in pubs where smoking has been banned. Those facts may be true but they are not as "important" as they first appear however.

The reduction in particulates simply means there's less cigarette smoke in the air of the bar after smoking is banned in the bar. I am sure many non-scientists could have told the Committee that without the need for a study.

The reduction in carbon monoxide in exhaled breath is more significant in what it might mean but the Office pointedly does not discuss whether the levels found either before or after the ban were at a level normally judged to be harmful. The fact that this was not discussed would indicate that they were **not** harmful, either before **or** after a ban. Thus their reduction, as with the reduction of smoke in the air, has no bearing on whether the Welsh Assembly Government should be seeking the power to ban smoking in pubs.

Section 3.20

To its credit the Committee did not follow the lead of many in the Antismoking community who seek to discredit the Enstrom/Kabat study simply because part of its funding was provided by the tobacco industry. However, the disrespect for the value of the study is shown when the Committee here emphasizes the "small sample size" of Enstrom/Kabat. Oddly enough the Committee somehow missed concerns about the "small sample size" of the Helena study. For the sake of reference, the Enstrom/Kabat study was roughly 1,000 times the size of the previously referenced Helena.

Odd that the Committee didn't notice that in its references to the two.

Section 3.21

Once again though, for the second time in this critique, I must give the Committee credit for at least acknowledging that the BMJ editorial statement accompanying Enstrom/Kabat stated that “the question of whether passive smoking kills was difficult as methods were inadequate and the question had not been definitely answered.”

This point seems to be immediately forgotten in the Conclusions which follow below.

Section 3.22 – 27: Conclusion.

Section 3.22

Despite all the various difficulties in the data and evidence pointed out in the preceding pages the Committee concluded that secondary smoke (again, at totally unspecified levels) is a “significant risk to the health of non-smokers.” Thus, pursuant to their conclusion, the statement that a smoker on the street a block away from a nonsmoker is presenting that nonsmoker with a “significant risk” to their health would be valid. If this seems nonsensical it is by no means more fundamentally nonsensical than saying that there can not exist reasonable levels of ventilation and filtration to remove such risk indoors... and yet such a conclusion is exactly what the Committee is preparing itself to arrive at in Section 3.28.

Sections 3.24 – 3.25

These sections presented two different but agreeing opinions that ventilation and air cleaning equipment were an acceptable alternative to smoking bans.

Section 3.26 – 3.28

This section has many problems, almost all stemming from the ruse of casting the problem of secondary smoke exposure and its risks in absolute terms rather than the more appropriate relative terms. The BMA advised the Committee that ventilation and filtration “does not remove the fine particulate matter” from the air. Obviously, to anyone with an understanding of physics, ventilation and filtration **does** remove at least some of that matter. The air cleaner testimony from the industry claimed their product removed 99.997% of such matter. A simple window fan, if given enough power, could do even better although it might ruffle a few feathers here and there.

Anyone who has ever sat by a window and watched gentle breezes blow curling smoke in or out of that window has seen 5 mile an hour zephyrs handle the problem easily, but ASH Wales and Professor Hastings contended that tornadic winds, winds approaching 300 miles per hour, would be needed to do the job. According to their testimony you could be sitting in the middle of most hurricanes and if a smoker were nearby your focus of concern should perhaps be on wisps of smoke fighting their way through the winds toward you rather than upon the lorry that was about to be blown onto your lap.

There is indeed an impressive list of organizations that endorse such thinking, but these organizations all have one thing in common: an absolute belief in the evil of smoking and an absolute belief in the good of virtually any measure that will reduce it. Their thinking and their claims however fail to pass the most common and basic tests of simple observation and rationality: they are promoting an agenda, not seeking to explore the truth. The Committee, in taking those claims as the basis for its final recommendation that ventilation can not be an effective or feasible solution, has uncritically accepted such claims and has laid waste to its own claim to be an impartial body presenting scientific evidence to the National Assembly for Wales and the Government at Westminster.

The Economic Impact of a Ban.

Rather than go into the same degree of detail in this section (since I believe the economic impact should be subsidiary to a great degree to the health concerns) I will simply note that there are indeed very many problems with very many statements throughout - quite similar to or even more pronounced than the sorts of problems noted with regard to the health evidence – and skip to the Conclusion.

The Conclusion notes that “there is no credible evidence of an overall negative impact on the hospitality industry or the wider economy.” The fact that the Committee, at any reasonable level of responsibility, should have been aware of the list of businesses in the US and Canada that have suffered directly from bans and been willing to come forward and publicly admit such suffering, would indicate that the Committee once again has failed in its task, seeking instead to simply proclaim its foregone conclusions. Appendix B presents a listing of such businesses and the effects of a ban thereon in a single state in the United States: New York. To look at such a list and declare it does not constitute a shred of credible evidence is disgraceful. One again the Committee should be ashamed.

The cavalier attitude with which it approached the economic question can be seen in the final sentence of its Conclusion where it notes businesses may have “some difficulty in adapting to the changes and **opportunities** a smoking ban would bring.” Opportunities? Of the entire list of 160 businesses and personal statements listed in Appendix B somehow I missed seeing a single one that was having “difficulties” with the “opportunities” the ban was giving them.

Perhaps the Committee wears better eyeglasses than I do?

Recommendations:

Finally we come to the heart of the matter: what was actually the real concern of the Committee and for most of those who are pushing for smoking bans.... The belief that such bans will “reduce the prevalence of smoking.”

That of course is a social engineering goal, and simply stated as such would be unacceptable to most free thinking people. Thus the reason for all the cloaks and daggers and folderol and muzzamarole of the preceding sections in an attempt to justify this final acceptance of a ban designed to artificially pressure a population into adopting health habits it would not otherwise want to adopt.

Such a social engineering goal could not be achieved if smoking is still allowed in separated but comfortable carriages of trains, or in enjoyable smoking sections at restaurants, pubs, and clubs, and thus such things can not be stated as acceptable. And so, thus pursuant, the science demanding such restrictions must be created, far beyond the bounds ever conceived of in the era of Soviet Lysenkoism, and total public bans must perforce be the only and the final solution.

Final, that is, for now. Let us not forget that the Welsh Assembly Government is seeking the powers that will next allow it to move into our private homes to “protect the children” or perhaps our next door neighbor. Whether you are aware of it or not, children in America are already being taken from smoking parents in child custody disputes and neighbors are being forbidden to smoke on their own properties. Public smoking bans in bars and restaurants, just as all the little bans that came before, are nothing more than a pit stop in the larger scheme of things.

Overall Conclusion and Recommendation

I submit this with a significant degree of sadness and regret. I am a strong believer in small government, locally responsive to and administered by its people, and I feel that this ultimately is what the Welsh are striving for.

And yet I am recommending that the Welsh Assembly Government be not granted the authority, as the Committee put it, “to ensure that we can have clean air indoors.”

My recommendation started with and ends with that statement from the Chair of the Committee. The purpose of those creating this Report was not to determine whether a smoking ban was a good thing, a bad thing, a necessary or unnecessary thing, a thing that would hurt businesses or help them.... The purpose of those creating this Report was to create an excuse that would allow them to ban smoking and to use the lobbying power more freely available at the local level than would be possible for the entire UK in order to do achieve that ban.

Here in the United States we are facing similar battles. The Antismoking Lobby has decided that it’s easier to muscle smoking bans through in small communities first and then use their cries of economic pain as a base to appeal for a “level playing field,” assuring one and all that such a field will solve the problem and guarantee wealth, happiness and healthiness for everyone.

That claim is no more true than the initial claim that a ban would hurt no one but Big Tobacco and no more true than the shrill spiels proclaiming that secondary tobacco smoke is so deadly that the best germ warfare filtration in the world and the highest power fans that could be tolerated by customers would be inadequate to protect against its ravages.

In 1975 your own Sir George Godber chaired an international conference on smoking and health which reached the conclusion that in order to be successful at widespread smoking bans it would **“first be essential to foster an atmosphere in which it was perceived that active smokers would injure those around them, particularly women, infants, and young children.”**

Sir George's recommendations have been taken up with a vengeance over the past thirty years and now the ravens are coming home to roost. The question is whether you want to promote the conditions that will allow a small group of extremists to foist their rule upon a larger and for the most part unwilling society, or will you, as the government, seek to stop them in their march?

For do not be fooled: it **is** a march, and it will not stop and set up permanent camp once workplace smoking bans are in place. They will storm your beaches as they are already doing in the US, and the parks, and the private clubs, and eventually the private homes.

When the demon weed has been stopped don't be surprised when Demon Rum comes under attack and don't expect the attackers to employ the primitive tools of 1920's American Prohibitionism. The moral crusaders have learned a lot from their Antismoking Crusade, and that knowledge and the strength of their past victories will be used to telling effect in order to make sure that the corner pubs close and all live uprightly.

Is this really what you want to aid?

+++++
+++++
+++++

Submitted for Consideration,
August 30th, 2005

Michael J. McFadden
Author of *Dissecting Antismokers' Brains*
4424 Ludlow St.
Philadelphia, PA, 19104
USA
Cantiloper@aol.com
<http://cantiloper.tripod.com>
215-386-8430
215-266-5083

Appendix A

ETS Study Results and Commentary

A wise man proportions his belief to the evidence.

– David Hume

The details of the codes used in the following table are available in the footnote section at its end. In general, this is as complete a collection of study results on secondary smoke exposure and lung cancer as you are likely to find anywhere.

The studies are divided by type, with workplace and spousal studies generally based on constant daily exposures lasting for 30 to 40 years or even longer. The numbers to pay attention to are in the Relative Risk column and the Confidence Interval column.

As is often noted, relative risks below 2.0 or 3.0 are generally viewed with suspicion by epidemiologists because of the risk of contamination of the studies by confounding variables or biases, quite aside from simple statistical error. An additional point of importance is the notation in the Confidence Interval column that indicates whether the CI includes the value of 1.0 between its low and high points. If it **does** include 1.0, then the study is **not** statistically significant and is viewed by statisticians as affirming the hypothesis that there is no connection between the hypothesized cause and the speculated effect.

Note: statistical significance in and of itself is **never** considered by scientists to be sufficient evidence to determine cause and effect: it's merely a minimum standard used to determine if the results of a study merit further examination and analysis for such things as bias and confounding variables.

As you go through these figures, even superficially, you will find two points that stand out strongly as contradictions to Crusaders' oft-repeated claims that ETS studies are "unanimous and unequivocal" in their condemnation of secondary tobacco smoke. First of all, the vast majority of the studies are not statistically significant, thus in reality supporting the hypothesis that there is **no** connection between ETS and lung cancer. Secondly, and even more amazing given the publicity to the contrary, each of the studies marked by an asterisk in the Relative Risk column actually indicated tendencies of ETS expo-sure to **protect against** lung cancer! Of course most of those asterisked studies are also non-significant statistically, but as noted in the finishing abstract, at least one very important study actually came up with the unexpected significant finding that early contact with secondary smoke might protect children from future lung cancers!

Name	Yr	Geo	Type	Sex	Relative Risk	Confidence Interval
Garfinkel 1 (+)	81	US	Spouse	F	1.18	.90-1.54
Chan +	82	HK	Spouse	F	0.80 *	.43-1.30
Correa(+!)	83	US	Spouse	F	2.07	.81-5.25
Correa(+!)	83	US	Spouse	M	1.97	.38-10.32
Trichopoulos(+!)	83	Grk	Spouse	F	2.08	1.20-3.59
Buffler	84	US	Spouse	F	0.80 *	.34-1.90
Buffler	84	US	Spouse	M	0.51 *	.14-1.79
Hirayama (+)!	84	Jap	Spouse	F	1.60	1.00-2.40
Hirayama +	84	Jap	Spouse	M	2.24	1.19-4.22
Kabat 1(+)	84	US	Spouse	F	0.79 *	.25-2.45
Kabat 1(+)	84	US	Spouse	M	NS	0.20-5.07
Garfinkel 2(+)	85	US	Spouse	F	1.23	0.81-1.87
Lam W	85	HK	Spouse	F	2.01	1.09-3.72
Wu(+!)	85	US	Spouse	F	1.40	0.40-4.20
Akiba(+)	86	Jap	Spouse	F	1.50	0.90-2.80
Akiba(+)	86	Jap	Spouse	M	1.80	0.40-7.00
Lee(+)	86	UK	Spouse	F	NS	0.37-2.71
Lee(+)	86	UK	Spouse	M	1.30	0.38-4.39
Brownson 1	87	US	Spouse	F	1.68	0.39-6.90
Gao	87	Chn	Spouse	F	1.19	0.82-1.73
Humble	87	US	Spouse	F	2.20	0.80-6.60
Humble	87	US	Spouse	M	4.82	.63-36.56
Koo	87	HK	Spouse	F	1.64	0.87-3.09
Lam T	87	HK	Spouse	F	1.65	1.16-2.35
Pershagen(+)	87	Swd	Spouse	F	1.20	0.70-2.10
Butler	88	US	Spouse	F	2.20	0.48-8.56
Geng	88	Chn	Spouse	F	2.16	1.08-4.29
Inoue	88	Jap	Spouse	F	2.25	0.80-8.80
Shimizu	88	Jap	Spouse	F	1.08	0.64-1.82
hoi	89	Kor	Spouse	F	1.63	0.92-2.87
Choi	89	Kor	Spouse	M	2.73	.49-15.21
Hole	89	Sco	Spouse	F	1.89	.22-16.12
Hole	89	Sco	Spouse	M	3.52	.32-38.65
Svensson	89	Swd	Spouse	F	1.26	0.57-2.81
Janerich	90	US	Spouse	MF	0.93 *	0.55-1.57

Kalandidi	90	Grk	Spouse	F	2.11	1.09-4.08
Sobue	90	Jap	Spouse	F	1.13	0.78-1.63
Wu-Williams	90	Chn	Spouse	F	0.70 *	0.60-0.90
Liu Z	91	Chn	Spouse	F	0.77 *	0.30-1.96
Brownson 2 ^	92	US	Spouse	F	NS	0.80-1.20
Stockwell ^	92	US	Spouse	F	1.60	0.80-3.00
Liu Q ^	93	Chn	Spouse	F	1.66	0.73-3.78
Wu	93	Chn	Spouse	F	1.09	0.64-1.85
Fontham ^	94	US	Spouse	F	1.29	1.04-1.60
Layard	94	US	Spouse	F	0.58 *	0.30-1.13
Layard	94	US	Spouse	M	1.47	0.55-3.94
Zaridze	94	Rus	Spouse	F	1.66	1.12-2.46
Kabat 2 ^	95	US	Spouse	F	1.08	0.60-1.94
Kabat 2 ^	95	US	Spouse	M	1.60	0.67-3.82
Schwartz ^	96	US	Spouse	F	1.10	0.72-1.68
Schwartz ^	96	US	Spouse	M	1.10	0.60-2.03
Sun	96	Chn	Spouse	F	1.16	0.80-1.69
Wang S-Y	96	Chn	Spouse	F	2.53	1.26-5.10
Wang T-J	96	Chn	Spouse	F	1.11	0.67-1.84
Cardenas ^	97	US	Spouse	F	1.20	0.80-1.60
Cardenas ^	97	US	Spouse	M	1.10	0.60-1.80
Jockel-BIPS	97	Ger	Spouse	F	1.58	0.74-3.38
Jockel-BIPS	97	Ger	Spouse	M	1.58	0.52-4.81
Jockel-GSF	97	Ger	Spouse	F	0.93 *	0.66-1.31
Jockel-GSF	97	Ger	Spouse	M	0.93 *	0.52-1.67
Ko ^	97	Tai	Spouse	F	1.30	0.70-2.50
Nyberg	97	Swd	Spouse	F	1.20	0.74-1.94
Nyberg	97	Swd	Spouse	M	1.20	0.57-2.55
Boffetta{WHO}	98	Eur	Spouse	MF	1.16	0.93-1.44
Kabat1 ^	84	US	Work	F	0.70 *	0.30-1.50
Kabat 1 ^	84	US	Work	M	3.30	1.0-10.40
Garfinkel 2 ^	85	US	Work	F	0.93 *	0.70-1.20
Wu ^	85	US	Work	F	1.30	0.50-3.30
Lee ^	86	UK	Work	F	0.63 *	0.17-2.33
Lee ^	86	UK	Work	M	1.61	0.39-6.60
Koo ^	87	HK	Work	F	0.91 *	0.15-5.37
Shimizu ^	88	Jap	Work	F	1.18	0.70-2.01
Janerich ^	90	US	Work	MF	0.91 *	0.80-1.04
Kalandidi ^!	90	Grk	Work	F	1.39	0.80-2.50
Wu-Williams ^	90	Chn	Work	F	1.20	0.90-1.60
Brownson 2	92	US	Work	F	0.79 *	0.61-1.03
Stockwell ^	92	US	Work	F	NS	NS
Fontham ^	94	US	Work	F	1.39	1.11-1.74
Zaridze	94	Rus	Work	F	1.23	0.74-2.06
Kabat 2 ^	95	US	Work	F	1.15	0.62-2.13
Kabat 2 ^	95	US	Work	M	1.02	0.50-2.09
Schwartz ^	96	US	Work	MF	1.50	1.00-2.20
Sun	96	Chn	Work	F	1.38	0.94-2.04
Wang T-J	96	Chn	Work	F	0.89 *	0.46-1.73
Jockel-BIPS	97	Ger	Work	MF	2.37	1.02-5.48
Jockel-GSF	97	Ger	Work	MF	1.51	0.95-2.40
Ko ^	97	Tai	Work	F	1.10	0.40-3.00
Nyberg	97	Swd	Work	MF	1.60	0.90-2.90
Boffetta{WHO}	98	Eur	Work	MF	1.17	0.94-1.45

Correa +	83	US	Childhd F	NS	NS
Kabat &Wyn ^	84	US	Childhd F	0.92 *	0.40-2.08
Kabat &Wyn ^	84	US	Childhd M	1.26	0.33-4.83
Garfinkel 2 +	85	US	Childhd F	0.91 *	0.74-1.12
Wu (+)	85	US	Childhd F	0.60 *	0.20-1.70
Akiba +	86	Jap	Childhd MF	NS	NS
Gao ^	87	Chin	Childhd F	1.10	0.70-1.70
Koo ^!	87	HK	Childhd F	1.73	0.60-6.40
Pershagen ^	87	Swed	Childhd F	NS	0.40-2.30
Svensson ^	89	Swed	Childhd F	3.30	.50-18.80
Janerich ^	90	US	Childhd MF	1.09	0.68-1.73
Sobue (^)	90	Jap	Childhd F	1.28	0.71-2.31
Wu-Will(^)!	90	Chin	Childhd F	NS	NS
Brownson 2 ^	92	US	Childhd F	0.80 *	0.60-1.10
Stockwell ^	92	US	Childhd F	1.10	0.50-2.60
Fontham ^	94	US	Childhd F	0.89 *	0.72-1.10
Zaridze	94	Russ	Childhd F	0.98 *	0.66-1.45
Kabat 2 ^	95	US	Childhd M	0.90 *	0.43-1.89
Kabat 2 ^	95	US	Childhd F	1.55	0.95-2.79
Sun	96	Chin	Childhd F	2.29	1.56-3.37
Wang T-J	96	Chin	Childhd F	0.91 *	0.56-1.48
Jockel-BIPS	97	Ger	Childhd MF	1.05	0.50-2.22
Jockel-GSF	97	Ger	Childhd MF	0.95 *	0.64-1.40
Ko ^	97	Tai	Childhd F	0.80 *	0.40-1.60
Boffetta{WHO}	98	Eur	Childhd MF	0.78 *	0.64-0.96

Garfinkel 2	85	US	Social F	1.42	0.75-2.70
Lee	86	UK	Social F	0.61 *	0.29-1.28
Lee	86	UK	Social M	1.55	0.40-6.02
Janerich	90	US	Social MF	0.59 *	0.43-0.81
Stockwell	92	US	Social F	NS	NS
Fontham	94	US	Social F	1.50	1.19-1.89
Kabat 2 (^)	95	US	Social F	1.22	0.69-2.15
Kabat 2 (^)	95	US	Social M	1.39	0.67-2.86
Boffetta{WHO}	98	Eur	Social MF	1.03	0.82-1.29

Column 1 codes:

^ = Figures from Final Report CA EPA 1997

! = Difference from Forces' #s (usually slight, no consistent bias)

+ = 1986 Surgeon General's Report

() = derived/approximate...

{WHO} = taken directly from WHO study

Unmarked: roughly half the studies noted were not listed in either the California EPA report or the Reports of the Surgeon General. Figures for those are from FORCES (a Free-Choice advocacy group). For the 66 figures in which cross checking was possible a generally high level of agreement was found with CA EPA and the Reports of the Surgeon General so there is no reason to believe the other FORCES figures are incorrect. Deleting the FORCES figures would not significantly change the general tendency of the findings.

Note: in the case of ranges the chart fairly consistently presents the middle range of exposure for these figures so as to avoid charges of understating or overstating risk figures. For example: in the Janerich '90 childhood study it uses the figure for up to 25 years of childhood exposure of 1.09 rather than the 2.07 found for more than 25+ years, while in the Brownson 2 1992 study childhood exposure would have shown a significant negative correlation if exposure was restricted to smoking parents. However in Fonham 94 the lower exposure (1-17 co-habitant exposure) would have yielded a slightly higher (.99) correlation than the higher exposure (18+ years) used (.88). Many of the studies used differing coding schemes and studied different ranges/sources of exposure. The chart generally seeks to highlight the middle, or most reasonable, ranges rather than highlight the anomalies in either direction.

Column 7 codes:

* = Studies indicating a NEGATIVE relationship of exposure to secondary smoke and lung cancer. In these studies, the people that WERE EXPOSED to secondary smoke averaged LOWER rates of lung cancer than those not exposed.

NS = Reported by authors only as having no significant relationship or a relationship indicating the SAME rates of lung cancer (i.e. RR = 1.00) among those exposed to secondary smoke and those not exposed.

WHO Study (Excerpted Abstract)

Multicenter case-control study of exposure to environmental tobacco smoke and lung cancer in Europe. Authors: P Boffetta et al.

BACKGROUND: An association between exposure to environmental tobacco smoke (ETS) and lung cancer risk has been suggested. To evaluate this possible association better, researchers need more precise estimates of risk,... we have conducted a case-control study of lung cancer and exposure to ETS in 12 centers from seven European countries.

METHODS: A total of 650 patients with lung cancer and 1542 control subjects up to 74 years of age were interviewed about exposure to ETS....

RESULTS: **ETS exposure during childhood was not associated with an increased risk of lung cancer (odds ratio [OR] for ever exposure = 0.78; 95% confidence interval [CI] = 0.64- 0.96).** The OR for ever exposure to Spouse ETS was 1.16 (95% CI = 0.93- 1.44). No clear dose-response relationship could be demonstrated for cumulative Spouse ETS exposure. The OR for ever exposure to workplace ETS was 1.17 (95% CI = 0.94-1.45), with possible evidence of increasing risk for increasing duration of exposure. No increase in risk was detected in subjects whose exposure to Spouse or workplace ETS ended more than 15 years earlier. **Ever exposure to ETS from other sources was not associated with lung cancer risk.** Risks from combined exposure to Spouse and workplace ETS were higher... but the differences were not statistically significant.

CONCLUSIONS: Our results indicate no association between childhood exposure to ETS and lung cancer risk. We did find weak evidence of a dose-response relationship between risk of lung cancer and exposure to Spouse and workplace ETS. There was no detectable risk after cessation of exposure. *<Emphases added>*

-- Above Excerpted Abstract from the *Journal Of The National Cancer Institute*, Vol. 90, 1440-1450, Copyright © 1998 by Oxford University Press (Reproduced with permission.)

Note that while the author's interpretation of the childhood figures in the WHO study was simply "no association," the 22% reduction in lung cancer among children of smokers was in fact the only scientifically significant result found!

Note also that exposure from "other sources" {e.g. bars and restaurants!} showed *no* association to lung cancer.

Despite this, the WHO study is often trotted out as supporting claims by smoking ban supporters who realize that very few politicians will actually be familiar with the real results of the study.

Appendix B

Ban Losses Just in New York State

City	Name	Business	Closed?	Business & Jobs Lost	Details & Statements
Albany	BlessedSacChurch	Bingo Hall		50%	
Albany	Temple Israel	Bingo Hall		50%	<i>According to Herb Holland, some of the regulars told volunteers that they would abstain from playing bingo, to protest the smoking ban. He hasn't seen them since.</i>
Astoria	Athens Cafe	Restaurant		55% / 10	
Auburn	Kim's Trackside Tavern	Tavern		25%	<i>"Our local Cayuga county health dept. continues to refuse to issue smoking waivers to businesses suffering a financial hardship."</i>
Bath	Hotel McDonald	Hotel		70%	
Bath	Just One More	Tavern		30%	
Bellerose	Finish Line	Bar/Rstrnt		40% / 2	
Binghamton	Airport Inn	Tavern		40%	<i>Evans says business has dropped at least 40-percent in the last year. Her liquor license expires next April, and she says, she doesn't plan on renewing it. The Airport Inn was a successful business for 18 years.</i>
Binghamton	Edigan's	Restaurant	Closed	100%	
Binghamton	Valentines Tavern		Closed	100%	
Binghamton	Mama Lena's	Restaurant	Closed	100%	<i>Mama Lena's had been in business for more than 40 years.</i>
Binghamton	Yesterday's	Bar/Rstrnt	Closed	100%	
Brewster	The Roadhouse	Tavern		40%	
Broadalbin	The Lodge	Bar/Rstrnt		50% / 1	
Bronx	Fieldstone	Billiards/Bar		40% / 1	
Buffalo	Legion Post1041	Bingo Hall		68%	
Buffalo	Amherst Bowling Center	Bowling	Closed	100%	
Buffalo	Jimmy Macs	Bar & Grill	Closed	100% / 35	<i>"Out of business, laid off 35 employees.... went from making a steady living for 24 years to losing about \$100,000/year compliments of the ban. The government figures are lies. Tell your friends who own bars that if the ban goes in they might as well pack up and leave."</i>
Buffalo	B&G Bar & Grill	Bar/Rstrnt		30%	
Buffalo	Cabaret	Tavern		40% / 1	
Buffalo	Cook Bar & Grill	Bar/Rstrnt		40% / 2	
Buffalo	Freddies	Bar/Rstrnt		50%	
Buffalo	Pocketeer Billiards	Pool Hall		60-70%	<i>"The President says small business is the backbone of our country, NYS says screw small business just give us your money and your blood! All of it!!!!!!"</i>
Buffalo	Susie's Corner	Bar/Rstrnt		23% / 1	

Buffalo	The Royal Pheasant	Restaurant	Closed	100% / 20	<i>The smoking ban caused an instant 80% revenue loss. Royal Pheasant had been a family business for 58 years.</i>
Buffalo	Voelker Bowling Center	Bowling		30-40%	<i>The smoking ban hit us like an anvil, curtailing bowling activity by 30 to 40% and the bar business by 20 to 30%.</i>
Camden	Harter's	Bar/Rstrnt		40%	
Camden	Liberty Lanes	Bowling		27%	
Canandaigua	Canandaig Billiards	Pool Hall		40%	
Champlain	Stumble Inn	Tavern	Closed	100%	
Cheektowaga	Metropolitan Rstrnt	Bar/Rstrnt		25% / 2	
Cheektowaga	Peter K's	Bar/Rstrnt		35% / 2	
ChstnutRidge	Silo's	Bar & Grill		35%	
Cicero	DamonsPartyHouse	Tavern		40%	
Clay	Richard's OleTimer	Bar/Rstrnt		17% / 1	
Cold Brook	Clifford's Tavern	Bar/Rstrnt		40%	
Corfu	Dadio's Central	Tavern		30%	
Cortland	Argyle's	Tavern		12%	
Cotati	Friar Tuck's	Restaurant		50%	<i>"Just as my establishment was beginning to flourish, I'm hit with this smoking ban which has killed my daytime business. People who used to stay for... hours now only stay for one quick drink and leave."</i>
Delhi	Blinkey's	Tavern	Closed	100%	
EastRandolph	VFW Post 6533	Private Club		20%	
ElmiraHeights	American Legion	Private Club		60%	
ElmiraHeights	Blondie's Tavern	Tavern		25%	
Endicott	O's Place	Tavern	Closed	100%	
Falconer	Chances	Tavern	Closed	100%	
Falconer	Mel's Place	Tavern		78%	<i>After proving significant business loss, Mel's was granted one of NY's few waivers. Their business immediately returned to pre-ban level, but the owners are worried about what will happen when the waiver runs out.</i>
Fredonia	Barker Brew Pub	Brew Pub	Closed	100%	<i>Closed after 10 yrs. in business</i>
Frewsburg	The Loft	Tavern		30%	<i>"Our town has no attractions to draw in outsiders. We have only locals to rely on as patrons and 95% of them smoke. It will be worse when the snow sets in."</i>
Fulton	Fulton Ale House	Tavern		25%	
Goshen	The Wonderbar	Tavern		50%	
Holland	The Holland Hotel	Bar/Rest/ Hotel		30% / 4	<i>"Food and bar business are both down.... Friday dinners down from 170to60. Monthly expenses are about \$3,000 more than sales. My life long dream of operating my own business will be over in 6 months. My wife & 3 children... have used all of our savings to supplement the business after the ban."</i>

Hyde Park	Kay Cey's	Tavern		45%	
Ithica	Bowl-O-Drome	Bowling		14% / 2	<i>The business lost almost \$30,000 and 110 bowlers during the 32-week league season... In the busiest months (January and May), Parkin saw a 14 percent decrease in activity comparing the same period in 2004 to 2003.</i>
JacksnHghts	La Bataclana	Tavern	Closed	100%	
Jamestown	Coin Operated Amusements	Vending Machines		20-50%	<i>Revenue from vending machines and games cut in half in many places.</i>
Jamestown	Elks Lodge (Private Club)	Private Club	Closed	100%	<i>Bingo, which funded their charitable work, is now completely shut down.</i>
Jamestown	Fountain Bowl	Bowling		40% / 8	
Jamestown	Mr. D's	Bar/Rstrnt	Closed	100%	
Jamestown	Patsy's Lounge	Tavern		50% / 2	<i>"I have let 2 employees go and the other 3 have had their hours cut in half."</i>
Jamestown	Tommy's Place	Bar/Rstrnt	Closed	100%	
Jamestown	Windsor Ale House	Tavern	Closed	100%	
Johnstown	Partner's Pub	Bar/Rstrnt		20% / 1	
Kennedy	Crossroads Steaks	Restaurant	Closed	100%	
Lake George	Lemon Peel Lounge	Lounge		20% / 2	<i>"We are now opening later and closing earlier. We are a local tavern with no food. The ban hurt."</i>
Lakewood	Ye Olde Anchor Inn	Bar/Rstrnt		18%	
Liverpool	End Zone	Bar/Rstrnt		30% / 1	
Lockawanna,	Woody's Pub	Bar/Rstrnt		25% / 3	
Long Island	Olympian Sumont Inc	Pool Hall/ Bar/Rstrnt		40% / 3	
Malone	Knights of Columbus	Bingo Hall		80%	
Malone	Seven's Bar	Tavern		30%	
Marcellus	Village Tavern	Bar/Rstrnt		10%	
Marcy	Riverside Lanes	Bowling		20% / 2	
Massena	Delmar Sportsman's Tavern	Tavern		30% / 1	<i>"We had hoped...nonsmokers who haven't been frequenting taverns due to the smoke-filled air would make up for at least some of the financial loss. Unfortunately... this has most definitely not happened. Our sales are at an all time low."</i>
Massena	Open Net Lounge	Tavern		11%	
Mattydale	The Cam-Nel	Tavern	Closed	100%	<i>Closed by the ban after 53 years in business.</i>
Mayville	Lakeview Hotel/Blues Rock Cafe	Tavern		50%	<i>"On the first day of the ban, tips and customers dropped 50%, and never came back up."</i>
Middletown	Whispers Cocktail Lounge	Bar/NightClub		50%	
Middleport	Middleport Inn	Bar/Rstrnt	Closed	100% / 13	<i>"This damn state really knows how to kill people's dreams."</i>
Monroe	Brazen Head Pub	Tavern		40%	
Mt. Morrison	MillsRace Rstrnt	Bar/Rstrnt		40% / 2.5	
NYC	Aessa	Bar/Rstrnt		35% / 6	
NYC	Blarney Stone	Bar/Rstrnt		15% / 1	

NYC	Caffe on the Green	Bar/Rstrnt		35%	<i>Bar business fell about 35% immediately after the ban. It has picked up since he added a "butt hut," an outdoor smoking tent, but it's still less than before the ban.</i>
NYC	Castle Heights	Tavern	Closed	100%	
NYC	Elbo Room	Tavern	Closed	100%	
NYC	Euzkadi	Restaurant		50%	
NYC	Fiddler's Green	Tavern	Closed	100%	<i>"We've just lost too many customers to this law, which I didn't vote for, bar owners didn't vote for, bartenders didn't vote for, & the public didn't vote for."</i>
NYC	Le Bar Bat	Tavern	Closed	100%	
NYC	Harry's Hanover Square	Bar/Rstrnt	Closed	100%	<i>"Overnight, we lost 60 percent of our evening bar trade. For the bar, it was the difference in profit and loss. Sales of expensive cigars had been almost as important as the sales of Scotch." Harry's was in business for more than 30 years.</i>
NYC	Madame X	Tavern		50% / 8	<i>"In 2004 Madame X was voted #1 by CitySearch and Best Lascivious Lounge by Shecky's. Despite this our gross was over 30% down from 2002. Our summer sales tax dropped 50%. How can the city say profits are up when my profits are so drastically down? It's clearly NOT because I manage my bar poorly! The sole reason for this horrible state of affairs is the smoking ban. We've lost 8 workers, cut staff and business hours and tips are still down by a third. This is pitiful."</i>
NYC	Manhattan Beer Distributors	Vendor		19%	<i>Stagnant sales have led to a 7% drop in beer demand citywide, and a 19% drop citywide to clubs.</i>
NYC	Millennium	Restaurant		40% / 3	
NYC	Nocturne	Nightclub	Closed	100% / 70	
NYC	O'Neill's	Tavern		20% / 3	<i>"People who don't go to pubs just don't go to pubs. They said the ban would be good for business and for employees, yet my business is down and three good staff are out of work and unable to find another job...Most of my staff are smokers, and now they're being protected from second-hand smoke."</i>
NYC	Pangaea	Tavern	Closed	100%	
NYC	Roesch's	Tavern	Closed	100%	<i>Lauterborn, 60, said his bar saw 40 customers nightly before the ban but only about five after it. He has closed and says his children are supporting him while he looks for work. His tavern had been a 100 year old family owned business.</i>
NYC	Slade	Restaurant		40%	

NYC	Sugoba Bistro	Bistro	Closed	100% / 28	<i>After 8 years of success in NYC, the NY smoking ban killed my Bistro in less than a year! In less than 3 months my business declined 37%. Within six months I was unable to meet payroll and I had to lay off 28 employees.</i>
NYC	Swan's	Tavern	Closed	100% / 7	<i>"I felt bad laying off seven workers. Most of them had been with me for the five years Swan's was open. None of them had ever complained about secondhand smoke. "</i>
NYC	Swift's	Tavern		40%	<i>"It's absolutely killed us. This time last year the bar would be packed with the after-work cocktail crowd. Now they just take a bottle of wine or a six-pack to their apartments, where they can smoke."</i>
NYC	Whiskey Ward	Tavern		20% / 2	
Newburgh	GoldenRailAleHouse	Tavern		25%	
Niagara Falls	The Press Box	Tavern	Closed	100%	<i>The Press Box was open for 45 years.</i>
Ogdensburg	The Web	Tavern	Closed	100%	<i>Owners Janet and Anthony Doerr say the smoking ban destroyed their business.</i>
Oneida	Bec's Ivy Grill	Bar & Grill		23% / 3	
Oneida	Five Corners	Bar/Rstrnt		32	<i>"After 20 years of hard work this is what NY state does to us. Where are all these nonsmokers? "</i>
Oswego	Buoy's Dockside Tvn	Tavern		37%	
Oswego	Eagle Beverage Company	Distributor		25%	<i>"Deliveries to pubs and taverns have decreased substantially, greater than 25 percent."</i>
Oswego	Shamrock Tavern	Tavern		50%	<i>"It's not right. Our livelihood is being taken away."</i>
Parkville	Champions Billiards Cafe	Brew Pub / Pool Hall		33%	
Port Leyden	Central Hotel	Bar/Rstrnt		50%	
Portville	Maple Tree Inn	Tavern	Closed	100% / 3	
Potsdam	VFW Post 1194	Tavern		22%	
Potville	Cork and Bottle	Tavern	Closed	100%	<i>Located near the PA border, this was literally a Mom and Pop business, run by a couple with no employees to "protect."</i>
Remsen	Taylor's Trackside	Bar/Rstrnt		50%	
Rochester	Christanis	Tavern		40%	
Rochester	Hancock's Hudson Tavern	Bar/Rstrnt		15%	
Rochester	Panorama	Sports Bar/Night Club		50% / 4	<i>"We are a small night club that was doing very well until the smoking ban hit us and it hit us very hard. We are very scared of our future, if any . "</i>
Rochester	Salingers	Tavern		35% / 2	
Rochester	The Loop Lounge	Bar/Rstrnt		30%	<i>"I own a small local tavern and I have a 90% smoking cliental. Let me say it just sucks. "</i>
Rome	Sammy G's	Bar/Rstrnt		50%	
Sanborn	Walmore Inn	Rstrnt/Tav.			<i>"Thank you for fighting this ban."</i>
Savannah	D&S Diner	Restaurant	Closed	100%	<i>Sales were down \$3,000 in July 2002 compared to July 2001. Hardest hit were on Friday nights and Sunday mornings.</i>

Scottsville	Chili American Legion Post1830	Private Club		70%	
Sloan	Unique Lounge	Bar/Rstrnt		40% / 4	
SouthDayton	Rough Kutts	Tavern		21% / 1	
Southport	George & Shir'l's Tiny Tavern	Tavern		41%	<i>In Oct. 2002, the bar made \$6,000. This October, after the ban, they made just \$3,500.</i>
Springville	Pocketeer Billiards South	Pool Hall	Closed	100%	<i>"Pocketeer Billiards South is now officially closed due to the Hitler like laws the NYS. Politicians have enacted! ... I like many others have now chosen to leave after living here 58 years."</i>
Staten Island	Sharkey's	Sports Bar		60%	
Steamburg	Coldspring Volunteer Fire Department	Tavern		50% / 1	<i>"The fire department owns the bar. Bar money buys equipment for the fire dept and has been cut in half. This money buys new ambulances, trucks, gear etc. Remember, this is all volunteer. Without the bar money we have to rely on the town for revenue. You may lose your house or even some one's life without the money for the equipment. "</i>
Suffern	Ireland's 32	Tavern		50%	
Sunnyside	Caseys Pub	Tavern		35% / 1	
Syracuse	Barrie's Tavern	Tavern		40%	
Syracuse	ColemanIrishPub	Bar/Rstrnt		19% / 4	
Syracuse	Doc's little Gem	Diner		25% / 10	<i>"We fought tooth and nail and won a local County victory, only for the state to turn it over to a complete ban."</i>
Syracuse	Dodesters	Tavern		20%	<i>"My business is down 20% from the same period last year, even though I'm now open three more hours a day and I didn't have a kitchen then."</i>
Syracuse	Nibsy's Pub	Bar/Rstrnt		18%	
Syracuse	Rafferty's	Bar/Rstrnt		35% / 2	
Syracuse	Syracuse Brigadiers	Bingo Hall		61%	<i>"The hall was losing about \$60,000 per month in net income for the past three months because of the smoking ban."</i>
Syracuse	ThompsnRdTvn	Bar/Rstrnt		25%	
Syracuse	Tommys	Tavern		40%	
Syracuse	Viva Debris	ComedyClub		30	
Tonawanda	Slick Willie's	Pool Hall		25%	
Troy	Celtic Cultural Organization	Bingo Hall		30-35%	<i>"From July 25 through Nov. 1, we are down about \$12,000 from the same period last year."</i>
Troy	Holmes & Watson's	Tavern		30%	
Utica	The Dog House	Bar/Rstrnt		28%	
Utica	Varick	Bar/Rstrnt		35%	
Utica,	Shortys Bar&Grill	Bar/Rstrnt		30%	
Wallkill	Desperado's	Tavern		90%	<i>"I can count on my fingers the people who don't smoke who come in...The regulars say they won't come."</i>
Watertown	Brown Shanty	Tavern		20% / 1	
Wellsburg	Village Tavern			50%	
West Seneca	Southgate Lanes	Bowling Bar		55% / 7	
Wheatfield	The Alps	Restaurant	Closed	100%	
Wheatfield	The Meeting Place	Bar/Rstrnt	Closed	100%	
Wilson	Jean's Bar&Grill	Tavern		26%	

ECONOMIC LOSSES DUE TO SMOKING BANS IN CALIFORNIA AND OTHER STATES

By David W. Kuneman and Michael J. McFadden

Background:

Many studies have been published purporting to prove smoking bans in bars and restaurants are either good or neutral for business, and conflicting studies have also been published purporting to prove bans are bad for business. Scollo, Lal, Hyland and Glantz recently summarized many of these studies, concluding those which find no economic impact are published in the peer-reviewed scientific literature and funded by “objective” antitobacco interests, while those that do find bans hurt business are funded almost universally by Big Tobacco or its allies. *Tobacco Control*, 2003;12:13-20. **However, the objectivity of those who publish studies finding smoking bans don’t hurt business is also questioned because they are funded by groups with clear and open objectives of promoting smoking bans.**

One common problem with many studies of smoking bans is that the time-span studied before and after a ban goes into effect is too small to accurately measure the ultimate impact of such bans. For example, long before state bans go into effect, many local governments have passed bans that affect business, and long before local governments pass bans many restaurants voluntarily ban smoking. For example, we obtained a copy of *California Smoke-Free Cities Bulletin*, October, 1993 which was developed with the support of the California Department of Health Services. The “Fact Sheet” summarizes that by the publication date, 8,668,235 Californians, or 27% of the population lived in an area whose local government had a 100% ban on smoking in restaurants. Further, 62 cities and nine counties had ordinances requiring 100% smoke-free restaurants, and 295 cities had ordinances restricting smoking. In addition, many more restaurants had voluntarily banned smoking in areas not covered by an ordinance. Long before the state restaurant smoking ban took effect, in 1995, many Californians did not have the option of dining in a smoking environment. Therefore, in this example, we would expect total California bar and restaurant revenue to decline years before the state ban took effect, and studies which typically only measured data collected one year before that state ban would not have measured the entire economic impact of the loss of smoking accommodations in California’s restaurants.

After a ban goes into effect, some establishments violate bans, others find ways to skirt bans, and some establishments are granted exemptions. Sometimes, bans are not immediately enforced by public officials. Some establishments raise prices to offset lost business which can temporarily mask the revenue effects of bans, and some smokers continue to patronize affected establishments until they adopt other socializing habits that don’t involve patronizing the affected establishments. For these reasons, measurements of the economic impact of smoking bans must also consider that some smoking accommodations can remain available after smoking bans take effect, and data must be collected longer than the one year after a ban takes effect in order to accurately measure the effect of a ban.

We further question why studies on both sides of the issue most often utilize data related to sales tax revenues collected from bars and restaurants, or employment data of those workers who work in bars and restaurants. We agree such data would be useful if the studies were exploring the relationship between smoking bans and tax revenues collected by various taxing authorities, or if they were exploring the relationship between smoking bans and employment in bars and restaurants. **Very few studies actually utilize gross sales data of bars and restaurants in business before and after bans take place, which would, naturally, be of most concern to those who own bars and restaurants.**

One recent claim even capitalized on the 9-11 disaster in New York City to “prove” bans don’t hurt business. It claimed the city’s March 2003 ban was good for business because the city’s “bars and restaurants paid the city 12% more tax revenues in the first six months after the smoke-free law took effect than during the same period in 2002.” (Flyer: *SMOKE-FREE LAWS DO NOT HARM BUSINESS AT RESTAURANTS AND BARS*, Campaign for Tobacco-Free Kids 1400 I St. Suite 1200, Washington DC.) The same period they refer to in 2002 was from March 2002 to September 2002, when many Wall Street businesses were operating in New Jersey due to the disruptive clean-up of the World Trade center site, and tourists were avoiding NYC, many fearing another possible attack. Mayor Guiliani appeared on television and asked nonessential personnel to avoid the area. Estimates were publicized in the media that the 9-11 disaster cost NYC in excess of \$50 billion in business, in late 2001 and 2002; much, certainly was lost by bar and restaurant businesses situated near the attack site. In 2003, Wall Street businesses, residents, and tourists returned to NYC and comparing 2002 to 2003, ban or no ban, cannot be valid without controlling for the effects of the attack.

Those who conduct these studies should rely on long term total bar and restaurant revenue data because they are a direct measurement of how much money was spent by customers in bars and restaurants, and such data are readily available from the U.S. Dept of Commerce. Comparing these revenues to total retail trade data controls for the spending power of the public, as evidenced by the data from the other retail sectors. For example, if a recession occurs at the same time as a ban takes effect, a researcher can adjust retail bar and restaurant revenue data for the effects of the recession using total retail sales numbers. During the period from 1990 to 1998, The U.S. Dept. of Commerce published such data through the Census Bureau’s annual periodical *Statistical Abstracts of the United States*. These editions are available in the reference sections of better libraries, because these references are considered to contain the best data available. These data we will utilize are also available on the web, at www.census.gov. During this period, the Dept. of Commerce reported data using the Standard Industrial Classification code to define bars and restaurants. After 1998, the Dept of Commerce adopted the North American Industry Classification System and cautions comparisons with the SIC system may not be valid. This is why we limit our analysis to the period 1990 to 1998.

States’ Bar and Restaurant Revenue Losses With Smoking Bans

In 2000, the Connecticut Office of Legislative Research published a report classifying states as either smoker-friendly or smoker-unfriendly in terms of bar and restaurant smoking restrictions. A state was classified as smoker-unfriendly if bans had been imposed at the state level or if many local governments had severely restricted or eliminated smoking in bars and restaurants, even if the state had not. (www.cga.ct.gov/2000/rpt/olr/htm/2000-r-0890.htm)

These states are tabulated below, along with the United States, overall, as reported by the U.S. Dept of Commerce. All data are in billions of dollars and not inflation adjusted. The 1987 data are also included to demonstrate growth was occurring in all these states prior to 1990, before smoking bans were common. After 1990, local smoking bans began to take effect in California, and smoking restrictions began to take effect in the other states, so this is the period we have chosen for study.

Table I

	Bar&Rest retail1987	Bar&Rest retail1990	Bar&Rest retail1998	%growth 1990-98	Total Retail 1990	Total Retail 1998	%growth 1990-98
CA	20.7	26.3	28.0	6.5	225	291	29
NY	10.8	13.1	13.8	5.3	124	148	19
MA	4.8	6.1	5.9	-3.3	50.7	62.6	23
VT	0.37	0.46	0.44	-4.3	4.5	6.0	33
UT**	0.78	0.94	2.1	123	10.6	19.3	82
USA	153	182	260	43	1807	2695	49
*USA-	116	135	210	56	1392	2168	56

*USA- is the USA data minus the data from CA, NY,MA,VT, and UT; or the total of the 45 smoker friendly states and D.C.

**Utah had a 14% smoking rate in 1998, so the presence of a ban there would not affect business as much as states with higher smoking rates, which typically range from 22% to 29%.

The USA experienced bar and restaurant revenue growth of 19% between 1987 and 1990 and USA-experienced growth of 16% in the same period indicating the not-yet smoker-unfriendly states contributed the extra +3% difference. Taken as combined data, bar and restaurant revenue growth in California, New York, Massachusetts, Vermont, and Utah exceeded the national trend.

The USA experienced bar and restaurant revenue growth of 43% between 1990 and 1998 and USA-experienced growth of 56% in the same period indicating the now smoker unfriendly states contributed the loss of -13% difference. Taken as combined data, bar and restaurant revenue growth in California, New York, Massachusetts, Vermont, and Utah lagged the national trend from 1990 to 1998.

Except for Utah, all the smoker unfriendly states' bar and restaurant revenue growth was substantially lower than total revenue growth. Since Utah had a 14% smoking rate in 1998, demand for smoking accommodations was too weak for a ban to have much of an effect. Utah also hosted the 2002 Winter Olympics, and by 1996, the economic impact of the preparations was already contributing to the local economy, and the workers would have dined out frequently since they were temporary residents. (www.olympic.utah.gov) In the other smoker unfriendly states, bar and restaurant revenue growth under-performed total revenue growth on average about 25%, which is close to the average adult smoking rate of 21.7% in these states in 1998.

We examined the complete U.S. Dept of Commerce data set referenced in the “background” section of this article and confirmed most of the individual states not considered smoker-unfriendly by the Connecticut research report fit the pattern of business growth similar to the USA- from 1990 to 1998.

If California’s bar and restaurant retail growth had kept up with the smoker-friendly states (USA-) between 1990 and 1998, California’s bar and restaurant revenue would have grown from \$26.3 billion in 1990 to \$41 billion in 1998. (26.3 X 1.56) This is a bar and restaurant revenue loss of \$15 billion for 1998 alone. However, this trend had been going on for eight years, and interpolating a linear trend on the data, we find total revenue loss for the eight-year period is \$60 billion dollars. (1/2 the base X the height)

Bar and Restaurant Revenue Growth in Smoker-friendly States

The U.S. Center for Disease Control publishes MMWR, a weekly update of health-related reports throughout the United States. In the June 25, 1999, edition, they published a report summarizing smoke-free indoor air laws, and as of December 31, 1998, 46 states and the District of Columbia restricted smoking to some extent, but Alabama, Kentucky, Mississippi, and North Carolina had no restrictions on smoking in any category including bars and restaurants. (www.cdc.gov/tobacco/research_data/legal_policy/ss4803.pdf ; starts on page 24)

In the same manner above, utilizing the same data resources, we have tabulated the most smoker-friendly states: all data in billions of dollars.

Table II

	Bar&Rest retail 1990	Bar&Rest retail 1998	% growth	Total Retail 1990	Total Retail 1998	% growth
AL	2.2	3.3	50	26.4	39.9	51
KY	2.2	3.5	59	23.9	36.8	54
MS	1.1	1.6	45	13.8	20.8	51
NC	4.5	8.0	78	45.7	81.1	77
Ave			58			58
USA	182	260	43	1807	2695	49
USA-	135	210	56	1392	2168	56
USA--	172	244	42	1697	2516	48%

USA- is USA minus the smoker-unfriendly states from Table I, for comparison.
 USA-- is USA minus the smoker-friendly states.

The most smoker-friendly states' average growth in bar and restaurant revenues matched their average total retail revenue growth of 58%. The USA-, which do not contain data from the smoker-unfriendly states from Table I, also matched their bar and restaurant revenue growth with their total retail growth of 56%. However, USA, and USA-- in Table II under-perform the smoker-friendly states because they contain the data from the smoker-unfriendly states. Thus far, the only states whose bar and restaurant revenue did not grow as fast as their total retail revenue are the states which were smoker-unfriendly (except Utah), or total USA data and USA-- which are terms which both included the smoker-unfriendly states.

Most importantly, if claims were true that smoking bans are good for bar and restaurant business, then the lack of smoking bans should be bad for those businesses. **However, we have found the lack of any smoking restriction or ban law does not adversely influence bar and restaurant revenue growth when compared to the states with reasonable smoking restrictions.**

Considering the smoker-friendly states' bar and restaurant revenue growth data, we conclude that nonsmokers do not patronize bars and restaurants less often when state or local governments don't severely restrict or ban smoking. More than 70% of adults in these smoker friendly states do not smoke, but seem as willing as nonsmokers in states with moderate smoking restrictions to patronize bars and restaurants. The four most smoker-friendly states do not prohibit any individual bar or restaurant from banning smoking, if it is what the owner determines is best for business. **It is obvious our free-market economic system, without any smoking laws at all, and leaving the smoking policy decisions in control of the owner, works to satisfy all customers.**

Bar and Restaurant Revenue Growth in the Border States

California is bordered by Arizona, Oregon and Nevada. All U.S. Dept. of Commerce data are in billions of dollars.

Table III

	Bar and Rest retail 1990	All retail except Bar&Res, 1990	Bar and Rest retail1998	B&R % growth	All Retail except Bar&Res, 1998	% growth
CA	26.3	198.7	28.0	6.5	262.9	32.3
AZ	2.6	23.5	6.1	135	42.9	82.6
OR	2.4	20	3.1	29.2	34.6	73.0
NV	1.0	8.6	2.7	170	19.2	123

Smoker-friendly Arizona's bar and restaurant revenue growth exceeded its other retail growth by a margin of 135 : 83, Oregon's lagged 29 : 73, and Nevada's exceeded by 170 : 123. Averaging these margins, the combined three states' bar and restaurant revenue growth exceeded all other retail by a margin of 111 : 93. California's other retail grew 32.3% from 1990 to 1998, and based on the smoker-friendly border states' average margin, California's bar and restaurant revenue growth should have been (111 divided by 93 times 32.3 =) 38.6% Since the actual growth was 6.5%, we attribute the difference of 32.1% to local and state smoking bans.

If California's bar and restaurant margin-adjusted revenue growth had kept pace with its border states, its bar and restaurant revenue for 1998 would have been \$36.5 billion, or \$8.5 billion more than it actually took in. Over the time span of 1990 to 1998, California lost \$34 billion based on (1/2 base X the height) calculations. This disagrees with our earlier estimate of \$60 billion because these calculations take into account a slightly weaker overall economy in California than its border states.

While directly comparable government tabulated figures do not exist for the years of 1999 to 2004, it would not be unreasonable to assume that these trends have continued and that California's smoking ban has cost the state's economy on the order of \$75 to \$100 billion since 1990.

However, this calculation may underestimate California's bar and restaurant losses because they are calculated by comparing to California's all retail except bar and restaurant growth which also would have been higher without smoking bans. This would happen if California's bar and restaurant employees and owners also lost wage growth corresponding to the 25.8% difference between all retail except bar and restaurant revenue growth and bar and restaurant revenue growth. Therefore, those owners and employees would be 25.8 % less able to contribute to all retail except bar and restaurant revenue growth than they otherwise would have been, and may have adversely affected total retail growth in addition to the \$8.5 billion loss in 1998 directly attributable to the ban.

In summary, California's smoking ban probably contributed to its overall economic problems since the late 1990s beyond the direct impact of the contribution of lower bar and restaurant total revenues.

One should note earlier we found California and other smoker unfriendly states lagged the national trend of bar and restaurant revenue growth between 1990 and 1998. As the combined data from Arizona, Oregon and Nevada clearly show, the aggregate of these other western states did not lag the national trend. Most of California's population lives too far from the borders for California smokers to commute easily for the purposes of patronizing smoker-friendly establishments in those states. Therefore we do not believe these states benefited from California's smoking ban. Lastly, the combination of lack of opportunity for California smokers to commute and the finding of California's under- performance in bar and restaurant revenue growth prove that when a "level playing field" environment is imposed, all bars and restaurants still lose business even in a state as large as California.

It is not possible to "trap" smokers in a ban environment and expect them to patronize establishments subject to bans as much as they did before the bans were imposed. The "playing field" of a large scale smoking ban may be level but it is far more of a level basin than a level plateau.

Conclusions:

Total bar and restaurant revenue growth in California and other smoker-unfriendly states did not keep pace with those states' other retail businesses or our nation's overall bar and restaurant retail growth 80% of the time. The overall order of magnitude of the bar and restaurant retail growth losses in all smoker unfriendly states, except Utah, was about 25%.

Bar and restaurant revenue growth in states with no smoking restrictions did as well as states with reasonable smoking restrictions. Claims the public demands smoking restrictions or eliminations, if true, would have caused states with no restrictions to lose bar and restaurant revenue growth relative to other retail revenue growth.

There were no regional business conditions that could have explained the bar and restaurant revenue losses California experienced from 1990 to 1998. Although California's border states had overall retail revenue growth in excess of California's even after adjusting for the overall retail growth data, California's bar and restaurant businesses still lost growth than cannot be explained without considering the smoking bans.

Claims studies can only find smoking bans are bad for business when funded by Big Tobacco or its affiliates, or use anecdotal data are not true. We have shown smoking bans hurt bar and restaurant businesses 80% of the time using data from the U.S. Dept of Commerce. Further, most studies which find bans don't hurt business are at odds with our conclusions because they use tax revenue and employment data to determine ban effects; and fail to measure for a sufficient length of time before bans take effect and a sufficient length of time after bans take effect.

DISCLOSURES:

The authors, used their own time and funds to research and prepare this article. Neither has any competing financial interest in this research or the outcome of this research.

Dave Kuneman, who smokes, worked for 6 years in the 1980s as a research chemist for Seven-Up and still draws a small pension from that work. At the time of his employment Seven-Up was owned by Philip Morris. His current work and concern in this area has no connection to that employment.

Michael J. McFadden does not have any financial connections or obligations to Big Tobacco, Big Hospitality, Big Pharma, or other major players in this fight. He is a smoker, a member of several Free-Choice groups, and the author of *Dissecting Antismokers' Brains* and *Stopping A Smoking Ban*.

March 2005

© Copyright 2005 The Smoker's Club, Inc.