File No. 260361 **Committee Item No.** 2
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

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Prepared by: John Carroll **Date:** May 14, 2026
Prepared by: _____ **Date:** _____
Prepared by: _____ **Date:** _____

[Health Code - Smoke-free Places]

Ordinance amending the Health Code to prohibit smoking in outdoor patios of bars and taverns; eliminate exceptions allowing indoor smoking in bars with no employees, bars with historically compliant semi-enclosed smoking rooms, and hotel rooms, to conform to provisions of California law; and repeal suspended and superseded provisions regulating smoking in certain locations.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in ~~*strikethrough italics Times New Roman font*~~.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~strikethrough Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Findings.

(a) According to the U.S. Surgeon General, Centers for Disease Control and Prevention, and the World Health Organization, there is no safe level of exposure to secondhand smoke.

(b) Tobacco kills 480,000 people in the United States every year, including 41,000 from secondhand smoke exposure. Tobacco use is the number one preventable cause of death in the country.

(c) When the City and County of San Francisco enacted legislation in 1994 to protect workers from exposure to secondhand smoke, smoke-free air laws were viewed as highly controversial and opponents warned that they would cause many businesses to close,

including bars and hotels. To address those fears, the City's groundbreaking smoke-free air law included exceptions for bars with no employees, bars that had semi-enclosed smoking rooms, 25% of a tourist hotel's rooms, and the outdoor areas of bars and taverns.

(d) In 2016, the California Legislature enacted legislation expanding the definition of "enclosed places of employment" to include owner-operated bars and, later, in 2024, to include hotel guest rooms. As a result, state law now prohibits smoking indoors in hotels and bars where it had previously been permitted under San Francisco's local law.

(e) In addition, since the City enacted its first smoke-free air law, researchers have more definitively established the harms of exposure to secondhand smoke in outdoor spaces, underscoring the need to broaden our local smokefree air law to protect individuals working outdoors in bar and tavern patios.

(1) The World Health Organization recommends that individuals should be exposed to no more than 15 micrograms per cubic meter of fine particulate matter, averaged over 24 hours. Exposure to secondhand smoke, even in an outdoor space, can exceed this limit for workers over the course of a shift.

(2) Air quality measurements taken by UCSF researchers in San Francisco bar patios in 2022 determined that six of the nine patios visited had peak readings in the EPA "unhealthy" air quality range, or higher. One patio, where several patrons were smoking cigars, registered in the "hazardous" range.

(3) In reliance on this research, at least 400 cities and counties nationwide, including San Jose, Oakland, and more than 50 other Bay Area cities, have ordinances prohibiting smoking in bar patios.

(f) Research has firmly established that smoke-free air laws do not result in loss of business or employment. After California law required bar interiors to become smoke-free, bar revenues increased.

(g) Smoke-free bar policies have been found to support smoking cessation, especially in the LGBTQ community.

(1) Nearly 70% of smokers want to quit. About half of smokers try to quit every year. Smoking on bar patios makes it harder to quit, as exposure to secondhand smoke and thirdhand smoke is linked to relapse.

(2) A survey of more than 1,000 LGBTQ Californians with a history of tobacco use found that 65% believed that smoke-free outdoor bars could help or would have helped them quit, including a greater portion of trans people and former smokers.

(3) More than two thirds of LGBTQ California adults are exposed to secondhand tobacco smoke, which is 25% more than the non-LGBTQ adults and LGBTQ adults in California are 60% more likely to be current tobacco users than non-LGBTQ adults.

(f) The intent of this ordinance is to update the City's smokefree air laws by removing outdated, suspended provisions from the Municipal Code, broaden protections against secondhand smoke exposure consistent with the protections offered under state law, and go beyond state law by also protecting individuals who work outdoors in bars and taverns from exposure to secondhand smoke.

Section 2. Article 19F of the Health Code is hereby amended by revising Sections 1009.21,1009.22, and 1009.23, to read as follows:

SEC. 1009.21. DEFINITIONS.

Unless the term is specifically defined in this Article or the contrary stated or clearly appears from the context, the definitions set forth in this Section shall govern the interpretation of this Article. The definitions set forth in this Article shall be construed so as to make the prohibition against smoking set forth herein broadly applicable.

* * * *

(m) “Outdoor patio" means a side or rear outside area of a bar or tavern *or restaurant* that has no walls or ceiling and is open air. ~~*Outdoor dining areas of restaurants are not considered outdoor patios when food is no longer served in the dining area, even if there is a bar located outside*~~.

* * * *

SEC. 1009.22. PROHIBITING SMOKING IN BUILDINGS, CERTAIN VEHICLES, CERTAIN UNENCLOSED AREAS, ENCLOSED STRUCTURES CONTAINING CERTAIN USES, AND SPORTS STADIUMS.

(a) Smoking is prohibited in buildings and enclosed structures, throughout the building or structure and in the common areas, such as the elevators, hallways, stairways, restrooms, conference and meeting rooms, and eating and break rooms, and certain unenclosed areas that contain any of the facilities or uses set forth below.

* * * *

(13) Restaurants*, including Outdoor Patios*;

(14) Bars and Taverns, *including Outdoor Patios*~~*except for historically compliant semi-enclosed smoking rooms, the portion of an outdoor patio at least 10 feet away from the entry, exit, or operable window of the bar or tavern, or as specified in Sections 1009.23(c) or 1009.23(d)*~~;

*** * * ***

SEC. 1009.23. EXCEPTIONS.

The following places shall not be subject to this Article 19F:

~~*(a) Tourist lodging facility room accommodations designated as smoking rooms, provided that the owners or managers of tourist lodging facilities shall designate at least 75 percent of the guest rooms in tourist lodging facilities as smoke free. The owners or managers of tourist lodging facilities*~~

~~*must permanently designate particular guest rooms as smoke free and ashtrays and matches are to be permanently removed from such smoke free rooms. "No smoking" signage shall be displayed in smoke free rooms. Where possible, designated smoke free rooms shall not be located on the same floor as smoking rooms. It is recommended that smoking be relegated to the top floor with at least 50 percent of the rooms on the top floor designated as smoke free. Owners and managers of tourist lodging facilities may designate 100% of guest rooms as smoke free; if such 100% smoke free designation is made, "no smoking" signage shall only be required in the common areas on each floor of such tourist lodging facilities.*~~

~~*(b)*~~*(a)* Private homes, including but not limited to dwelling units, but not the common areas, of multi-unit housing complexes and mixed-use buildings.

~~*(c) Bars and Taverns located in commercial buildings that submit to the Director within three months of the effective date of this ordinance an application and all documents required by the Director to demonstrate that the bar or tavern had no employees as of December 31, 2009. If the Director approves the application under the criteria of this subsection, the bar or tavern may allow smoking on the premises but must immediately 1) notify the Director if the establishment hires any employees, and 2) submit all documents to the Director verifying eligibility for this exemption upon request. The exemption will continue for as long as the establishment has no employees and the building where the bar or tavern is located continues to be commercial. Bars and Taverns located in mixed-use buildings that 1) have no employees as of December 31, 2009, and 2) relocate to a commercial building within two years of the effective date of this ordinance may allow smoking in their establishment after relocation to a commercial building if they submit to the Director within three months of the effective date of this ordinance an application and all documents required by the Director to demonstrate that the bar or tavern had no employees as of December 31, 2009. The application must also document that the Bar or Tavern will be located in a commercial building within two years of the effective date of this ordinance. This exemption status immediately expires if the*~~

~~*establishment hires employees, or is no longer located in a commercial building.*~~

~~*(d) Bars and Taverns located in commercial buildings that submit to the Director within three months of the effective date of this ordinance an application and all documents required by the Director to demonstrate that an area in the establishment is a historically compliant semi-enclosed smoking room and qualified as such as of December 31, 2009. If the Director denies the application because the Bar or Tavern does not comply with the above requirements, the Director may allow the establishments to make alterations to comply with this requirement; if the Bar or Tavern completes the alterations to the Director's satisfaction, the Director may approve the application. If the Director approves the application under the criteria of this subsection, the Bar or Tavern may allow smoking in the historically compliant semi-enclosed smoking room. This exemption status is nontransferable and immediately expires if 1) there is a change in the ownership interest(s) of the Bar or Tavern, 2) the room no longer meets the definition of historically compliant semi-enclosed smoking room, 3) there are structural alterations made to the smoking room after December 31, 2009 not approved by the Director, or 4) the establishment is no longer located in a commercial building. If the Director approves the application under the criteria of this subsection, the Bar or Tavern may allow smoking in the historically compliant semi-enclosed smoking room but must immediately notify the Director of any changes that would disqualify the establishment from this exemption. For purposes of this subsection, the term "change in ownership interest(s)" means the aggregate change of 50 percent or more of the ownership of the business within a 12-month period.*~~

(~~*e*~~*b*) Tobacco Shops that are located in commercial buildings as of December 31, 2009. To qualify for the exemption under this Section, the tobacco shop owner must submit an application and all documents required by the Director. If the Director approves the application, the tobacco shop may allow smoking on the premises. The exemption will continue for as long as the establishment continues to qualify as a tobacco shop and the building where the tobacco shop is located continues to be commercial. The

tobacco shop must immediately notify the Director of any change that would disqualify the retailer from this exemption and submit all documents to the Director verifying eligibility upon request.

(~~f~~c) Medicinal Cannabis Retailers, Cannabis Microbusinesses, and Cannabis Retailers that have received and maintain:

(1) A Cannabis Business Permit issued by the Director of the Office of Cannabis under Article 16 of the Police Code; and

(2) A Cannabis Consumption Permit that authorizes the smoking of cannabis, issued by the Director of Health under Article 8A of the Health Code, unless the smoking of cannabis is authorized under subsection (g) of Section 8A.4, pending the approval or denial of an application for such permit.

Section 3. Article 19H of the Health Code is hereby amended by revising Section 19H.2 to read as follows:

SEC. 19H.2. DEFINITIONS.

The following words and phrases, whenever used in this Article, shall be construed as defined in this section. Words in the singular include the plural and words in the plural include the singular. Words in the present tense include the future.

* * * *

"Tobacco Sales" means sales, or any offer to sell or exchange, for any form of consideration, Tobacco Products to any person by any person who operates an Establishment. "Tobacco Sales" includes any *of the following:* display of Tobacco Products, *display of images of Tobacco Products for purchase, or the storage of Tobacco Products for purchase*.

Section 4. The Health Code is hereby amended by deleting Articles 19, 19A, 19B, 19C, and 19E, consisting of Sections 1000, 1001, 1002, 1003, 1004, 1005, 1006, 1006.1, 1006.2, 1006.3, 1006.4, 1006.5, 1007, 1007.1, 1007.2, 1007.3, 1007.4, 1007.5, 1008, 1008.1, 1008.2, 1008.3, 1008.4, 1008.5, 1008.6, 1008.7, 1008.8, 1009.5, 1009.6, 1009.7, 1009.8, 1009.9, and 1009.10, as follows:

~~*ARTICLE 19:*~~

~~*SMOKING POLLUTION CONTROL*~~

~~*SEC. 1000. TITLE.*~~

~~*This Article shall be known as the Smoking Pollution Control Ordinance.*~~

~~*SEC. 1001. PURPOSE.*~~

~~*Because the smoking of tobacco or any other weed or plant is a danger to health and is a cause of material annoyance and discomfort to those who are present in confined places, the Board of Supervisors hereby declares that the purposes of this Article are (1) to protect the public health and welfare by regulating smoking in the office workplace and (2) to minimize the toxic effects of smoking in the office workplace by requiring an employer to adopt a policy that will accommodate, insofar as possible, the preferences of nonsmokers and smokers and, if a satisfactory accommodation cannot be reached, to prohibit smoking in the office workplace.*~~

~~*This ordinance is not intended to create any right to smoke or to impair or alter an employer's prerogative to prohibit smoking in the workplace. Rather, if an employer allows employees to smoke in the workplace, then this ordinance requires (1) that the employer make accommodations for the preferences of both nonsmoking and smoking employees, and (2) if a satisfactory accommodation to all affected nonsmoking employees cannot be reached, that the employer prohibit smoking in the office workplace.*~~

~~*SEC. 1002. DEFINITIONS.*~~

~~*For the purposes of this Article:*~~

~~*(1) "City" means the City and County of San Francisco;*~~

~~*(2) "Board of Supervisors" means the Board of Supervisors of the City and County of San Francisco;*~~

~~*(3) "Person" means any individual person, firm, partnership, association, corporation, company, organization, or legal entity of any kind;*~~

~~*(4) "Employer" means any person who employs the services of an individual person;*~~

~~*(5) "Employee" means any person who is employed by any employer in consideration for direct or indirect monetary wages or profit;*~~

~~*(6) "Office Workplace" means any enclosed area of a structure or portion thereof intended for occupancy by business entities which will provide primarily clerical, professional or business services of the business entity, or which will provide primarily clerical, professional or business services to other business entities or to the public, at that location. Office workplace includes, but is not limited to, office spaces in office buildings, medical office waiting rooms, libraries, museums, hospitals and nursing homes;*~~

~~*(7) "Smoking" or "to smoke" means and includes inhaling, exhaling, burning or carrying any lighted smoking equipment for tobacco or any other weed or plant; and*~~

~~*(8) "Enclosed" means closed in by a roof and four walls with appropriate openings for ingress and egress and is not intended to mean areas commonly described as public lobbies.*~~

~~*SEC. 1003. REGULATION OF SMOKING IN THE OFFICE WORKPLACE.*~~

~~*(1) Each employer who operates an office or offices in the city shall within three months of adoption of this ordinance, adopt, implement and maintain a written Smoking Policy which shall*~~

~~*contain, at a minimum, the following provisions and requirements:*~~

~~*(a) Any nonsmoking employee may object to his or her employer about smoke in his or her workplace. Using already available means of ventilation or separation or partition of office space, the employer shall attempt to reach a reasonable accommodation, insofar as possible, between the preferences of nonsmoking and smoking employees. However, an employer is not required by this ordinance to make any expenditures or structural changes to accommodate the preferences of nonsmoking or smoking employees.*~~

~~*(b) If an accommodation which is satisfactory to all affected nonsmoking employees cannot be reached in any given office workplace, the preferences of nonsmoking employees shall prevail and the employer shall prohibit smoking in that office workplace. Where the employer prohibits smoking in an office workplace, the area in which smoking is prohibited shall be clearly marked with signs.*~~

~~*(2) The Smoking Policy shall be announced within three weeks of adoption to all employees working in office workplaces in the city and posted conspicuously in all workplaces under the employer's jurisdiction.*~~

~~*SEC. 1004. WHERE SMOKING NOT REGULATED.*~~

~~*This Article is not intended to regulate smoking in the following places and under the following conditions within the city:*~~

~~*(1) A private home which may serve as an office workplace;*~~

~~*(2) Any property owned or leased by state or federal government entities;*~~

~~*(3) Any office space leased or rented by a sole independent contractor;*~~

~~*(4) A private enclosed office workplace occupied exclusively by smokers, even though such an office workplace may be visited by nonsmokers, excepting places in which smoking is prohibited by the Fire Marshal or by other law, ordinance or regulation.*~~

~~*SEC. 1005. PENALTIES AND ENFORCEMENT.*~~

~~*(1) The Director of Public Health shall enforce Section 1003 hereof against violations by either of the following actions:*~~

~~*(a) Serving notice requiring the correction of any violation of this Article.*~~

~~*(b) Calling upon the City Attorney to maintain an action for injunction to enforce the provisions of this Article, to cause the correction of any such violation, and for assessment and recovery of a civil penalty for such violation;*~~

~~*(2) Any employer who violates Section 1003 hereof may be liable for a civil penalty, not to exceed $500, which penalty shall be assessed and recovered in a civil action brought in the name of the People of the City and County of San Francisco in any court of competent jurisdiction. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such. Any penalty assessed and recovered in an action brought pursuant to this paragraph shall be paid to the Treasurer of the City and County of San Francisco.*~~

~~*(3) In undertaking the enforcement of this ordinance, the City and County of San Francisco is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.*~~

~~*ARTICLE 19A:*~~

~~*REGULATING SMOKING IN EATING ESTABLISHMENTS [SUSPENDED]*~~

~~*SEC. 1006. PURPOSE.*~~

~~*The Board of Supervisors has a longstanding interest in the risks to human health of tobacco use, and disease prevention and health promotion are essential components of this health policy. Cigarette smoking is a certifiable health danger to smokers and nonsmokers alike. By smoking*~~

~~*cigarettes, or being exposed to secondhand smoke, people inhale various chemicals including, for example, formaldehyde, ammonia, tar, nicotine, and carbon monoxide. The Surgeon General of the United States has declared that cigarette smoking causes lung cancer, heart disease, and emphysema, and that smoking by pregnant women may result in fetal injury, premature birth, and low birth weight. The Board of Supervisors desires to prevent disease and promote the health of the people of San Francisco by making it easier for residents and visitors to avoid secondhand smoke in eating establishments. For the most part, this Article simply extends the smoking prohibitions of Article 19 to include eating establishments.*~~

~~*SEC. 1006.1. DEFINITIONS.*~~

~~*Unless the term is specifically defined in this Article or the contrary stated or clearly appears from the context, the definitions set forth in Article 19, Section 1002 of this Code, shall govern the interpretation of this Article.*~~

~~*(a) "Eating establishment" shall mean every enclosed restaurant, coffee shop, cafeteria, cafe, luncheonette, sandwich stand, soda fountain, or other enclosed eating establishment serving food to the general public. The term "eating establishment" shall not include banquet rooms in use for private social functions. The term "eating establishment" shall not apply to any property owned or leased by State or federal government agencies.*~~

~~*SEC. 1006.2. REGULATION OF SMOKING IN EATING ESTABLISHMENTS.*~~

~~*In eating establishments smoking shall be prohibited in lobbies, waiting areas, restrooms, and dining areas designated for nonsmoking. Unless the eating establishment has been designated entirely nonsmoking, the owner, manager or operator of an eating establishment shall allocate and designate by appropriate signage an adequate amount of space in these areas to meet the demands of both smokers and nonsmokers, and shall inform all patrons that nonsmoking areas are provided.*~~

~~*SEC. 1006.3. DISCLAIMERS.*~~

~~*(a) By regulating smoking in eating establishments, the City and County of San Francisco is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach approximately caused injury.*~~

~~*(b) No owner of an eating establishment shall be required to construct or erect walls, partitions or other barriers to comply with this ordinance.*~~

~~*SEC. 1006.4. PENALTIES AND ENFORCEMENT.*~~

~~*The provisions of Section 1005 of Article 19 are applicable to the enforcement of violations of this Article. Any penalty assessed and recovered in an action brought pursuant to this paragraph shall be paid to the Treasurer of the City and County of San Francisco.*~~

~~*SEC. 1006.5. SEVERABILITY.*~~

~~*If any provision of this Article, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this Article, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this Article are severable.*~~

~~*ARTICLE 19B:*~~

~~*REGULATING SMOKING IN SHARED OFFICE WORKPLACE [SUSPENDED]*~~

~~*SEC. 1007. FINDINGS.*~~

~~*The question of whether tobacco smoke is harmful to smokers was answered more than 20*~~

~~*years ago. U.S. Public Health Service reports on the health consequences of smoking have conclusively established cigarette smoking as the largest single preventable cause of premature death and disability in the United States. As a result many scientists began to question whether the low levels of exposure to environmental tobacco smoke (ETS) received by nonsmokers could be harmful.*~~

~~*The 1986 Surgeon General's Report on the Health Consequences of Involuntary Smoking clearly documents that nonsmokers are placed at increased risk for developing disease as the result of ETS exposure. The term "involuntary smoking" denotes that for many nonsmokers, exposure to ETS is the result of an unavoidable consequence of being in close proximity to smokers.*~~

~~*The report contains the following conclusions: (1) Involuntary smoking is a cause of disease, including lung cancer, in healthy nonsmokers. (2) Simple separation of smokers and nonsmokers within the same air space may reduce, but does not eliminate, exposure of nonsmokers to environmental tobacco smoke.*~~

~~*The quality of the indoor environment must be a concern of all who control and occupy that environment. Protection of individuals from exposure to environmental tobacco smoke is therefore a responsibility shared by all. As employers and employees we must ensure that the act of smoking does not expose the nonsmoker to tobacco smoke. For smokers, it is their responsibility to assure that their behavior does not jeopardize the health of others. For nonsmokers, it is their responsibility to provide a supportive environment for smokers who are attempting to stop.*~~

~~*The scientific case against involuntary smoking as a health risk is more than sufficient to justify this legislative measure, the goal of which must be to protect the nonsmoker from environmental tobacco smoke.*~~

~~*SEC. 1007.1. DEFINITIONS.*~~

~~*Unless otherwise defined herein, the definitions set forth in Article 19, Section 1002, of this Code, shall govern the interpretation of this Article.*~~

~~*(a) "Office workplace" shall include, in addition to the examples noted in Section 1002(6), press boxes at stadiums or other locations.*~~

~~*SEC. 1007.2. REGULATION OF SMOKING IN SHARED OFFICE WORKPLACE.*~~

~~*The provisions of this Article apply to office workplace shared by the employees of two or more employers.*~~

~~*(1) Each employer shall notify his or her employees of the following regulations regarding smoking:*~~

~~*(a) Any nonsmoking employee may object to his or her employer about smoke in the office workplace. If the objection concerns another employer's employee, the nonsmoker's employer shall notify the smoker's employer of the objection. Using already available means of ventilation or separation or partition of office space, the smoker's employer shall attempt to reach a reasonable accommodation, insofar as possible, between the preferences of the nonsmoking and smoking employees. However, an employer is not required by this ordinance to make any expenditures or structural changes to accommodate the preferences of nonsmoking or smoking employees.*~~

~~*(b) If an accommodation which is satisfactory to all affected nonsmoking employees cannot be reached, the preferences of nonsmoking employees shall prevail and the employers shall prohibit smoking in that office workplace. The employers shall clearly mark the area in which smoking is prohibited.*~~

~~*SEC. 1007.3. DISCLAIMERS.*~~

~~*By regulating smoking in shared office workplace, the City and County of San Francisco is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach approximately caused injury.*~~

~~*SEC. 1007.4. PENALTIES AND ENFORCEMENT.*~~

~~*The provisions of Section 1005 of Article 19 are applicable to the enforcement of violations of this Article. Any penalty assessed and recovered in an action brought pursuant to this paragraph shall be paid to the Treasurer of the City and County of San Francisco.*~~

~~*SEC. 1007.5. SEVERABILITY.*~~

~~*If any provisions of this Article, or the application of any such provisions to any person or circumstances, shall be held invalid, the remainder of this Article, to the extent it can be given effect, or the application of those provisions to persons at circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this Article are severable.*~~

~~*ARTICLE 19C:*~~

~~*REGULATING SMOKING IN PUBLIC PLACES AND IN HEALTH, EDUCATIONAL AND CHILD CARE FACILITIES [SUSPENDED]*~~

~~*SEC. 1008. FINDINGS.*~~

~~*(a) The United States Surgeon General's 1986 Report on the Health Consequences of Involuntary Smoking reports the following:*~~

~~*(1) Involuntary smoking is a cause of disease, including lung cancer, in healthy nonsmokers.*~~

~~*(2) The children of parents who smoke compared with the children of nonsmoking parents have an increased frequency of respiratory infections, increased respiratory symptoms, and slightly smaller rates of increase in lung function as the lung matures.*~~

~~*(3) The simple separation of smokers and nonsmokers within the same air space may*~~

~~*reduce, but does not eliminate, the exposure of nonsmokers to environmental tobacco smoke.*~~

~~*(b) The Board of Supervisors finds and declares:*~~

~~*(1) Nonsmokers have no adequate means to protect themselves from the damage inflicted upon them when they involuntarily inhale tobacco smoke.*~~

~~*(2) Regulation of smoking in public places is necessary to protect the health, safety, welfare, comfort, and environment of nonsmokers.*~~

~~*(c) It is, therefore, the intent of the Board of Supervisors, in enacting this Article, to protect the nonsmoker from environmental tobacco smoke and to eliminate smoking, as much as possible, in public places.*~~

~~*SEC. 1008.1. DEFINITIONS.*~~

~~*Unless the term is specifically defined in this Article or the contrary stated or clearly appears from the context, the definitions set forth in Article 19, Section 1002, of this Code (the Smoking Pollution Control Ordinance) shall govern the interpretation of this Article. The definitions set forth in this Article shall be construed so as to make the prohibition against smoking set forth herein broadly applicable.*~~

~~*(a) "Bar" means an area which is devoted to the serving of alcoholic beverages for consumption by patrons on the premises and in which the serving of food is only incidental to the consumption of such beverages.*~~

~~*(b) "Child care facility" means a facility in which a person, at the request and consent of a parent or legal guardian, provides care during a part of any 24-hour period for compensation, whether or not such person is licensed.*~~

~~*(c) "Educational facility" means any school or educational institution, whether commercial or nonprofit, operated for the purpose of providing academic classroom instruction, trade, craft, computer or other technical training, or instruction in dancing, artistic, musical or other cultural skills.*~~

~~*(d) "Enclosed" means closed in by a roof and four walls with appropriate openings for ingress and egress. It includes areas commonly described as public lobbies or lobbies when they are in an area that is enclosed as defined herein.*~~

~~*(e) "Motion picture theater" means any theater engaged in the business of exhibiting motion pictures.*~~

~~*(f) "Nonprofit establishment" means any office, store, or other place operated by any corporation, unincorporated association or other entity created for charitable, philanthropic, educational, character building, political, social or other similar purposes, the net proceeds from the operation of which are committed to the promotion of the objects or purposes of the organization and not to private financial gain. A public agency is not a nonprofit entity.*~~

~~*(g) "Person" means a natural person or any legal entity, including but not limited to a corporation, firm, partnership or trust.*~~

~~*(h) "Public area" means any enclosed area of a building to which members of the general public have access. It shall include, by way of example only, lobbies of businesses open to the public; reception areas of businesses open to the public; department stores; one-room businesses where the room is open to the public; restrooms open to the public; stairways, hallways, escalators and elevators in buildings open to the public; and other enclosed areas open to the public as set forth herein.*~~

~~*(i) "Business establishment" means any business, store, office or other place where goods or services are sold or provided as part of a commercial venture. It includes but is not limited to the following: (1) automobile dealerships, furniture or other showrooms for the display of merchandise offered for sale; (2) grocery, pharmacy, specialty, department and other stores which sell goods or merchandise; (3) service stations, stores or shops for the repair or maintenance of appliances, shoes, motor vehicles or other items or products; (4) barbershops, beauty shops, cleaners, laundromats and other establishments offering services to the general public; (5) video arcade, poolhall, and other amusement centers; (6) offices providing professional services such as legal, medical, dental,*~~

~~*engineering, and architectural services; (7) banks, savings and loan offices, and other financial establishments; (8) hotels and motels, and other places that provide accommodations to the public.*~~

~~*(j) "Retail tobacco store" shall mean a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.*~~

~~*(k) "Sports arena" means sports stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys and similar places where the public assembles either to engage in physical exercise, participate in athletic competition or witness sports events.*~~

~~*SEC. 1008.2. REGULATION OF SMOKING IN PUBLIC PLACES AND DESIGNATED FACILITIES.*~~

~~*Smoking shall be prohibited in those enclosed areas of the following places during those times when the general public has access to them; notwithstanding any other provision of this Article, smoking is permitted in the public areas of the following places without violating this Article if one or more designated smoking areas are established which are physically separated by walls or partitions so that smoke does not permeate into areas where smoking is prohibited and so long as such designated smoking areas do not exceed in aggregate size the area or areas devoted to non-smoking which are for the general public.*~~

~~*(a) Public areas of every building or portion thereof on property owned or leased by the City and County of San Francisco; within 90 days after the effective date of this ordinance, every commission, department or agency with jurisdiction over such property shall adopt regulations or policies implementing the provisions of this Article;*~~

~~*(b) Public areas of hearing rooms, courtrooms, or places of public assembly located in buildings in which the business of any governmental body or agency is conducted;*~~

~~*(c) Polling places;*~~

~~*(d) (1) Public areas of health facilities, including but not limited to hospitals, long term*~~

~~*care facilities, clinics, physical therapy facilities, and doctors' and dentists' offices, which public areas shall include waiting rooms and lobbies;*~~

~~*(2) The following private areas of hospitals, long term care facilities, clinics, physical therapy facilities, doctors' and dentists' offices, and other health facilities, even though the general public may not have access to such areas: wards, inpatient rooms, and outpatient examination and treatment rooms;*~~

~~*(3) Health Facility Exemptions. Notwithstanding any other provision of this Article, smoking is permitted in (i) wards and inpatient rooms if all patients currently in the ward or room request in writing to be placed in a room where smoking is permitted; and (ii) in designated areas in waiting rooms and lobbies of health facilities which may be established and which are physically separated by walls or partitions so that smoke does not permeate into areas where smoking is prohibited so long as such designated smoking areas do not exceed in aggregate size the areas in the lobbies and waiting rooms which are for the general public and designated as non- smoking; and (iii) in publicly owned long term care facilities, provided that such facilities shall adopt within 90 days of the effective date of this ordinance a written plan designed to meet the needs of patients, family and staff for a smoke-free environment;*~~

~~*(e) Public areas in educational facilities;*~~

~~*(f) Classrooms, meeting or conference rooms, and lecture halls in educational facilities; this prohibition is intended to apply even when such areas are open only to persons enrolled or otherwise formally authorized to attend;*~~

~~*(g) Public areas in business establishments and nonprofit establishments; provided, however, that not included are any establishments which employ three or fewer employees;*~~

~~*(h) Public areas of privately owned aquariums, galleries, libraries and museums when open to the public;*~~

~~*(i) Enclosed areas in child care facilities when children are present; provided, however, that*~~

~~*not included are child care facilities which employ three or fewer employees. This prohibition is intended to apply even when such areas are open only to those being cared for in such facilities;*~~

~~*(j) Notwithstanding the provision of subsection (g) above that exempts establishments which employ three or fewer employees, all areas of all automatic laundries or launderettes intended for use by members of the general public.*~~

~~*Notwithstanding any other provision of this Article, any owner, operator, manager, or other person who controls any establishment or facility described in this Article may declare the entire establishment or facility as non-smoking.*~~

~~*SEC. 1008.3. REGULATION OF SMOKING IN PLACES OF ENTERTAINMENT, SPORTS ARENAS, CONVENTION FACILITIES, AND HOTEL LOBBIES.*~~

~~*The owner of the following premises, or the person who has the right to possession and management of the premises, shall designate smoking and non-smoking areas in enclosed areas of the following places and shall enforce the smoking prohibition in the non-smoking areas during those times when the general public has access to the premises. The owner or person with the right to possession and management shall post the signs required by Section 1008.5. An enclosed area may be divided into smoking and non-smoking areas without a physical separation between them. The posted signs shall clearly designate where the demarcation is between the smoking and non-smoking areas. Designated smoking areas shall not exceed in aggregate size the areas which are for the general public and which must be devoted to non-smoking.*~~

~~*(a) Public areas of any building primarily used for exhibiting motion pictures, drama, dance, musical performance or other entertainment, and within any room, hall or auditorium that is occasionally used for exhibiting motion pictures, drama, dance, musical performance, lecture or other entertainment during the time that said room, hall or auditorium is open to the public for such exhibition; provided, however, that smoking is permitted on a stage when such smoking is part of a*~~

~~*stage production;*~~

~~*(b) Public areas of buildings containing sports arenas;*~~

~~*(c) Public areas of convention facilities;*~~

~~*(d) Hotel lobbies.*~~

~~*SEC. 1008.4. APPLICATION AND EXCEPTIONS.*~~

~~*(a) The following shall not be subject to this Article:*~~

~~*(1) "Eating establishments" regulated by Article 19A of this Code;*~~

~~*(2) Bars; provided, however, that not excluded from the requirements of this Article are areas commonly known as lobbies located in hotels, convention centers, theaters, and similar establishments;*~~

~~*(3) Rooms rented to guests in hotels, motels and similar establishments where not designated by the proprietor of said facilities as non-smoking;*~~

~~*(4) Retail tobacco stores;*~~

~~*(5) Discotheques, dance halls, or other establishments which are primarily devoted to entertaining people by providing music and dancing.*~~

~~*(b) Article 19 of this Code regulates smoking in the office workplace. In those times and places where the provisions of this Article apply, they shall govern. In all other instances, the provisions of Article 19 shall apply. Notwithstanding any other provision of this Article, no employee shall be entitled to smoke in an office workplace unless the provisions of Article 19 are complied with.*~~

~~*SEC. 1008.5. POSTING OF SIGNS.*~~

~~*(a) "No Smoking" signs with letters of not less than one inch in height or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be conspicuously posted in every enclosed area where smoking is*~~

~~*prohibited by this Article by the owner of such building or, if a different person has the right to possession and management of the property, by the person with such right.*~~

~~*(b) The owner and the manager or operator of every theater and auditorium shall be responsible for conspicuously posting signs in the lobby stating that smoking is prohibited within the theater or auditorium and the lobby, and in the case of motion picture theaters, such information shall be shown upon the screen for at least five seconds prior to the showing of each feature motion picture.*~~

~~*(c) "Smoking" signs may be posted where permitted by this Article.*~~

~~*SEC. 1008.6. UNLAWFUL TO PERMIT SMOKING IN OR TO SMOKE IN PROHIBITED AREAS.*~~

~~*(a) It shall be unlawful for the owner of any property or establishment subject to this Article, or, if a different person has the right to possession and management of such property or establishment, for that person, to fail to post or to maintain the signs required by this Article or to permit any person to smoke in any area where smoking is prohibited by this Article. The person responsible for enforcing the prohibition against smoking in designated areas shall be deemed to have complied with these Sections if he or she posts the signs required by this Article and, upon notice of a violation, promptly makes a good faith effort to notify the violator that smoking is illegal and requests the violator not to smoke, either personally or through a designee.*~~

~~*(b) It is unlawful for any person to smoke in an area where signs have been posted indicating that smoking is prohibited or to smoke in an area where this Article prohibits smoking.*~~

~~*SEC. 1008.7. PENALTIES AND ENFORCEMENT.*~~

~~*(a) The Director of Health (hereinafter "Director") may enforce the provisions of this Article against violations by serving notice requiring the correction of any violation within a reasonable time specified by the Director. Upon the violator's failure to comply with the notice within the time period*~~

~~*specified, (1) the Director may request the City Attorney to maintain an action for injunction to enforce the provisions of this Article and for assessment and recovery of a civil penalty for such violation and (2) the owner of the premises or the person with the right to possession and management of the property may maintain an action for injunctive relief to enforce the provisions of this Article and an action for damages. Damages may be awarded up to $500 a day for each day that the violation occurs or is permitted to continue. It is necessary to specify the amount of such damages because of the extreme difficulty that the owner or other authorized person would have in establishing injury based on lost business, lost productivity due to health injuries caused by tobacco smoke, and other costs arising because of the health problems created by smoking.*~~

~~*(b) Any person that violates or refuses to comply with the provisions of this Article shall be liable for a civil penalty, not to exceed $500 for each day such violation is committed or permitted to continue, which penalty shall be assessed and recovered in a civil action brought in the name of the people of the City and County of San Francisco, by the City Attorney, in any court of competent jurisdiction. Any penalty assessed and recovered in a civil action brought pursuant to this Section shall be paid to the Treasurer of the City and County of San Francisco.*~~

~~*(c) Any person who violates or refuses to comply with the provisions of this Article shall be guilty of an infraction, and shall be deemed guilty of a separate offense for every day such violation or refusal shall continue. Every violation is punishable by (1) a fine not exceeding $100 for a first violation; (2) a fine not exceeding $200 for a second violation within one year; (3) a fine not exceeding $500 for each additional violation within one year.*~~

~~*(d) In undertaking the enforcement of this ordinance, the City and County of San Francisco is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.*~~

~~*SEC. 1008.8. SEVERABILITY.*~~

~~*If any provision of this Article, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this Article, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this Article are severable.*~~

~~*ARTICLE 19E:*~~

~~*PROHIBITING SMOKING IN PLACES OF EMPLOYMENT AND CERTAIN SPORTS ARENAS [SUSPENDED]*~~

~~*SEC. 1009.5. PROHIBITION OF SMOKING IN PLACES OF EMPLOYMENT AND SPORTS ARENAS.*~~

~~*(a) No employer shall knowingly or intentionally permit, and no person shall engage in, the smoking of tobacco products in an enclosed space at a place of employment.*~~

~~*(b) No owner, manager, or operator of a sports arena or stadium shall knowingly or intentionally permit, and no person on the premises shall engage in, the smoking of tobacco products in any enclosed or open space at a sports arena or stadium except in (1) concourses and ramps outside seating areas, (2) private suites and corridors to private suites, and (3) areas designated for parking. Any portion of a sports arena or stadium used as a bar or restaurant shall be subject to the provisions of this Article governing bars and restaurants as "places of employment." For purposes of this Section a sports arena or stadium means a publicly owned facility which has a seating capacity of at least 30,000 people.*~~

~~*(c) For purposes of this Section:*~~

~~*(1) Except as otherwise provided in this Section, the terms "employer" and "employee" shall have the same meaning as the construction given those terms in Labor Code Sections 6304 and*~~

~~*6304.1.*~~

~~*(2) "Place of employment" means any place, and the premises appurtenant thereto, where employment is carried on. "Place of employment" shall not include:*~~

~~*(A) That portion of any hotel or motel lobby designated for smoking, provided that no hotel or motel shall designate more than 25 percent of any lobby for smoking, and provided further that no hotel or motel shall permit smoking in any room used for exhibit space;*~~

~~*(B) Hotel and motel guest room accommodations designated as smoking rooms, provided that hotels and motels shall designate at least 35 percent of the guest rooms as nonsmoking;*~~

~~*(C) Facilities used to conduct charity bingo games pursuant to Penal Code Section 326.5 during such times that persons are assembled in the facility in connection with such games;*~~

~~*(D) Banquet rooms in use for private social functions;*~~

~~*(E) Bars. A "bar" means an area which is devoted to the serving of alcoholic beverages for consumption by patrons on the premises and in which the serving of food is only incidental to the consumption of such beverages. If a restaurant contains a bar, that portion that constitutes the bar shall not be considered a place of employment under this ordinance;*~~

~~*(F) Private homes;*~~

~~*(G) Any store that engages exclusively in the sale of tobacco and tobacco related products and any portion of any store devoted exclusively to the sale of tobacco and tobacco related products.*~~

~~*(d) For purposes of this Section, an employer who permits any nonemployee access to his or her place of employment on a regular basis has not acted knowingly or intentionally if he or she has taken the following reasonable steps to prevent smoking by a nonemployee:*~~

~~*(1) Posted clear and prominent "No Smoking" signs at each entrance to the workplace premises;*~~

~~*(2) Has requested, when appropriate, that a nonemployee who is smoking refrain from*~~

~~*smoking in the enclosed workplace.*~~

~~*For purposes of this subsection, "reasonable steps" shall not include the physical ejectment of a nonemployee from the place of employment.*~~

~~*(e) For purposes of this Section, the owner, manager, or operator of a sports arena has not acted knowingly or intentionally if he or she has taken the reasonable steps described in Subsection (d) to prevent smoking by a person on the premises who is not an employee of the owner, manager or operator.*~~

~~*(f) Insofar as this Article applies to actions or omissions involving smoking that are also governed by any other ordinance of the City and County of San Francisco, the provisions of this Article are intended to supersede any other provision; provided, however, that the provisions of this Article supersede such other provision only after the provisions of this Article that apply to such act or omission become operative. The intent of this Section is that the current ordinances regulating smoking continue to be enforced until the applicable provisions of this Article become operative.*~~

~~*SEC. 1009.6. HARDSHIP EXEMPTION FOR RESTAURANTS.*~~

~~*(a) Any owner or manager of a restaurant may apply to the Controller for an exemption from or modification of the requirements of this Article based on significant financial hardship caused by compliance with this Article. The applicant shall include all information required by the Controller. An application for exemption or modification shall be accompanied by a reasonable fee established by the Controller to cover the costs required to process the application and make a determination. The Controller shall give the Department of Public Health an opportunity to present relevant information with respect to each application.*~~

~~*(b) The applicant shall have the burden of proof in establishing that this Article has created an unreasonable economic effect on the applicant's business and threatens the survival of the restaurant, and that this economic effect is not the result of seasonal fluctuations or other conditions*~~

~~*unrelated to the requirements of this Article. The Controller shall act on the application pursuant to administrative regulations adopted by the Controller. The Controller shall not be required to conduct a hearing on the application. The Controller shall issue a decision in writing to the applicant and to any other person who has requested a copy.*~~

~~*(c) The decision of the Controller may be appealed within 15 days of the issuance of the decision to the Board of Permit Appeals by the applicant or by any person who deems that his or her interests or that the general public interest will be adversely affected by the decision. The Board of Permit Appeals may concur in, overrule or modify the Controller's decision. The provisions of Sections 8 through 16 of Part III of the San Francisco Municipal Code shall govern the appeal process.*~~

~~*(d) No exemptions or modifications shall be granted to any restaurant which has not been smokefree for a period of less than six months. Notwithstanding any other provision of this Article, any restaurant which has been granted an exemption or modification from the requirements of this Article shall not permit smoking in more than 25 percent of the seating or floor space of the restaurant.*~~

~~*(e) Exemptions granted by the Controller or the Board of Permit Appeals shall be valid for a period not to exceed 12 months and may be renewed upon application to the Controller. Applications for renewal shall be subject to the same requirements and procedures as initial applications.*~~

~~*SEC. 1009.7. VIOLATIONS AND PENALTIES.*~~

~~*(a) The Director of Public Health may enforce the provisions of this Article against violations by serving notice requiring the correction of any violation within a reasonable time specified by the Director. Upon the violator's failure to comply with the notice within the time period specified, (1) the Director may request the City Attorney to maintain an action for injunction to enforce the provisions of this Article and for assessment and recovery of a civil penalty for such violation and (2) the owner of the premises or the person with the right to possession and management of the property may maintain an action for injunctive relief to enforce the provisions of this Article and an action for*~~

~~*damages. Damages may be awarded up to $500 a day for each day the violation occurs or is permitted to continue. It is necessary to specify the amount of such damages because of the extreme difficulty that the owner or other authorized person would have in establishing injury based on lost business, lost productivity due to health injuries caused by tobacco smoke, and other costs arising because of the health problems created by smoking.*~~

~~*(b) Any person who violates or refuses to comply with the provisions of this Article, shall be liable for a civil penalty, not to exceed $500 for each day such violation is committed or permitted to continue, which penalty shall be assessed and recovered in a civil action brought in the name of the people of the City and County of San Francisco, by the City Attorney, in any court of competent jurisdiction. Any penalty assessed and recovered in a civil action brought pursuant to this Section shall be paid to the Treasurer of the City and County of San Francisco.*~~

~~*(c) In addition to any other penalty or provision regarding enforcement set forth in this Article, any violation of the prohibition set forth in this Article is a misdemeanor punishable by a fine not to exceed $250 for a first violation, $350 for a second violation within one year, and $600 for a third and for each subsequent violation within one year.*~~

~~*SEC. 1009.8. DISCLAIMERS.*~~

~~*In adopting and undertaking the enforcement of this ordinance, the City and County of San Francisco is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.*~~

~~*SEC. 1009.9. SEVERABILITY.*~~

~~*If any provision of this Act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the Act that can be given*~~

~~*effect without the invalid provision of application, and to this end the provisions of this Act are severable.*~~

~~*SEC. 1009.10. OPERATIVE DATE.*~~

~~*The provisions of this Article shall not be operative until February 1, 1994; provided, however, that with respect to restaurants, the provisions of this Article shall not be operative until January 1, 1995.*~~

Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

Section 6. Undertaking for the General Welfare. In enacting and implementing this ordinance, the City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

Section 7. Severability. If any section, subsection, sentence, clause, phrase, or word of this ordinance, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of the ordinance. The Board of

Supervisors hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this ordinance or application thereof would be subsequently declared invalid or unconstitutional.

Section 8. Effective Date. This ordinance shall become effective on the 31st day after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

APPROVED AS TO FORM:
DAVID CHIU, City Attorney

By: /s/
MARC SHAPP
Deputy City Attorney

4930-9242-1799, v. 1

FILE NO. 260361

REVISED LEGISLATIVE DIGEST

(Substituted, May 5, 2026)

[Health Code - Smoke-free Places]

Ordinance amending the Health Code to prohibit smoking in outdoor patios of bars and taverns; eliminate exceptions allowing indoor smoking in bars with no employees, bars with historically compliant semi-enclosed smoking rooms, and hotel rooms, to conform to provisions of California law; and repeal suspended and superseded provisions regulating smoking in certain locations.

Existing Law

State law prohibits smoking in all enclosed places of employment and owner-operated businesses, with limited exceptions. California Labor Code Section 6404.5. This law applies statewide, and preempts local laws that purport to allow smoking in places where it is prohibited under state law. Notably, state law prohibits smoking in 100% of hotels, motels, or other transient lodging facilities and in owner-operated business regardless of the number of employees or the existence of an enclosed area for smoking.

Currently, Article 19F of the Health Code prohibits smoking in certain enclosed spaces, including, but not limited to, facilities owned or leased by the City, polling places, educational facilities, health facilities, and certain business establishments including most restaurants, bars, and taverns. Current local law also bans smoking in certain outdoor spaces, including sports arenas and farmers markets.

Although current local law purports to exempt the following categories of businesses from the smoking prohibition, these businesses are subject to the state ban on smoking:

- up to 25% of guest rooms in tourist lodging facilities;
- certain owner-operated bars and taverns that have no employees; and
- certain bars and taverns with historically compliant semi-enclosed smoking rooms.

Current local law does not prohibit smoking in outdoor patios at bars or taverns.

Current local law defines “Tobacco Sales” in Article 19H of the Health Code to include the display of tobacco products; however, the storage or display of images of tobacco products for purchase are not included in the definition.

Amendments to Current Law

The proposed ordinance would make the following changes to the Health Code.

- Prohibit smoking in the outdoor patios of bars and taverns;
- Conform to state law by eliminating the preempted exceptions for up to 25% of tourist lodging facility guest rooms; 2) owner-operated bars and taverns that have no employees; and 3) bars and taverns with historically compliant semi-enclosed smoking rooms.
- Revise the definition of "Tobacco Sales" in Section 19H.2 to include the storage or display of images of tobacco products for purchase.
- Repeal Articles of the Health Code that have already been suspended and superseded.

Background Information

This ordinance was introduced on May 5, 2026 as a substitute for the ordinance in Board file No. 260361.

When Article 19F of the Health Code was first enacted, its restrictions were more stringent than state law. Since then, state law that has caught up to and in some respects exceeded the protections against secondhand smoke in certain indoor spaces that the City previously enacted, particularly with respect to entirely prohibiting smoking in tourist lodging facilities, and bars and taverns irrespective of the number of employees they have.

Article 19F supersedes and suspends earlier local smoking regulations codified in Articles 19A, 19B, 19C, and 19E, which restricted but did not necessarily prohibit smoking in various indoor spaces. Article 19 similarly restricts some indoor smoking without prohibiting it. When Article 19F was enacted in 1994, it suspended rather than repealed Articles 19A, 19B, 19C, and 19E in case the legality of Article 19F was successfully challenged. The legality of smokefree air laws is now well established, and it is therefore appropriate to repeal the less restrictive regulations codified in Articles 19, 19A, 19B, 19C, and 19E.

Updating the definition of "Tobacco Sales" in Section 19H.2 of the Health Code to include the storage or display of images of tobacco products for purchase as part of the definition is intended to enable efficient enforcement to the permit requirement established in Article 19H.

SAN FRANCISCO
OFFICE OF SMALL BUSINESS

CITY AND COUNTY OF SAN FRANCISCO
DANIEL L. LURIE, MAYOR

OFFICE OF SMALL BUSINESS
DIRECTOR KATY TANG

April 30, 2026

Ms. Angela Calvillo, Clerk of the Board
City Hall Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

RE: BOS File 260361 – Smoke Free Places – Motion of No Support

Dear Ms. Calvillo,

On April 27, 2026, the Small Business Commission (the Commission) heard BOS File 260361 – Smoke Free Places. Jen Low, Legislative Aide to Supervisor Melgar, presented the legislation which would prohibit smoking in outdoor patios associated with bars and taverns, and update local Health Code to match State regulations that eliminate exceptions for smoking indoors in certain circumstances.

The Commission had a robust discussion about the potential impacts that a prohibition could have on bars and taverns with patios that allow smoking. They shared concerns that customers may shift to smoking on the sidewalk in front of the businesses, which may create new tensions between neighbors regarding noise, smoke, and gatherings. Commissioners commented that the nightlife industry is still recovering from the COVID-19 pandemic and that this legislation could have a large negative impact on neighborhood bars and taverns. They also requested data on complaints associated with smoking at outdoor patios to understand the extent of the problem. The Commission voted to not support this legislation with a 6-0 vote. Please feel free to contact me should you have any questions.

Sincerely,

Katy Tang
Director, Office of Small Business

BOARD of SUPERVISORS

City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

M E M O R A N D U M

TO: Daniel Tsai, Director, Department of Public Health
Nikesh Patel, Director, Office of Cannabis

FROM: John Carroll, Assistant Clerk, Land Use and Transportation Committee

DATE: May 11, 2026

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Supervisor Melgar on May 5, 2026.

File No. 260361 – Substitute Version 2

Ordinance amending the Health Code to prohibit smoking in outdoor patios of bars and taverns; eliminate exceptions allowing indoor smoking in bars with no employees, bars with historically compliant semi-enclosed smoking rooms, and hotel rooms, to conform to provisions of California law; and repeal suspended and superseded provisions regulating smoking in certain locations.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: john.carroll@sfgov.org.

cc:
Office of Chair Melgar
Dr. Naveena Bobba, Department of Public Health
Sneha Patil, Department of Public Health
Raghda Karajah, Department of Public Health
Jeremy Schwartz, Office of Cannabis

BOARD of SUPERVISORS

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M E M O R A N D U M

TO: Daniel Tsai, Director, Department of Public Health
Nikesh Patel, Director, Office of Cannabis

FROM: John Carroll, Assistant Clerk, Land Use and Transportation Committee

DATE: April 15, 2026

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Supervisor Melgar on April 7, 2026.

File No. 260361

Ordinance amending the Health Code to prohibit smoking in outdoor patios of bars and taverns; and eliminating exceptions allowing indoor smoking in bars with no employees, bars with historically compliant semi-enclosed smoking rooms, and hotel rooms, to conform to provisions of California law.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: john.carroll@sfgov.org.

cc:
Office of Chair Melgar
Dr. Naveena Bobba, Department of Public Health
Sneha Patil, Department of Public Health
Raghda Karajah, Department of Public Health
Jeremy Schwartz, Office of Cannabis

BOARD of SUPERVISORS

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San Francisco, CA 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

M E M O R A N D U M

TO: Katy Tang, Director
Small Business Commission, City Hall, Room 448

FROM: John Carroll, Assistant Clerk, Land Use and Transportation Committee

DATE: April 15, 2026

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Land Use and Transportation Committee

The Board of Supervisors' Land Use and Transportation Committee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File No. 260361

Ordinance amending the Health Code to prohibit smoking in outdoor patios of bars and taverns; and eliminating exceptions allowing indoor smoking in bars with no employees, bars with historically compliant semi-enclosed smoking rooms, and hotel rooms, to conform to provisions of California law.

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c:
Office of Chair Melgar
Kerry Birnbach, Senior Policy Analyst/Commission Secretary

*****

From:	Liz Hendrix
To:	BOS-Supervisors; BOS-Legislative Aides; Carroll, John (BOS)
Subject:	ACS CAN Letter of Support Smoke Free Bar Patios
Date:	Thursday, May 14, 2026 3:56:40 PM
Attachments:	Outlook-American C.png San Francisco SF Bar Patio Letter of Support 5.18.pdf

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Good afternoon,

My name is Liz Hendrix and I am the Government Relations Director for Northern California with the American Cancer Society Cancer Action Network (ACS CAN).

I would like to state ACS CAN's strong support for the proposed smoke free outdoor bar patios ordinance in San Francisco and am attaching a letter of support for this ordinance. We urge the members of the Land Use and Transportation Committee to vote yes on this ordinance.

Sincerely,

Liz Hendrix

Liz Hendrix | She/Her
Government Relations Director, Northern California
916.504.2470
Sacramento, CA
fightcancer.org | 1.800.227.2345

Liz Hendrix | Government Relations Director
American Cancer Society Cancer Action Network, Inc.
PO Box 660175
Sacramento, CA 95866
Phone: -
fightcancer.org

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May 18, 2026

Members of the Land Use and Transportation Committee
1 Dr. Carlton B. Goodlett Place, City Hall Room 244
San Francisco, CA 94102

Dear Esteemed Members of the San Francisco Land Use and Transportation Committee:

The American Cancer Society Cancer Action Network's (ACS CAN) mission is to end suffering and death from cancer, and we are committed to continuing that mission in San Francisco. San Francisco residents deserve to breathe clean air in all indoor and outdoor spaces, including outdoor patios of bars and taverns. Currently, San Francisco prohibits smoking anywhere food is served in indoor and outdoor dining areas of restaurants, cafes and coffee shops. However, the law does not include outdoor patios of bars and taverns. This is concerning as secondhand smoke can linger in semi-enclosed and outdoor areas of businesses, which can increase exposure levels for employees and customers alike. This exemption not only puts patrons and employees at risk of secondhand smoke exposure, but also residents of nearby homes and apartments (including children, seniors, and people who are at increased risk of respiratory illnesses and decreased lung function).

The CDC states that there is no safe level of exposure to secondhand smoke, as even brief exposure can cause immediate harm.[1] ACS CAN is concerned that smoke drifting from bar patios into nearby houses and apartments can harm children, as secondhand smoke exposure has been shown to cause respiratory infections, ear infections, and asthma attacks in children. In babies, secondhand smoke can cause sudden infant death syndrome (SIDS).[2] [3] Bar customers can choose whether or not to spend time in these spaces, but families living next to bars with designated smoking patios cannot.

Evidence has consistently shown that smoke-free air laws do not result in the loss of revenues or business for establishments that adopt these policies. A 2005 study of California's statewide smoke-free restaurant and bar law (which went into effect in 1995 and 1998 respectively) found that the 1995 smoke-free restaurant law was associated with an increase in restaurant revenues, while the 1998 smoke-free bar law was associated with an increase in bar revenues.[4] Additional studies have found similar results in other states.

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[1] U.S. Dept of Health and Human Services. The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General. U.S. Dept of Health and Human Services; 2014.
[2] Ibid
[3] U.S. Dept of Health and Human Services. A Report of the Surgeon General: How Tobacco Smoke Causes Disease...What It Means to You. U.S. Dept of Health and Human Services; 2010.
[4] Cowling, D.W. and Bond, P. (2005), Smoke-free laws and bar revenues in California – the last call. Health Econ., 14: 1273-1281. https://doi.org/10.1002/hec.1016

ACS CAN strongly supports the adoption of this smoke-free outdoor bar patios ordinance in San Francisco. We recommend that the Committee make a recommendation to amend the definition of "smoking" to include the use of electronic smoking devices.

Thank you for considering a policy to prohibit smoking on outdoor bar patios to work towards a healthier community.

Sincerely,

Liz Hendrix

Liz Hendrix
Government Relations Director, Northern California
American Cancer Society Cancer Action Network

From:	Board of Supervisors (BOS)
To:	BOS-Supervisors; BOS-Legislative Aides
Cc:	Calvillo, Angela (BOS); Mchugh, Eileen (BOS); Ng, Wilson (BOS); Somera, Alisa (BOS); Mchugh, Eileen (BOS); BOS-Operations; Board of Supervisors (BOS); Carroll, John (BOS)
Subject:	FW: Opposition to File No. 260361 – Proposed Ban on Smoking on Outdoor Bar Patios
Date:	Thursday, May 14, 2026 11:20:36 AM

Dear Supervisors,

Please see below, from Justin LeClaire, regarding:

File No. 260361 - Ordinance amending the Health Code to prohibit smoking in outdoor patios of bars and taverns; eliminate exceptions allowing indoor smoking in bars with no employees, bars with historically compliant semi-enclosed smoking rooms, and hotel rooms, to conform to provisions of California law; and repeal suspended and superseded provisions regulating smoking in certain locations.

Regards,

Richard Lagunte
Office of the Clerk of the Board
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
Voice (415) 554-5184 | Fax (415) 554-5163
bos@sfgov.org | www.sf.gov/sfbos

Pronouns: he, him, his

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-----Original Message-----
From: Justin LeClaire <justinmclr@gmail.com>
Sent: Wednesday, May 13, 2026 10:37 PM
To: Board of Supervisors (BOS) <board.of.supervisors@sfgov.org>
Subject: Opposition to File No. 260361 – Proposed Ban on Smoking on Outdoor Bar Patios

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear San Francisco Board of Supervisors,

I am writing as a San Francisco resident, and as a former bartender at a local bar with a smoking patio, to express my strong opposition to File No. 260361, the proposed ordinance banning smoking on outdoor bar patios.

Quite frankly, this legislation feels like a solution in search of a problem. From everything I have seen, neither bar owners nor patrons were meaningfully consulted before this proposal was introduced. Many small businesses are still struggling to recover from the pandemic, changing nightlife trends, and declining alcohol sales, yet the City is now considering imposing another unnecessary restriction on one of the few remaining spaces where smokers can legally gather.

What frustrates me most is that this proposal would likely create the exact problem it claims to solve. Smoking on bar patios occurs in confined, open-air, adults-only (21+) environments in select bars, where patrons knowingly choose whether to participate. If someone does not want to be exposed to secondhand smoke, they can simply avoid those patios or choose the nonsmoking areas that all bars already maintain.

By contrast, banning patio smoking would push smokers onto public sidewalks and curbs, where smoke exposure becomes unavoidable for pedestrians, nearby residents, and yes, even children. Sidewalks do not provide the same element of consent or separation that a dedicated smoking patio does. Several bar owners have already raised this exact concern publicly, and I believe they are correct.

Supervisor Melgar has referred to the current allowance for patio smoking as a “loophole,” but historically that is simply inaccurate. Outdoor patios were intentionally preserved as a compromise when indoor smoking in bars was prohibited decades ago. Businesses accepted those restrictions with the understanding that outdoor smoking areas would remain available. This was not an accidental oversight — it was part of the balance struck at the time.

Smokers in San Francisco already face extensive restrictions. They cannot smoke indoors in bars, restaurants, apartments, many balconies, parks, or restaurant patios. The City has also banned the sale of flavored electronic cigarettes, which has pushed some nicotine users back toward traditional cigarettes. Outdoor bar patios are one of the very last contained spaces left where adults can smoke legally and socially.

Furthermore, as a former bartender at a local bar with a smoking patio, I never once felt unsafe or harmed by smoking. Smokers were respectful by confining it to corners of the room and never exposed staff to secondhand smoke. The bar monitored air quality on the patio and it never once reached unsafe or unhealthy levels.

I am not writing this on behalf of “Big Tobacco,” nor am I claiming smoking is healthy. It obviously is not. But smokers exist, nicotine dependence is real, and people are going to smoke regardless of whether this ordinance passes. The question is whether smoking should occur in designated, limited, adults-only patio spaces, or whether it should spill onto public sidewalks throughout the city.

I would much rather smoking remain contained in small, open-air bar patios than be dispersed onto every surrounding street corner.

I also believe there are far more urgent issues facing San Francisco than policing legal smoking by adults on a handful of outdoor open-air bar patios. If the City truly wants to eliminate smoking altogether, then it should honestly debate banning cigarette sales entirely. Short of that, continually restricting and stigmatizing smokers while still permitting cigarette sales feels inconsistent and punitive.

Instead of a ban, I would encourage the Board to consider a more balanced approach. For example, bars that permit outdoor smoking could simply be required to post clear signage warning patrons that smoking occurs on the patio, similar to existing California-required warnings regarding other health risks. That would preserve personal choice while still informing the public.

I respectfully urge you to oppose File No. 260361 and support San Francisco’s small businesses, nightlife community, and practical harm-reduction approaches rather than symbolic restrictions that will likely worsen the very issues they claim to address.

Thank you for your time and consideration.

Sincerely,

Justin LeClaire
1483 Sutter Street, Unit 405
San Francisco, CA 94109

From: Nick
To: BOS-Supervisors; BOS-Legislative Aides; Carroll, John (BOS)
Subject: Support for smokefree bar patios in San Francisco
Date: Wednesday, May 13, 2026 8:17:57 PM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

- Greetings,
- I am an east bay resident, a former San Francisco resident, and a frequent visitor to San Francisco.
- I support smokefree bar patios in the city and I request that you support File #260361 to achieve this.
- Workers in those bars deserve and need this protection, and so do those who patronize those patios and do not want to breathe secondhand smoke.
- Thank you!
- Nicholas Wellington

From: Joseph Andrew Hayden, Juris Doctor
To: BOS-Supervisors; BOS-Legislative Aides; Carroll, John (BOS)
Subject: Please support smokefree bar patios!!
Date: Tuesday, May 12, 2026 3:40:35 PM
Attachments: image001.png
Importance: High

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

I'm a second-generation Californian who has worked in downtown San Francisco for many years. I get there frequently living in the East Bay, where I mostly grew up. I support File #260361 for smokefree bar patios in San Francisco because it's time for San Francisco to end smoking and vaping on bar patios. This will help bar workers breathe clean air on the job, just like nearly all other workers in the city. There is a lot of misinformation about this proposed ordinance. In addition to ending smoking and vaping on bar patios, it would also clean up outdated language that no longer complies with state law. California law was updated years ago to remove exemptions for owner-operated bars, semi-enclosed rooms at bars, and hotel/motel rooms. These spaces are already required by state law to be smokefree. The proposed ordinance would not change or prohibit cigar bars, so they would still be allowed to have smoking. Secondhand smoke levels in outdoor places where people gather, including bar patios, can be high enough to exceed safe air quality guidelines, which creates a health risk for workers who have to breathe smoke throughout their shift. **Why should people with HIV, diabetes, asthma, Covid and other conditions have to ask for clean air when they go to public venues or work in these environments to earn a living?**

San Francisco has fallen behind when it comes to smokefree bar patios. These laws have already been adopted by more than 120 cities and counties in California, including San Jose, Oakland, and 50 others here in the Bay Area. These communities have not repealed their laws. This ordinance would create a level playing field, so that all bars on are the same footing. It will provide equal health protections for workers and patrons, and a simple, strong, and fair law makes it easier for everyone to understand, follow, and enforce the law. These laws work well in practice, and they end up being popular among patrons and staff, and the majority of people simply follow the law when there's good signage and awareness. People can step out to the curb, have a smoke, and come back inside. The purpose of smokefree workplace laws is to educate people and expand awareness, and there is not a focus on punishing bars or bar staff. The same concerns that are being voiced today were voiced 30 years ago when San Francisco's bars went smokefree indoors in 1998. Bars were worried that it would put them out of business, but these laws ended up working well and bars still thrived because people come to bars for so many reasons related to community, culture, and fun—not only to smoke.

The bottom line is that bar staff are some of the only workers in San Francisco who are still exposed to secondhand smoke, and they deserve protection from breathing toxic smoke on the job.



Joseph Andrew Hayden, *Juris Doctor*

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San Francisco Bay Area, California

Haydennet.com - Personal Blog
JosephHayden.com - Sr. Technical Program Manager
Ursinet.com - Domain Hosting & Web Consulting

From:	stanton.glantz@sonic.net
To:	BOS-Supervisors; BOS-Legislative Aides; Carroll, John (BOS)
Subject:	Please continue SF"s lead on tobacco control by supporting smokefree bar patios in San Francisco (File #260361)
Date:	Tuesday, May 12, 2026 2:40:19 PM
Attachments:	SmokefreePremiumFinal.pdf Weber-LA-Bars.pdf DearloveHospitalityTC.pdf Sepe2.pdf Glantz-CharlesworthJAMA.pdf MagzamenAJPH.pdf Magzamen&Charlesworth.pdf Glantz-Smith-bars.pdf

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Members of the Board of Supervisors,

I am a retired UCSF Professor of Medicine and Founding Director of the UCSF Center for Tobacco Control Research and Education, where I spent decades doing research on secondhand smoke, smokefree laws, and how the tobacco industry works quietly through intermediaries to fight these laws.

I live in the Sunset and testified for every one of the increasingly strong smoking restriction ordinances in San Francisco since the first one passed 43 years ago in 1983.

I was also treasurer of the 1983 campaign to successfully defend the ordinance when the tobacco industry mounted an then-unprecedented referendum campaign against it (Proposition P). San Franciso handed the industry its first electoral defeat anywhere in the world. San Francisco's leadership on tobacco has continued since then with its precedent-setting comprehensive ban on the sale of flavored tobacco products that served as a model for other cities, the State of California, and many other jurisdictions all over the world.

This pattern of leadership is why I am surprised that the Board has not yet fully embraced closing the loophole in our smokefree laws that continues to allow smoking on bar patios. Unlike many other smokefree battles in San Francisco, this one is not even breaking new ground. Many other communities have enacted such laws.

Most important, the tobacco industry is using the same old arguments it has used against every law SF (and everywhere else in the world) – that it will destroy business and freedom and force rowdy customers out on to the street and disrupt neighborhoods. ***These predictions of disaster have never materialized and won't materialize now.***

Instead, once the law passes and takes effect people wonder why it took so long.

I have attached eight of the many papers we have written on these battles to show you that these arguments are not new and highlights the tobacco industry's behind the scenes roll.

Please join your predecessors by rejecting these specious claims and supporting this law.

Unfortunately, I will not be able to testify for the law in person because I will be travelling. Nevertheless, if I can be of further assistance, please email me.

Best wishes,

Stanton A. Glantz, PhD
Professor of Medicine (retired)
UC San Francisco
Sunset District 4 resident

SMOKE-FREE ORDINANCES INCREASE RESTAURANT PROFIT AND VALUE

BENJAMIN C. ALAMAR and STANTON A. GLANTZ

This study estimates the value added to a restaurant by a smoke-free policy using regression analysis of the purchase price of restaurants as a function of the presence of a smoke-free law and other control variables. There was a median increase of 16% (interquartile range 11% to 25%) in the sale price of a restaurant in a jurisdiction with a smoke-free law compared to a comparable restaurant in a community without such a law. This result indicates that contrary to claims made by opponents of smoke-free laws, these laws are associated with an increase in restaurant profitability. (*JEL* I120, H000, D780)

I. INTRODUCTION

Hundreds of U.S. communities and several states and provinces inside and outside the United States have enacted policies ending smoking in restaurants and bars. The tobacco industry, working through the hospitality industry, opposes these policies using the claim that smoke-free policies will harm the hospitality industry (Dearlove et al., 2002; Ritch and Begay, 2001). In a world of perfect information and efficient markets operating with no externalities, this claim of harm to the industry would make economic sense, because any regulation that restricts an owner's choice set would at best have no effect on profitability. In the real world of imperfect information, external effects on consumers and employees, or other forms of market failure, however, a restriction on the choice set could increase profitability. This situation of imperfect information exists in the hospitality industry with regard to smoking restrictions because the tobacco industry has repeatedly provided inaccurate information to the hospitality industry asserting that smoking restrictions hurt the hospitality industry (Dearlove et al., 2002; Ritch and Begay, 2001). Previous studies, reviewed by Scollo et al. (2003), have demonstrated that all studies of high quality in fact find that smoke-free laws have no effect or a positive effect on restaurant and bar revenues, tourism, and employment. The present study furthers the analysis of these laws by investigating whether there is an economic benefit to restaurant owners in terms of restaurant profitability, as reflected in the value of the business, from smoke-free policies.

Even if smoke-free policies do not affect revenues, they may reduce costs. Labor costs should decrease because smoking is linked to increases in days lost due to illness and higher worker compensation costs (Musich et al., 2001). A smoke-free policy will not only reduce employee exposure to secondhand smoke (SHS) and improve pulmonary (Eisner et al., 1998) and cardiac (Glantz and Parmley, 2001) health but will also encourage employees to stop smoking (Fichtenberg and Glantz, 2002), increasing employee productivity because fewer days are lost to illness. Capital costs should also decrease. SHS is absorbed by everything from carpets to walls to stainless

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ABBREVIATIONS

BEA: Bureau of Economic Analysis
BLS: Bureau of Labor Statistics
CI: Confidence Interval
GSP: Gross State Product
SDCF: Sellers Discretionary Cash Flow
SHS: Secondhand Smoke
WLS: Weighted Least Squares

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steel, causing discoloration (Daisey, 1999). Smoke is reemitted, causing upholstery to smell (Daisey, 1999), necessitating more frequent cleaning. Equipment and furnishings are degraded from cigarette burns and ashes that do not always find their way into ashtrays. Of course, smoke-free policies may increase revenues if they induce people who would not eat in restaurants because of SHS to patronize smoke-free restaurants.

These two effects (no or a positive effect on revenues and lower costs) mean that restaurants in places that prohibit smoking should be more profitable on both a gross (total profits) and margin (profits as a percentage of sales) basis than comparable restaurants that are not in smoke-free jurisdictions. In a competitive market, the restaurant that achieves higher margins will be sold for a higher price. This difference in price between equivalent businesses in locations that restrict and permit smoking is called the smoke-free premium.

Using a database that records the purchase price of restaurants that are sold, the authors found that restaurants in localities with smoke-free ordinances sell for a higher price than comparable businesses in areas with no restrictions on smoking. After controlling for relevant economic variables, there is a median increase of 16% in the sale price of a restaurant directly attributable to the existence of a smoke-free law. Thus, smoke-free ordinances substantially increase profitability of restaurants.

II. DATA

The authors obtained data on sales of restaurants and bars from the BizComps database (Sanders, 2003) for transactions by Standard Industrial Classification codes (defined by the Statistical Policy Division of the U.S. Office of Management and Budget to classify all industries in the U.S. economy) 5812 (Eating and Drinking Establishments) and 5813 (Drinking Places). BizComps is a proprietary database that contains information about businesses that are sold and is used extensively by business valuation professionals. The details of each transaction are submitted by a certified business intermediary who in turn receives a survey report of all transactions in his or her region using standard definitions for each data field (Sanders, 2003). BizComps provides the details of each transaction, including sale price, sellers discretionary cash flow (SDCF, defined as the reported pretax cash received by the owner from the operation of the restaurant not including all noncash costs, such as depreciation from the year of the sale), annual gross revenues, geographic location, and date of transaction. The database contains over 7000 transactions from many types of business, including restaurants, manufacturers, and distributors.

The principle use of the database is to provide certified business appraisers a statistical sample of businesses similar to that of one they are trying to appraise. These appraisals have an array of uses, including evidence in court, tax filings, and general business decisions. Because there is such a broad set of uses for the samples of businesses, there is no reason to believe that the samples are biased up or down. Should an unrecognized bias exist, however, it would be consistent across all data points and not correlated to smoke-free policies because the database was established for other purposes. The authors searched the online version of the database (www.bvmarketdata.com) on 10 February 2003. This search produced 1146 transactions within the restaurant and bar industry between 31 January 1991 and 19 August 2002 (Sanders, 2003).

Transactions in which the business was described as catering, carry-out (only), drive-thru (only), drive-in (only), espresso stand, take-out, or mobile concessions (417) were eliminated because they would not be affected by a smoke-free law because they provide food for consumers to eat away from the business. An additional 48 transactions were eliminated that had incomplete data. Seventy-three of the remaining transactions were standalone bars and were segregated from the restaurant data, leaving a sample size of 608 restaurants with 118 being in smoke-free locations. Table 1 summarizes these data.

The authors used the American Nonsmokers' Rights Foundation Local Ordinance Database (as of 2 February 2003) to determine which businesses were covered by local 100% smoke-free restaurant ordinances. An ordinance was deemed to be 100% smoke-free only if it does not allow smoking in attached bars, does not allow smoking in separately ventilated rooms, and has no exemptions based on the size of the restaurant. Statewide smoke-free restaurant laws were enacted in California (1994) and Utah (1995) during the time period spanned by the data. The date the laws were enacted, as opposed to the date of

TABLE 1
Summary of Restaurant Transaction Data

	Smoke-Free	Smoking
N	118	490
Median price ($'000s)	95 (67–140)[a]	95 (50–157)[a]
Gross sales ($'000s)	292 (186–418)[a]	277 (170–465)[a]
Median SDCF/sales	0.23 (0.16–0.30)[a]	0.18 (0.13–0.25)[a]
Median *P*/*S*	0.35 (0.26–0.48)[a]	0.34 (0.25–0.47)[a]
Family restaurants	6	51
Percentage	5%	10%
Fast food restaurants	80	238
Percentage	68%	49%

[a]Interquartile range.

implementation, was used because any prospective buyer would know that the law was to come into effect. This information would be factored into the sale price agreed to by the buyer and seller of the restaurant. A dummy variable was defined to indicate the presence of a smoke-free restaurant law that was 1 when a smoke-free law had been enacted prior to the transaction date and 0 otherwise.

To control for the economic differences across time and geographic region, the authors obtained the per capita gross state product (GSP) and annual percentage GSP growth for all states for all years in which transactions occurred from the Bureau of Economic Analysis (BEA) and unemployment rates by state and by year from the Bureau of Labor Statistics (BLS 2003; BEA 2003). GSP is reported in real terms with a base year of 2003 using the standard inflators of the BEA. All variables reported in dollars were adjusted to real terms using the standard inflators of the BEA and a base year of 2003. To further control for any variance across time, a year variable was used with 1992 counted as year 0.

III. ECONOMETRIC MODEL

The ratio of the transaction price to gross revenue (*P*/*S*) is a standard valuation measure to compare transactions. Dividing the price of the restaurant by its annual total gross sales allows for a standardization across restaurants of various sizes. This is a particularly good measure of comparative value in service industries that are not capital-intensive (Pratt and Schweihs, 2000). *P*/*S* was regressed on the smoke-free dummy variable; the ratio of the SCDF to sales (*SDCF*/*S*), which represents the profit margin of the business; per capita GSP in dollars; GSP percentage growth rate; statewide unemployment percentage; dummy variables for fast food and family-style restaurants; and time.

White's test (White, 1980) on the residuals from ordinary least squares regression indicated the presence of heteroscedasticity. To correct for this problem a weighted least squares (WLS) regression was used with SDCF as the weight. This procedure assumes that the variance in the error terms is inversely proportional to SDCF, thus the larger (higher SDCF) restaurants are weighted more heavily. White's test on the weighted residuals did not reject homoscedasticity, and the WLS regression results are reported.

TABLE 2
Determinates of the Price-to-Sales Ratio (*P*/*S*) (ordinary text squares)

	Coefficient	SE	P
Smoke-Free	0.059	0.021	0.006
Constant	0.398	0.047	<0.001
SDCF/sales	0.708	0.067	<0.001
Per capita GSP ($)	−0.003	0.002	0.152
GSP growth rate (% per year)	1.089	0.549	0.048
Unemployment (%)	−1.388	0.517	0.008
Fast food	0.067	0.018	0.000
Family	−0.036	0.012	0.048
Time	−0.018	0.004	<0.001
Weighted R^2	0.824		

IV. RESULTS

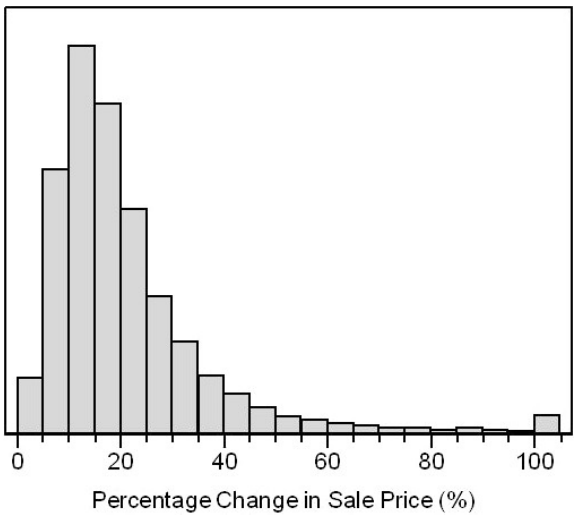
Table 2 presents the WLS regression results. The positive and statistically significant coefficient for the smoke-free variable indicates that restaurants that operate under smoke-free regulations have a *P*/*S* ratio that is 0.059 ± 0.021 (SE) higher than in comparable restaurants not in smoke-free locations. A restaurant in a smoke-free location sold for a higher price (thus the higher *P*/*S* ratio) than a restaurant with the same sales in a smoking location. This smoke-free premium indicates that businesses in smoke-free locales operate at a higher margin (i.e., more profits).

Of the control variables, *SDCF*/*S*, GSP growth rate, unemployment, the fast food and the family dummy variables, and time were also significant. The positive and significant coefficients for GSP growth and fast food are not surprising because high growth rates indicate businesses are growing and thus more profitable, and fast food restaurants are low-cost, high-turnover establishments that tend to be highly profitable. The negative coefficient for the unemployment rate suggests that as unemployment rises restaurant values decline, presumably because as more people become unemployed, fewer go out and spend money in restaurants. The negative coefficient for the family restaurant dummy suggests that family-style restaurants are less profitable than other restaurants. The negative coefficient for time suggests that real restaurant values have been falling over time, which indicates that the market has become more competitive over time. The coefficient on per capita GSP was not significant.

The authors further tested the robustness of the model by adding a quadratic time factor. The quadratic time coefficient was not significant, and its inclusion had no effect on the smoke-free coefficient.

The authors did a Monte Carlo simulation (20,000 iterations) to estimate the additional value a restaurant owner could expect from the enactment of a smokefree ordinance. Price and *P*/*S* ratios were randomly drawn from the 490 smoking restaurants in the sample. A random value of the increase in *P*/*S* ratio, the coefficient for the smoke-free dummy variable in the regression analysis (Table 2), was drawn from a normal distribution with mean 0.059 and SD 0.021. The ratio of the smoke-free coefficient to the *P*/*S* ratio represents the expected percentage increase in value the smoking restaurant would experience should a local smoke-free ordinance be enacted (Figure 1). The authors multiplied this percentage increase in value by the corresponding sale price of the smoking restaurant to determine the absolute increase in value of the restaurant (in dollars) associated with the smoke-free law (Figure 2). This procedure yielded a median percentage increase in the sale price of restaurants in smoke-free communities of 16% (interquartile range of 11% to 25%), corresponding to a median dollar value increase of $15,300 (interquartile range of $9,000 to $27,000) for restaurants that were worth a median of $95,000 (interquartile range $50,000 to $157,000) where smoking is permitted.

FIGURE 1
Distribution of Percentage Change in Sales Price for Restaurants in Smoke-Free Communities Compared to Comparable Restaurants in Communities that Permitted Smoking

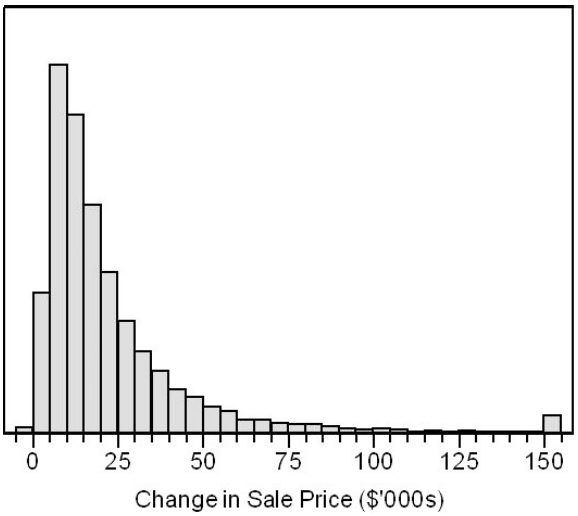


Notes: The median increase is 16% (interquartile range 11% to 25%). All values over 100% are included in the top bin.

A potential source of bias in the parameter estimates is that enforcement of the smoke-free ordinance may vary across the sample. Whereas studies of the enforcement of the ordinances tend to reject this hypothesis (Cancer Prevention and Control Program, 2001; Weber et al., 2003), unequal enforcement would bias the estimates of the effects of the smoke-free policy (smoke-free in Table 2) toward the null. The average profitability of the restaurants included in the smoke-free sample is higher than that of the control group of restaurants that do not operate under a smoke-free ordinance. Incorrectly including a restaurant that ignores a smoke-free ordinance would then have the effect of lowering the average profitability of the sample of restaurants under smoke-free ordinances, thus reducing the estimates of smoke-free. Thus, even if enforcement does vary, it is unlikely that the present findings would be adversely effected.

A similar analysis performed for the 73 bars (including 5 that were in places with smoke-free laws) revealed a positive and significant effect

FIGURE 2
Distribution of Dollar Value of Changes in Sale Price of Restaurants in Communities with Smoke-Free Laws over Comparable Restaurants in Communities with no Restrictions



Notes: The median increase in value $15,300 (interquartile range of $9000 to $27,000) for restaurants that worth a median of $95,000 (interquartile range $50,000 to $157,000) where smoking is permitted (Table 1). All values below $0 and above $150,000 are lumped into the top and bottom bins.

of 100% smoke-free bar laws on the value of the bars. The coefficient for the smoke-free dummy variable was 0.24 ± 0.12 ($P = 0.049$). The ratio of this value and the median P/S ratio for the smoking bars of 0.38 suggests that the typical bar will experience an increase of 63% in value following the enactment of a smoke-free ordinance. The sample size for bar data set was small (only 5 smoke-free bars out of 78 transactions), so this result should only be considered preliminary.

Comparison with Previous Literature

Scollo et al. (2003) reviewed 97 studies on the economic effects of smoke-free laws on the hospitality industry available as of 31 August 2002. They assessed the quality of the studies based on four criteria: use of objective data, inclusion of all data points after the law was implemented and several years before, use of regression or other statistical methods that control for secular trends and random fluctuation in the data, and appropriate control for overall economic trend. Of these 97 studies, 21 met all four quality criteria; all 21 concluded that smoke-free policies had no effect or a positive effect on the hospitality industry. Thirty-five of the studies concluded that smoke-free policies had a negative impact on the hospitality industry; all of them were funded by the tobacco industry or organizations affiliated with the tobacco industry. In studies concluding a negative impact, the odds of using a subjective outcome measure was 4.0 times (95% confidence interval [CI] 1.4 to 9.6; $p = 0.007$) and the odds of not being peer reviewed was 20 times (95% CI 2.6 to 166.7; $p = 0.004$) that of studies concluding no such negative impact. All of the best designed studies report no impact or a positive impact of smoke-free restaurant and bar laws on sales or employment.

One example of the low-quality studies, as defined in Scollo et al. (2003), and funded by the tobacco industry from the economics literature is the work of Dunham and Marlow (2000) previously published in this journal. Their article was funded by Philip Morris (now Altria), the largest cigarette manufacturer in the United States and coauthored by John Dunham, "manager of fiscal issues" at Philip Morris Managment. The Dunham and Marlow study presents an economic model based on a misapplication of the Coase theorem that is then "validated" through use of data from a poll that was funded by a close ally of the tobacco industry (American Tobacco, 1990). The economic model assumes that the "interested parties" are the smoking and nonsmoking patrons of the restaurant. This definition ignores the staff of the restaurant, which has a considerable interest in a smoke-free workplace due to the health risks of SHS. Dunham and Marlow assume that negotiation costs are low because the owner of the restaurant can act as a intermediary between these two groups. In contrast to the assumptions of the Coase theorem, smokers and nonsmokers are not two well-defined and distinct groups but are rather numerous individuals with varied tolerances for smoke and willingness to refrain from smoking or to go outside to smoke. Even if the staff of the restaurant is ignored, the number of interested parties is very large with greatly varied preferences in regard to the externality. The large number of interested parties would cause negotiation costs to be high, which violates the assumption of low costs in the Coase theorem. Furthermore, the externality is not well defined in the model, because

its effect on the restaurant staff is ignored. The Coase theorem is therefore not applicable.

The data that Durham and Marlow used to validate the predictions of their "economic" model is a poll conducted by Roper Starch for the National Licensed Beverage Association, a regular political ally and recipient of money from the tobacco industry (American Tobacco, 1990). It is a survey of restaurant and bar owner's *predictions* of the outcome of smoking restrictions, rather than hard data on *actual* economic outcomes. It is not surprising that the survey found that restaurant owners were fearful of smoking restrictions, because it is well documented that the tobacco industry regularly feeds misinformation to the hospitality industry to fight smoke-free ordinances (Dearlove et al., 2002).

In contrast to the work of Dunham and Marlow, the present study has a clearly defined and simple economic model (no change to revenues plus lower costs imply higher profits) and uses objective data to estimate the effects of smoke-free policies on restaurant profitability.

V. CONCLUSION

This study is the first to examine the impact of smoke-free ordinances on the value and profitability of restaurants. The tobacco industry has argued that restaurant owners would be financially burdened by smoke-free policies (Dearlove et al., 2002; Ritch and Begay, 2001). All previous high-quality studies, however, have shown that revenues and employment are unaffected or positively affected by such policies; this study shows that, far from hurting restaurant owners, smoke-free ordinances add value to their establishments. These results add to the growing body of literature that should give restaurant and bar owners a real economic incentive to support smoke-free laws. Despite the rhetoric that smoke-free laws hurt the restaurant business, the marketplace indicates that these laws increase the profits and the values of restaurants and bars and are good for these businesses.

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RESEARCH PAPER

Long term compliance with California's Smoke-Free Workplace Law among bars and restaurants in Los Angeles County

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Objective: To assess long term compliance with the California Smoke-Free Workplace Law in Los Angeles County freestanding bars and bar/restaurants.
Design: Population based annual site inspection survey of a random sample of Los Angeles County freestanding bars and bar/restaurants was conducted from 1998 to 2002.
Main outcome measures: The primary outcomes of interest were patron and employee smoking. The secondary outcomes of interest were the presence of ashtrays and designated outdoor smoking areas.
Results: Significant increases in patron non-smoking compliance were found for freestanding bars (45.7% to 75.8%, $p < 0.0001$) and bar/restaurants (92.2% to 98.5%, $p < 0.0001$) between 1998 and 2002. Increases in employee non-smoking compliance were found for freestanding bars (86.2% to 94.7%, $p < 0.0003$) and bar/restaurants (96.5% to 99.2%, $p < 0.005$).
Conclusions: This study provides clear evidence that the California Smoke-Free Workplace Law has been effective at reducing patron and employee smoking in Los Angeles County bars and restaurants. Recommendations include educational campaigns targeted to freestanding bar owners and staff to counter perceptions of lost revenue, more rigorous enforcement, and more severe penalties for repeat violators such as alcohol licence revocation. Policymakers can enact smoke-free restaurant and bar policies to protect employees and patrons from secondhand smoke, confident that these laws can be successfully implemented.

Secondhand smoke (SHS) causes fatal and non-fatal health end points including heart disease, lung and nasal sinus cancer, sudden infant death syndrome, childhood asthma, bronchitis and pneumonia, middle ear infection, and low birth weight.[1–4] SHS accounts for up to 65 000 non-smoker American deaths annually and is the third leading preventable cause of death.[4 5]

The workplace is a primary source of SHS exposures among adult non-smokers in the USA.[6] Bar and restaurant workers have higher levels of exposure than other occupations[7–10] and, correspondingly, elevated risk of lung and other respiratory cancers.[8] Bartenders working in single room facilities have almost 10 times the SHS exposure as bartenders working in multi-room and restaurant facilities.[10 11]

The California Smoke-Free Workplace Law (Assembly Bill (AB) 13, enacted as California Labor Code LC 6404.5) took effect on 1 January 1995 and prohibits smoking in almost all places of employment. Bars, taverns, and gaming clubs were given until 1 January 1998 to comply with LC 6404.5.

As of January 2003, major cities, states, and countries around the world, including New York, Boston, Chicago, Denver, Pittsburgh, Delaware, Hong Kong, New Zealand, Australia, Sweden, Ireland, and Thailand, are considering or are ending smoking in bars and restaurants. These localities are likely to face difficulty passing or implementing legislation due to claims of catastrophic economic impact on the hospitality industry, and allegations that the law is being universally disobeyed in places with current laws such as California. Numerous published studies have demonstrated that smoke-free ordinances have no effect or a positive effect on hospitality industry revenue in California[12–14] and elsewhere.[12–18] The findings presented here provide the first published data demonstrating long term compliance with the California Smoke-Free Workplace Law in bars and restaurants, refuting the allegation that the law is being disobeyed.

METHODS

Provisions of California Labor Code 6404.5

LC 6404.5 states "no employer shall knowingly or intentionally permit, and no person shall engage in, the smoking of tobacco products in an enclosed space at a place of employment".[19] In addition, the law requires the posting of clear and prominent "No smoking" signs at each business entrance (businesses are responsible for obtaining signs). Bars, restaurants, taverns, and clubs exempted from LC 6404.5 include: businesses that are solely owner operated, hotel/motel banquet rooms (except while food and beverages are being served), private smokers' lounges, as well as employee break rooms and small businesses under limited conditions.

LC 6404.5 is enforced by local agencies designated by local governing bodies (for example, health, fire, and police departments). Business owners and patrons in violation of LC 6404.5 are subject to fines of $100 for the first violation and up to $500 for the third violation within a year. After three violations within one year, cases may be referred to the California Occupational Safety and Health Administration that can levy fines up to $70 000. Citations may be appealed through a process similar to traffic violations.

California State compliance efforts

The California Department of Health Services (DHS) Tobacco Control Section (TCS) initiated a statewide compliance campaign in July 1997, six months before the implementation

Abbreviations: ABC, Alcohol Beverage Control; DHS, Department of Health Services; EHD, Environmental Health Division; SHS, secondhand smoke; TCS, Tobacco Control Section; TCP, Tobacco Control and Prevention Program; TEMC, Tobacco Education Media Campaign; TEP, Tobacco Enforcement Program

date of the law.[20] The campaign included mailings of educational materials to 35 000 bar, restaurant, and gaming club owners and print advertisements such as listing popular bars and restaurants throughout the state that publicly supported the law. TCS also ran a television and radio campaign focusing on the smoke-free workplace law. From January 1998 through June 2000, TCS ran a total of 1111 television, radio and print advertisements in Los Angeles County.

BREATH, a programme of the American Lung Association of the East Bay and funded by the TCS, was created to support the state implementation of smoke-free bars and restaurants by local agencies. BREATH developed a project to: inform and educate business owners and patrons about the law; collect and evaluate economic impact data; provide legal interpretations and enforcement models; develop local media to counter tobacco industry campaigns; and train local tobacco control advocates.[21]

Los Angeles County compliance efforts

To promote compliance with the California Smoke-Free Workplace Law in Los Angeles County bars and restaurants, the County Department of Health Services Tobacco Control and Prevention Program (TCP) initiated a comprehensive compliance campaign in 1998. The campaign, which was based on the Center for Disease Control's *Best practices for comprehensive tobacco control programs*,[22] focused on monitoring, education, and enforcement.

Monitoring efforts included an annual on-site survey of bars and restaurants to assess compliance. Educational activities included: disseminating a newsletter and educational pamphlet to bar and restaurant owners; conducting a radio campaign; and obtaining local news coverage. Enforcement activities included: coordinating BREATH sponsored officer trainings; providing technical assistance; operating a telephone and website based complaint system; sending warning letters, educational materials, and "No smoking" signs to establishments; and forwarding alleged violations to local enforcement agencies. TCP has no legal authority to enforce LC 6404.5 and plays a supportive role to the enforcement agencies in the 88 cities within Los Angeles County.

Bar and restaurant compliance survey

A survey of Los Angeles County bars and restaurants was initiated by TCP in 1998 to monitor compliance with the California Smoke-Free Workplace Law. The population based annual cross sectional survey samples 8–10% of the approximately 9000 Los Angeles County bars and restaurants licensed with the California Alcohol Beverage Control (ABC).

ABC establishments were categorised into two on-sale alcohol licence types: those that reside within restaurants (hereafter referred to as "bar/restaurants"); and those that have minimal meal service or kitchen facilities (hereafter referred to as "freestanding bars"). Establishment types were created by assigning each of the five relevant alcohol licence types to either the bar/restaurant (for example, type 41—on-sale beer and wine eating place) or freestanding bar category (for example, type 48—on-sale general (beer, wine, and spirits) public premises (non-eating)).

A stratified (by type of establishment) random sample of bar/restaurants and freestanding bars was selected each year. In addition, oversampling of freestanding bars was utilised to increase the precision of their compliance estimates as they represent only about 18% of all establishments. Beginning in 2000, the degree of oversampling of freestanding bars was increased to permit sufficient sample sizes for analyses stratified by licence type (for example, in 1998 28% of all establishments sampled were freestanding bars in comparison to 67% in 2002). Also beginning in 2000, the sample was stratified by geographical area and establishment type to enhance its representativeness and increase the precision of the compliance estimates.

Survey participation rates by year were as follows: 1998—84.3% (611/725); 1999—82.8% (682/824); 2000—81.1% (831/1025); 2001—82.1% (846/1030); and 2002—88.1% (1010/1146). Reasons for non-response in 2002 were: establishment closed—62.5% (85/136); out of business—18.4% (25/136); wrong address—8.1% (11/136); closed for remodelling—2.2% (3/136); and other—8.8% (12/136). No establishments refused site inspections.

TCP contracted with the DHS Environmental Health Division (EHD) to conduct the annual site inspection survey. EHD inspectors were selected because of their expertise in monitoring and enforcing health code in bars and restaurants (although they do not have authority to enforce LC 6404.5), and legal authority to access all areas of these establishments. Each year the site inspections were unannounced and were conducted by approximately 130 EHD inspectors (65 teams of two for safety) over a single weekend (Friday and Saturday) in June or July, between the hours of 6 pm to 10 pm.

Beginning in 1999, inspectors attended a half day training approximately one month before the survey date. The TCP trainer distributed and reviewed a site inspection protocol that included an overview of key components of the law and instructions on how to complete the survey instrument. Partner and site observation assignments were made after the training.

Beginning in 2000, the site inspection protocol was revised and emphasised the reliability and validity of the survey. For example, the TCP trainer instructed inspectors to complete site inspections immediately upon entering establishments to avoid alerting owners/patrons of their presence and precipitating the extinguishing of cigarettes. The trainer also highlighted data collection problems observed in previous surveys and presented findings from prior years to demonstrate the importance of their efforts.

Each year the survey instrument (see appendix on *e*TC) consisted of site observation items and a brief interview. The site inspection items that corresponded to the requirements of the law included: "Are clear and prominent 'No smoking' signs posted at each entrance?"; "Are there any patrons smoking inside the premises?"; and "Are there any employees smoking inside the premises?" Inspectors also checked for the presence of ashtrays (a proxy indicator for smoking) and designated separate outdoor smoking areas. Beginning in 2001, EHD inspectors interviewed management and staff about whether they were in favour of repealing the California Smoke-Free Workplace Law and, if so, reasons for favouring repeal (for example, "The law has hurt business" or "Smoking should be the owner's choice, not the government's").

Compliance was defined as no observed patron or employee smoking inside bar/restaurants and freestanding bars, and the presence of "No smoking" signs posted at entrances by health inspectors. The detection of smoke odour, presence of cigarette smoke, and visible cigarette butts or packs, although recorded by inspectors, did not constitute non-compliance.

The Cochran-Armitage trend test, using SAS software,[23] was used to assess the statistical significance of compliance changes between 1998 and 2002. SUDAAN software[24] was used to conduct all tests for differences between two independent proportions presented in the Results and Discussion sections. Separate analyses were conducted for bar/restaurants and freestanding bars. To make the freestanding bar category comparable across survey years, analyses were restricted to three alcohol licence types common to all survey years. Final analysis sample sizes were as follows: 1998 (n = 611); 1999 (n = 561); 2000 (n = 632); 2001 (n = 696); and 2002 (n = 760). Sampling weights were used in the statistical analyses to account for the differential selection probability of the sampled bar/restaurants and freestanding bars. Weights were assigned such that they were inversely proportional to the selection probability (for example, a freestanding bar, which because of oversampling was three times

Table 1 California Smoke-Free Workplace Law compliance among bar/restaurants by survey year

Indicators	1998 %* (number†)	1999 % (number)	2000 % (number)	2001 % (number)	2002 % (number)	Cochran-Armitage trend test Z Statistic	p Value
No smoking patrons	92.2 (390/423)	94.4 (384/407)	95.4 (361/378)	98.8 (392/397)	98.5 (246/250)	5.04	0.0001
No smoking employees	96.5 (380/394)	99.0 (401/405)	98.8 (369/373)	99.1 (392/396)	99.2 (247/249)	2.83	0.0047
Ashtrays	8.9 (36/406)	7.9 (32/407)	7.4 (28/377)	6.2 (24/396)	2.2 (6/250)	–3.16	0.0016
Outdoor smoking area	39.4 (153/388)	39.6 (161/407)	44.6 (168/377)	46.4 (183/395)	43.6 (109/250)	1.99	0.0466

*Sample weights were used to adjust the proportions.
†Weighted sample size. Numbers rounded to the nearest integer.

Table 2 California Smoke-Free Workplace Law compliance among freestanding bars by survey year

Indicators	1998 %* (number†)	1999 % (number)	2000 % (number)	2001 % (number)	2002 % (number)	Cochran-Armitage trend test Z Statistic	p Value
No smoking patrons	45.7 (74/162)	55.9 (85/152)	67.0 (169/253)	67.3 (201/298)	75.8 (386/510)	7.44	0.0001
No smoking employees	86.2 (131/152)	92.0 (138/150)	89.5 (225/252)	94.1 (280/298)	94.7 (481/508)	3.60	0.0003
Ashtrays	63.6(98/154)	52.0 (79/152)	40.5 (102/252)	38.5 (114/296)	30.5 (155/508)	–7.82	0.0001
Outdoor smoking area	33.3 (50/150)	29.1 (44/151)	37.7 (95/252)	45.0 (134/298)	44.4 (225/508)	3.75	0.0002

*Sample weights were used to adjust the proportions.
†Weighted sample size. Numbers rounded to the nearest integer.

more likely to be selected than a bar/restaurant, would receive a weight of 1/3 or 0.333).

RESULTS

Compliance survey

The weighted proportions and sample sizes for four site inspection items by survey year (1998 through 2002) are in tables 1 and 2 for bar/restaurants and freestanding bars. Patron smoking compliance in bar/restaurants increased significantly from 92.2% to 98.5% ($p < 0.0001$), and patron compliance from 45.7% to 75.8% ($p < 0.0001$) in freestanding bars. Employee compliance in bar/restaurants increased from 96.5% to 99.2% ($p < 0.005$), and from 86.2% to 94.7% ($p < 0.0003$) in freestanding bars.

The presence of ashtrays declined in bar/restaurants from 8.9% to 2.2% ($p < 0.002$), and decreased from 63.6% to 30.5% ($p < 0.0001$) in freestanding bars, mirroring the increase in patron compliance. There were also significant increases in designated outdoor smoking areas for bar/restaurants from 39.4% to 43.6% ($p < 0.05$), and from 33.3% to 44.4% ($p < 0.0002$) in freestanding bars. The increase in outdoor smoking areas, particularly among freestanding bars, was substantially smaller than the increase in compliance indoors (11.1% *v* 33.1%), indicating that outdoor smoking areas were not simply replacing smoking indoors.

Alcohol licence-type specific analyses indicated that patron smoking compliance rates differed among freestanding bars. For example, in 2002 compliance was 90.4% for licence type 40 (beer only), approaching the same level observed for restaurant/bars, and 72% for type 48 (beer, wine and spirits) ($p < 0.0001$). Compliance was also significantly higher in freestanding bars that displayed "No smoking" signs versus those that did not (70.0% *v* 52.2%, $p < 0.0003$). Moreover, compliance differences between freestanding bars with and without signs were more pronounced in the first three years of the survey. Compliance with and without signs for each year was: 1998—47.8% *v* 42.9%; 1999—60.7% *v* 44.7%; 2000—72.2% *v* 46.8%; 2001—70.2% *v* 61.9%; and 2002—77.5% *v* 73.4%. Compliance did not significantly differ in bar/restaurants with and without signs (94.2% *v* 97.1%, $p = 0.07$).

Interviews conducted with bar management/staff after compliance observations show that 50.5% of freestanding bars favoured repealing the LC 6404.5 compared to only 14.9% of bar/restaurants ($p < 0.0001$). Among freestanding bar management/staff who favoured repealing the law, 65.6% agreed with the statement that "The law has hurt business" and 54.5% agreed with "Smoking should be the owner's choice, not the government's". Compliance was significantly lower in freestanding bars that favoured repeal in comparison to those that did not (57.4% *v* 88.5%, $p < 0.0001$). In contrast, compliance did not significantly differ in bar/restaurants that favoured repeal (96.1% *v* 99.1%, $p = 0.19$).

DISCUSSION

By 2002, four years after the California Smoke-Free Workplace Law began protecting workers and patrons in bars and restaurants, compliance with the law is high in Los Angeles County, reaching nearly 99% in bar/restaurants and 76% in freestanding bars.

Notwithstanding the substantial increase in patron non-smoking in freestanding bars from 45.7% to 75.8%, compliance remains below the 98.5% found for bar/restaurants. Unpublished results from the City of San Francisco Tobacco Free Project have also shown similar findings; patron smoking compliance for 2002 was 80.0% for freestanding bars and 98.2% for bar/restaurants (A Hrushow, personal communication, 2 August 2002).

One possible reason for the disparity between patron non-smoking in freestanding bars and restaurant/bars was the impact of a statewide tobacco industry sponsored public relations campaign that targeted freestanding bars.[25] This campaign claimed that freestanding bars would experience catastrophic economic losses and smokers' and business owners' rights would be violated.[25] Findings from the bar management/staff interview presented above suggest that the campaign was effective. Management/staff from freestanding bars were almost six times more likely to favour repealing LC 6404.5 compared to those from bar/restaurants. In addition, among freestanding bar management/staff who favoured repealing the law, the majority agreed with the statements that "The law has hurt business" and "Smoking should be the owner's choice, not the government's", the same messages used in the tobacco industry's campaign. Lower levels of support for the law may have reduced freestanding bar management/staff's willingness to prohibit patron smoking, accounting in part for the lower compliance.

Review of Los Angeles County compliance campaign

Monitoring efforts

There were several elements of TCP's monitoring system that enhanced its effectiveness. TCP, as part of the DHS, was able to recruit large numbers of qualified inspectors, critical to inspect 1000 establishments spread over 4000 square miles. Localities that do not have ready access to health inspectors may consider alternative observers such as staff posing as bar patrons.

Access to a complete database of licensed establishments is necessary to achieve a representative sample. Unlike commercially available business lists that typically have inclusion criteria and infrequent updates, ABC maintains a database of all state licensed alcohol establishments, updated daily to include information such as suspensions, revocations, and transfers of ownership.

The representative sample should also include all relevant alcohol licence types. For example, beginning in 1999 the number of licence types representing freestanding bars surveyed was increased from three to seven to provide a more representative sample. The analyses were repeated utilising all seven licence types to assess the generalisability of the findings. Compliance trends for all indicators listed in table 2 were significant, corroborating the results based on three licence types.

The time interval between purchase of the database and the compliance checks is another important consideration. To minimise potential non-response because of inaccurate establishment listings, TCP purchases the database about two months before the compliance survey, allowing time for developing the sampling plan, sample selection, and assigning establishments to EHD inspectors. TCP's approximate two month time period between purchase and survey resulted in a relatively high average response rate of 84%. However, in 2002, 18.4% of the non-response was still the result of establishments being out of business at the time of the survey, suggesting the need for even shorter time periods. Verifying the establishment hours of operation and addresses is also important as 62.5% of the non-response was the result of establishments being closed for business (not out of business), and 10.3% for reasons including wrong address and closed for remodelling.

The day and time the survey is conducted is a potential source of bias. EHD restricted inspectors' availability to a single weekend with site inspections to be completed by 10 pm. However, the San Francisco Tobacco Free Project study conducted their bar compliance survey seven days a week between the hours of 6 pm and midnight, and no significant differences were found for time of day or day of week (A Hrushow, personal communication, 2 August 2002). A related issue is the time of year the survey is conducted (TCP conducts the survey every summer during June or July). However, because of the year round moderate temperature in southern California, the season the survey is conducted in is unlikely to have a substantial impact on compliance.

Although compliance rates presented above were based on site observations, TCP also collects compliance information from the county smoking complaint hotline and website. From 1 January 1998 through 31 December 2002, 1687 complaints had been registered with TCP. Approximately 52% of the complaints were logged in 1998 (880), 17% in 1999 (289), 15% in 2000 (251), 9% in 2001 (156), and 7% in 2002 (111).

LC 6404.5 citations and prosecutions represent another important source of compliance information. In 2000, the Los Angeles Tobacco Enforcement Program (described below) began systematically recording citation information for the City of Los Angeles. Citations by year were as follows: 2000—159, 2001—147, and 2002—109 (N Manzanilla, personal communication, 17 January 2003). The agreement of compliance results obtained from multiple sources of information, including site observations, complaints, and citations, provide clear evidence that compliance with the California Smoke-Free Workplace Law is increasing in Los Angeles County.

Education efforts

Since 1990, TCS has managed the Tobacco Education Media Campaign (TEMC) to reduce tobacco use through cutting edge advertising (television, radio, billboards, transit, and print).[20] In late 1997, TEMC began focusing media messages on smoke-free bars and restaurants with the majority of advertisements placed in the three largest media markets in the state—Los Angeles, San Diego, and San Francisco.

The campaigns were effective in promoting public awareness and support of the California Smoke-Free Workplace Law in Los Angeles County[20 25] and likely contributed to the rapid compliance gains observed. Studies conducted in other localities such as New York City and Southern Australia also demonstrate high levels of public support for smoke-free restaurants.[26–28]

Enforcement efforts

In 1998, the Fire Department was designated as the enforcement agency for LC 6404.5 in the City of Los Angeles, and personnel were initially instructed to educate bar staff and patrons and issue warnings instead of citations for violations. The Tobacco Enforcement Program (TEP) was created in 2000 by the Los Angeles City Attorney's Office to coordinate active enforcement and prosecution of LC 6404.5 and other tobacco control laws. TEP began a systematic effort to reduce non-compliance in bars and restaurants through rapid investigation of complaints, issuing citations instead of warnings, and vigorous prosecution of violators. Because of these efforts, the number of citations issued tripled from 50 in 1999, to 159 in 2000. In 2002, 43 cases were filed with the Los Angeles City Attorney's office against bar owners found in violation of LC 6404.5 (N Manzanilla, personal communication, 30 January 2003). Because 40% of freestanding bars and bar/restaurants licensed in the County of Los Angeles are located within the City of Los Angeles, these enforcement efforts may have contributed to the recent compliance gains in the county. Compliance could be further improved if the other 87 cities would initiate more rigorous enforcement programmes.

In addition to implementing the above "macro" level enforcement efforts, instituting "micro" level enforcement activities could also benefit compliance efforts. Alcohol licence-type specific findings presented above for freestanding bars indicated that patron smoking compliance rates differed by over 18% between several licence types. Compliance was also significantly higher in freestanding bars that displayed "No smoking" signs and these differences were more pronounced in the first three years of the survey, suggesting that their presence appears to be important during the initial years of law implementation. Compliance did not significantly differ in bar/restaurants displaying signage suggesting that posting signs may no longer be relevant for bar/restaurants, many of which have been complying with LC 6404.5 since 1995.[25] Enforcement efforts aimed at improving freestanding bar signage compliance (especially during initial law implementation) and targeted to problematic freestanding bar alcohol licence types may enhance compliance gains.

Conclusion

This study provides clear evidence that the California Smoke-Free Workplace Law has been effective at reducing patron and employee smoking in Los Angeles County bars and restaurants. Although compliance in freestanding bars is lower than in bar/restaurants, it has been increasing by almost 8% a year and if this rate continues, compliance will reach the levels observed in bar/restaurants in approximately three years. However, maintaining this relatively rapid rate will likely

What this paper adds

There have been no published studies documenting long term compliance with California's Smoke-Free Workplace Law in bars and restaurants. Unpublished studies have had research and sampling design problems, limiting their representativeness and interpretability.

This methodologically rigorous, population based study provides the first published data of long term compliance with a smoke-free bar and restaurant law. The study provides evidence that the law has been effective at reducing patron and employee smoking in bars and restaurants. These results supply evidence that other cities, states, and countries can use to facilitate adoption of their own smoke-free laws.

require vigorous education and enforcement efforts. Educational campaigns targeted at freestanding bar owners and staff (especially those who serve beer, wine, and spirits) to counter the inaccurate perception of lost revenue are recommended. Greater enforcement efforts, including timely investigation of complaints, active citing of patron and, particularly, owner violators, vigorous prosecution, and more severe penalties for repeat violators such as alcohol licence revocation are also recommended. Policymakers can enact smoke-free restaurant and bar policies to protect employees[29] and patrons from secondhand smoke confident that these laws can be successfully implemented.



To see the appendix visit the *Tobacco Control* website—www.tobaccocontrol.com/supplemental

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RESEARCH PAPER

Tobacco industry manipulation of the hospitality industry to maintain smoking in public places

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Objective: To describe how the tobacco industry used the "accommodation" message to mount an aggressive and effective worldwide campaign to recruit hospitality associations, such as restaurant associations, to serve as the tobacco industry's surrogate in fighting against smoke-free environments.
Methods: We analysed tobacco industry documents publicly available on the internet as a result of litigation in the USA. Documents were accessed between January and November 2001.
Results: The tobacco industry, led by Philip Morris, made financial contributions to existing hospitality associations or, when it did not find an association willing to work for tobacco interests, created its own "association" in order to prevent the growth of smoke-free environments. The industry also used hospitality associations as a vehicle for programmes promoting "accommodation" of smokers and non-smokers, which ignore the health risks of second hand smoke for employees and patrons of hospitality venues.
Conclusion: Through the myth of lost profits, the tobacco industry has fooled the hospitality industry into embracing expensive ventilation equipment, while in reality 100% smoke-free laws have been shown to have no effect on business revenues, or even to improve them. The tobacco industry has effectively turned the hospitality industry into its de facto lobbying arm on clean indoor air. Public health advocates need to understand that, with rare exceptions, when they talk to organised restaurant associations they are effectively talking to the tobacco industry and must act accordingly.

The tobacco industry has recognised since the 1970s that declining social acceptability of smoking is the most serious problem it faces.[1 2] This decline has been accelerated by the evidence, which started accumulating in the 1970s, that second hand smoke endangers non-smokers.[3–7] Smoke-free environments have led to a drop in cigarette consumption and loss of profits for the tobacco industry.[8–15] The industry recognised that declining social acceptability also increases voluntary quitting and weakens the industry's ability to develop allies.[16] The industry used this threat to its financial viability in 1978[17] as part of the justification to oppose a California initiative that would have created smoking and non-smoking sections.[18 19] In 1993, a Philip Morris (PM) analyst observed that the "Financial impact of smoking bans will be tremendous. Three to five fewer cigarettes per day will reduce annual manufacturer profits a billion dollar plus per year."[20] By the late 1980s and early 1990s, the industry realised that it urgently needed to address these issues in a proactive manner, rather than simply reacting to tobacco control initiatives.[16 21 22]

The decline in social acceptability of smoking and the support for more regulatory measures on public smoking has not been an exclusive US phenomenon. Despite the fact that few tobacco control advocates in Europe have made clean indoor air a high priority, a 1989 survey conducted by PM of smokers and non-smokers in 10 European countries found that "the perception that ETS [environmental tobacco smoke] represents a danger to health is widespread" and that "annoyance levels and frequency of annoyance are as high in Europe as in the US".[23]

The industry adopted two main approaches to address the problem of declining social acceptability of smoking: attacking the science demonstrating that second hand smoke was dangerous [2 14 24–33] (as it had done with active smoking) and working to change the public's perception of smoking in public. The industry's original defence against restrictions on smoking (creation of non-smoking sections) in the 1970s was to invoke arguments about "courtesy," "choice", and "freedom" as well as to claim that any limitations on smoking would hurt businesses that restricted smoking (without mentioning the fact that tobacco industry sales and profits would suffer).[1 18 19 34] In the 1980s they also began to promote ventilation as a solution.[35] This argument eventually lost credibility because a consensus developed that workers should not be forced to breathe the toxic chemicals in second hand smoke, and business saw no need to install expensive ventilation systems (that would not solve the problem anyway).[36 37] In addition, many employers (particularly large employers) independently concluded that smoke-free workplaces were good for business.

As a result of these pressures, the tobacco industry has increasingly focused the debate over clean indoor air and smoke-free environments in the hospitality industry (restaurants, bars, and casinos). The core message used to recruit allies in the hospitality industry has been "accommodation" of smoking and non-smoking patrons (without mentioning employees). A key element of this effort has been to commission and release studies claiming that smoking restrictions have major negative economic effects on the hospitality industry,[38 39] a claim even a PM lobbyists reported was untrue.[40]

The tobacco industry, knowing that it has no public credibility, has a well established practice of speaking through front groups.[14 16 18 22 25 41–44] The tobacco industry's campaign has not only been directed at convincing individual restaurants to continue to support smoking, but has had a major institutional element through hospitality organisations. The tobacco industry's use of restaurant associations to protect its interests

Abbreviations: BHRA, Beverly Hills Restaurant Association, HORECA, International Association of Hotels, Restaurants and Cafes, IHA International Hotel Association; IH&RA, International Hotel and Restaurant Association; PM, Philip Morris

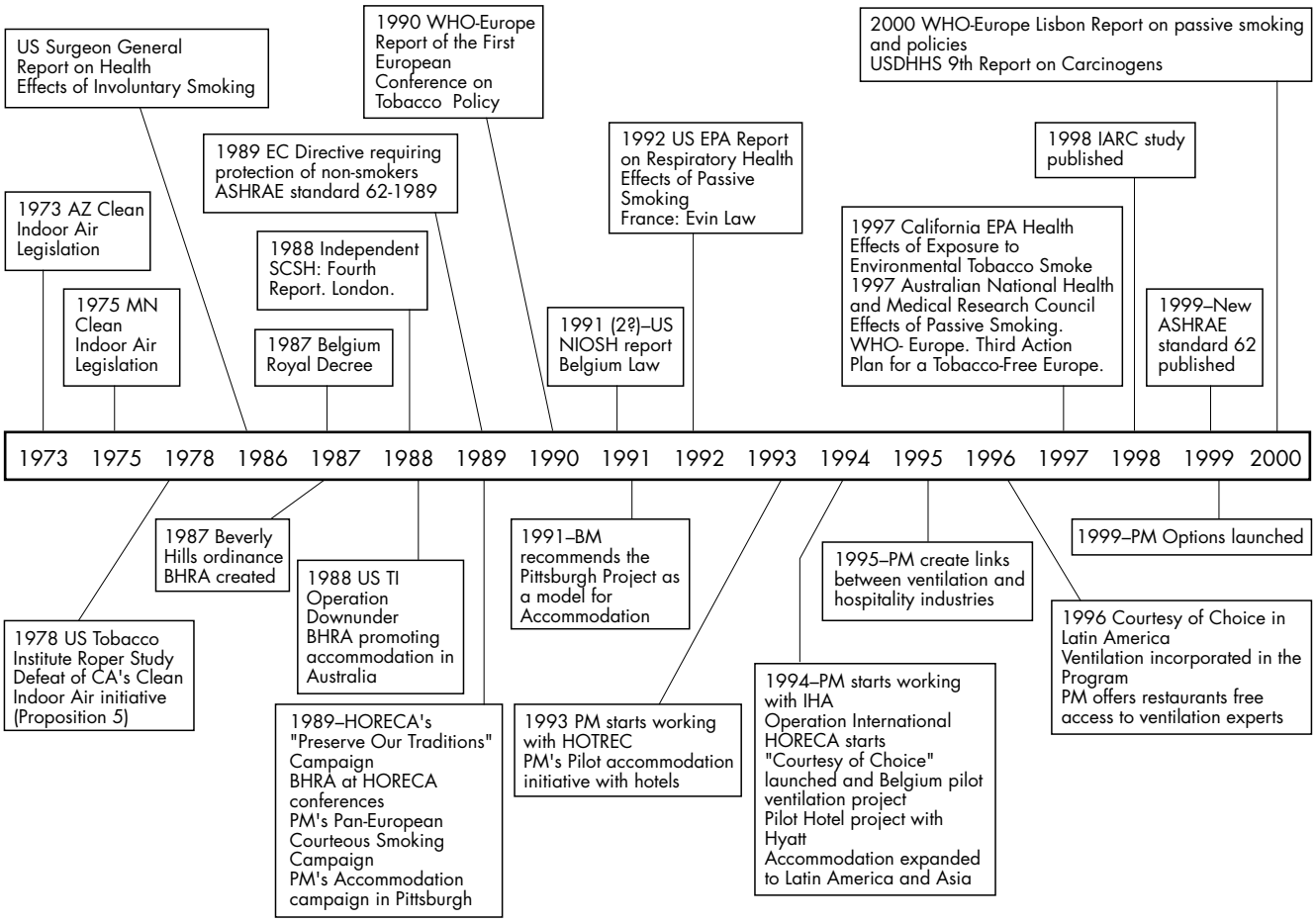


Figure 1 Time line showing developments in the relationship between the tobacco and hospitality industries.

has only been studied in Massachusetts[41] and as it relates to smoke-free measures considered by states' boards of health.[45] The industry has used the "accommodation" message to mount an aggressive and effective worldwide campaign to recruit hospitality associations to serve as the tobacco industry's surrogate in fighting against smoke-free environments.

METHODS

We analysed tobacco industry documents publicly available on the internet as a result of litigation in the USA. Documents were accessed between January and November 2001. Search terms included "accommodation", "restaurant", "hospitality", "downunder", "courtesy", "ventilation", "HORECA" (International Association of Hotels, Restaurants and Cafes), "IHA" (International Hotel Association), "HOTREC" (a lobbying office for 12 national restaurant associations in the European Union), and the names of key players and organisations as identified in the initial searches. We did not search documents from the British American Tobacco depository in Guildford, England because of their general lack of availability to the research community.[46] While we searched all the industry websites, the majority of documents come from the PM website (www.pmdocs.com), probably because PM was the first tobacco company to promote the accommodation message in the hospitality industry.

RESULTS

The idea of "accommodation" emerges

Figure 1 shows how the tobacco industry developed its strategy to co-opt and manipulate the hospitality industry into opposing smoke-free public places beginning in the 1970s and that the industry's response intensified as more evidence accumulated against second hand smoke.

Arizona was the first state to pass clean indoor air legislation (in 1973),[47] followed by Minnesota in 1975. Although weak by current standards, these early measures marked the beginning of the non-smokers' rights movement in the USA. The first major industry public opposition to smoking restrictions occurred in 1978, when it defeated a proposed California law modelled on the Minnesota Clean Indoor Air Act. Ironically, the provisions to create smoking and non-smoking sections were much weaker than the current accommodation strategy the industry advocates, because it did not couple the creation of separate sections with a ventilation system that would supposedly prevent smoke from moving from the smoking to the non-smoking section.

The industry's experience in California[1 18] and Dade County, Florida[48 49] prompted it to consider changing its key message in opposing clean indoor policies to promoting "accommodation" of smokers and non-smokers. In the late 1980s, the now extinct US Tobacco Institute, the industry's lobbying and political arm, proposed "Operation Downunder" to its member companies.[50–56] This project would have changed the tobacco industry's policy from unilaterally opposing all smoking restrictions to accepting weak smoking restrictions. Because weaker restrictions accommodated smokers, the tobacco industry referred to this new policy as "accommodation." The Tobacco Institute ultimately decided against this policy change[57] because it was concerned that such accommodation policies would bring the issue of smoking in public places to the forefront of public debate and would weaken the industry's ability to oppose smoking restrictions.[53 57]

PM, however, disagreed with the Tobacco Institute's decision and began its own version of Operation Downunder in 1989.[55 58–61] PM believed that the industry should be proactive in shaping the public smoking debate to preempt attempts to pass smoke-free policies, and created a public

relations campaign based on "accommodation". Eventually, other tobacco companies developed similar programmes.

The Belgium Royal Decree

In 1987 the Belgian government passed a Royal Decree requiring that restaurants install ventilation and create smoking sections.[62] While we were unable to determine what role, if any, the tobacco industry played in the development of this decree, we do know that PM successfully capitalised on this decree to promote its new "courtesy campaign". PM took advantage of the fact that the 1987 Royal Decree was not accompanied by an information campaign on the part of government making it clear how to comply with the Decree. PM considered this a prime opportunity to test an accommodation campaign and promote the idea of indoor air quality and the use of ventilation systems as opposed to smoking restrictions.[63–65]

PM met its goal of preventing stricter smoking restrictions by using this project to convince Belgians that smokers and non-smokers could coexist, and by working with the Belgian national tobacco manufacturers association to help draft the text of the 1993 Royal Decree[62 64] regarding smoking in workplaces issued by the Minister of Employment:

> "[Tobacco use] must be based on mutual tolerance, respect of individual liberties, and courtesy. If necessary, the employer must take additional technical measures [ventilation systems] in order to eliminate the annoyance caused by environmental tobacco smoke."[66]

PM considered the adoption of accommodation language in the 1993 Belgian Royal Decree a major success.[66]

Building the relationship with the hospitality industry

PM focused on the hospitality businesses—restaurants, bars and recreational centres—as the most promising allies to enlist in political battles to protect cigarette consumption:

> "The Accommodation Program serves as link between PM and the hospitality industry. Our ability to interact effectively with the hospitality industry is critical to our ultimate objective, which is to maintain the ability for our consumers to enjoy our products in public venues such as restaurants, hotels, bowling centres, and shopping malls. *This relationship becomes even more important as legislative threats continue to mount at local, state, and federal levels.*"[67] [emphasis added]

The tobacco industry used the hospitality industry to meet its legislative goals: defeat smoke-free policies and support accommodation legislation that enacts weak smoking restrictions, thereby taking the issue of public smoking off the public agenda without doing anything to protect public health.[68]

PM recognised that there were barriers in establishing this alliance because the hospitality industry did not actually have a stake in protecting the interests of the tobacco industry; it observed:

> "The Hospitality Industry is our greatest potential ally . . .But not necessarily a natural partner
>
> - PM products, for the most part, not sold in these venues
> - We do not have a strong business connection to the industry . . ."[67]

PM's primary recruiting message was to promote the hospitality industry's fear of losing money due to smoke-free policies, and offered accommodation as an alternative.[68]

The industry's efforts to use the hospitality industry have two major components. There is a proactive element in the form of an educational campaign, transmitted through national or regional hospitality associations, to familiarise individual restaurateurs and bar owners with the idea of accommodation and convince them that instituting smoke-free policies will harm their business. There is also a reactive element to fight clean indoor air laws. When faced with a specific legislative threat, the tobacco industry will send lobbyists and public relations firms to a specific locality in order to oppose legislative smoke-free proposals and offer accommodation policies as alternatives. If local hospitality and business associations do not cooperate with the tobacco industry, the industry creates its own hospitality organisation to serve as a front group and meet its legislative and strategic needs.

The Beverly Hills Restaurant Association

The first time the tobacco industry used a restaurant front group to lead opposition to a clean indoor air ordinance was in Beverly Hills, California, in 1987.[18 43] Beverly Hills was the first city in California to pass a 100% smoke-free restaurant ordinance. The ordinance passed its first reading with little opposition. By the time of the second (and final) vote by the city council, the Beverly Hills Restaurant Association (BHRA) was vigorously opposing it, claiming that there would be a drop in business. It was not disclosed that the BHRA was created by a public relations firm for the tobacco industry.[9 69] The council enacted the ordinance and it went into effect. Over the next several months, the BHRA loudly claimed that business was down 30% and eventually succeeded in getting the ordinance amended to create smoking and non-smoking sections. (Even so, it remained the strongest ordinance in California at the time.) Sales tax data later revealed that there was no effect on business revenues.[10 70]

Impressed with this success, PM developed plans to use this model to promote the accommodation concept internationally[71] and began to provide testimonials at hospitality industry gatherings and to oppose legislation elsewhere.[18 69 72]

The Accommodation Program

In 1989, PM formalised the concepts of tolerance and courtesy into a US public relations campaign called the Accommodation Program. As it developed into a nationwide strategy, this programme built around three core themes: (1) harmony between smokers and non-smokers; (2) smoke-free policies are associated with businesses losses in the hospitality industry; and (3) ventilation removes second hand smoke, allowing smokers and non-smokers to share the same environment.

The Pittsburgh experience

The programme first emerged in Pittsburgh, Pennsylvania in June 1989. Just before the launch of the Accommodation Program, Pittsburgh passed a law restricting smoking in public places. Earlier analysis of the Pittsburgh events concluded that the Accommodation Program was launched to delay or obstruct the implementation of the smoking law, by causing confusion about implementation.[73] The crux of the programme was a symbol that restaurants and other businesses could post on their door to indicate that they accommodated smokers (fig 2). The symbol resembled a yin/yang sign implying that smokers and non-smokers could coexist in harmony. This symbol, called "The New Sign of the Times", was half red and half green with a lit cigarette featured in the green half. Underneath this symbol was the phrase, "Smokers and Non-Smokers Welcome."[58 60 74–76] This logo was presented as an alternative to the international no-smoking sign, which needed to be posted in certain areas to comply with the ordinance.[73]

Internal tobacco industry documents indicate that, in fact, PM was more concerned about testing the Accommodation



Figure 2 Logos for the original Philip Morris Accommodation Program and the IHA's Courtesy of Choice Program.

Program as a public relations campaign aimed at increasing the social acceptability of smoking than simply confusing implementation of the Pittsburgh ordinance.[59 77 78] Before the launch of the Accommodation Program, PM arranged for one-on-one meetings and presentations to obtain the support of potential allies, and recruited parties who were interested in participating in the campaign, such as restaurants, hotels, and taxi firms.[78] The programme featured advertisements on 50 billboards and print advertisements in almost all local publications promoting the idea of accommodation as well as specific businesses that agreed to cooperate. PM was able to recruit about 100 restaurants to participate in the programme at a total cost of $2–4 million.[75] The fact that the Accommodation Program's messages were difficult to criticise became a hallmark of the accommodation/courtesy strategy; according to Guy Smith, PM's vice president of corporate affairs:

> " . . .this [Pittsburgh Accommodation] program seems to be working extremely well and it is widely acclaimed in the community as very reasoned and calm. It also had the satisfying result of having the antis [tobacco control advocates] all tied up in their underwear because it is so difficult to criticize."[79]

At the end of the campaign PM conducted survey research to evaluate the programme[58 59] and deemed it a success because it "received overwhelming acceptance from both the Pittsburgh business community and the general public".[77] This success led PM to expand the programme to other US cities and to European markets.[78]

Hospitality associations with tobacco ties in the USA

Since the tobacco industry's initial success in working through restaurants in Beverly Hills, it has rapidly expanded its links to the hospitality industry (table 1) in ways that have been replicated around the world. In some cases, the industry worked with existing groups and in other cases it formed groups to meet its specific political needs.

For example, in addition to the BHRA, in California the tobacco industry created the California Business and Restaurant Alliance,[40] Sacramento Restaurant and Merchant Association,[18 42] and the California Tavern Association[18 44] to oppose local and state smoke-free restaurant laws. (In California the tobacco industry had a particular problem because the legitimate state restaurant association, the California Restaurant Association, was supporting a state law making all restaurants and bars smoke-free, largely out of concern for legal liability associated with workers being exposed to second hand smoke.[80]) In New York, the industry created the Long Island Hospitality Coalition and built the Empire State Restaurant & Tavern Association (which also called itself the United Restaurant, Hotel and Tavern Association, the New York Tavern and Restaurant Association, and the Manhattan Tavern and Restaurant Association) from a small, non-influential group that the tobacco industry infused with cash and used as a front to lobby against local clean indoor air policies and to promote preemptive legislation in the state of New York.[44] It was also used to circumvent the lobbying disclosure and spending limits laws in the state.

In total, the tobacco industry provides funds to and works with more than 65 hospitality groups around the USA (table 1), including state restaurant associations, and national organisations including the National Restaurant Association,[81] the American Beverage Institute, and the National Licensed Beverage Association.

These groups also provide the tobacco industry with a public face for opposition to clean indoor air legislation and regulation in a way that allows the industry to remain in the shadows. For example, in Ohio, the state Licensed Beverage Association was instrumental in supporting legislation that would have removed authority from all local health boards to regulate smoking.[82 83] Restaurant groups have been very active in opposing smoke-free legislation throughout the USA, as experience from Alaska, Louisiana, New Hampshire, Ohio, and Oregon in 2001 demonstrate.[84–87] For example, the New Hampshire Lodging and Restaurant Association, which receives funding from PM and RJ Reynolds, opposed House Bill 713 which would end smoking in all restaurants. The bill was held in the Commerce Committee, which had originally recommended passage of the bill.[84]

International HORECA

The tobacco industry's alliances with the hospitality industry extend worldwide through existing hospitality organisations. In 1989, HORECA (International Association of Hotels, Restaurants and Cafes) published a newsletter with an "Alert" regarding smoking restrictions in restaurants. The "Alert" explained that public smoking restrictions resulted in conflicts at hospitality businesses and often led to the loss of revenue.[88] While HORECA is active mainly in Europe, the tobacco industry used the model developed there in other parts of the world, including Latin America and Asia, through the International Hotel Association (IHA, later IH&RA, discussed below).

An October 1989 issue of the HORECA newsletter, released as a "special report", went into detail about the measurement of tobacco smoke, relying on research conducted by Healthy Buildings International,[89] a consulting firm the tobacco industry financed to support its political agenda.[89–91] The issue promoted the industry position that ventilation was the solution to second hand smoke.

Later in 1989, HORECA produced a pamphlet titled "Managing an evolving issue" introducing the "Preserve Our Traditions" campaign with the objective to promote accommodation and the business owners' "right" to decide on smoking policies.[92] The "Preserve our Traditions" campaign was developed by PM for HORECA,[93] using the same yin/yang symbol as the campaign in Pittsburgh.[91]

PM anticipated that the national associations would begin their own accommodation campaigns based on this material.[94] The material contained suggestions on keeping ventilation systems clean, a model customer survey, a letter from the president and general secretary of HORECA promoting "Preserve Our Traditions", and other suggestions regarding promotion of the campaign. By 1993, PM considered "Preserve Our Traditions" a great success, not only in promoting accommodation within the hospitality industry, but also in mobilising other tobacco companies:

> "The HORECA initiative was particularly successful and was adopted or adapted in several European countries. Sometimes, it had the effect of making the local national [tobacco] monopolies take up its own initiatives, if only not to be "shown up" by a foreign company.[95]

Table 1 Hospitality groups with known affiliations* with the tobacco industry

Name	Date†	Tobacco industry affiliation
International and non-US associations		
Australian Hotel/Restaurant Association (NSW)[135]	1993	Hosted the 1994 IHA Annual Congress and requested a session on smoking accommodation at the 1995 congress and asked PM to be a major sponsor at $100000
Australian Hotels Association – Western[136]	2001	PM Australia is corporate sponsor
BARS (Byward Association for Responsible Service)/PUBCO[137] (Ottawa, Canada)	2001	The Canadian Tobacco Manufacturers Council provided a phone bank for an anti-ban campaign
HORECA (International Association of Hotels, Restaurants and Cafes)[93 96]	1989-?	Promoted PM's "Preserve Our Traditions" programme. Received funding from PM
HOTREC[101 102]	1993-96	Received funding from PM. PM contributed to the position paper on smoking issues
International Hotel Association/International Hotel and Restaurant Association[96 107 109]	1993- ?	Received funding from PM. PM contributed to the position paper on smoking issues. Promotes PM's "Courtesy of Choice" programme
International Society of Restaurant Association Executives[138]	1998	Conducted a study sponsored by PM
US national associations		
American Beverage Institute[124]	1998	Conducted economic impact study on California bars funded by PM
Bowling Proprietors Association of America[124]	1998	Conducted economic impact study on bowling centres funded by PM
Distinguished Restaurants of North America[124 139]	1999	Conducted a poll sponsored by PM
Guest Choice Network[140]	1998	PM on advisory panel, Tom Lauria from TI working for Guest Choice Network
Hospitality Coalition on Indoor Air Quality[127]	2001	PM Options is founding member
National Licensed Beverage Association[141 142]	1995, 1999-present	Received funding from TI. Starting in 1999, sponsoring AtmospherePLUS, a ventilation programme funded and organised by PM
National Restaurant Association[143]	1993	Offered educational series on Accommodation sponsored by PM
Wine and Spirits Wholesalers of America[142]	1999-present	Supporting Atmosphere PLUS, a ventilation programme organised and funded by PM
US state/local associations		
Alaska Restaurant Association[141 144 145]	1995-99	Received funding from TI
Arizona Licensed Beverage Association[141 144]	1995-97	Received funding from TI
Arizona Restaurant Association[141 144]	1995-97	Received funding from TI
Arkansas Hospitality Association[141 144]	1995-97	Received funding from TI
Beverly Hills Restaurant Association[18]	1987	Created by TI's political consultant, Rudy Cole
California Business and Restaurant Alliance[146]		Created by the Dolphin Group, a public relations firm for PM
California Licensed Beverage Association[141 144 145]	1995-99	Received funding from TI
California Tavern Association[146]		Created by PM
Central Ohio Licensed Beverage Association[45 141 144]	1995-present	Received funding from TI. Collaborated with tobacco industry to pass state bill removing authority from health boards
Club Association of West Virginia[124]	1998	Conducted poll funded by PM
Colorado Lodging Association[141]	1995-96	Received funding from TI
Connecticut Restaurant Association[141 144]	1995-97	Received funding from TI
Delaware Restaurant Association[141 144]	1995-97	Received funding from TI
Florida Restaurant Association[141]	1995-96	Received funding from TI
Golden Gate Restaurant Association[141 144 145]	1995-99	Received funding from TI
Hawaii Hotel/Motel Association[141 145]	1995-99	Received funding from TI
Hawaii Hotel Association[147]	1996	Received funding from PM
Hawaii Restaurant Association[124 141 144 145]	1995-99	Received funding from TI. Conducted poll for PM
Idaho Restaurant Association[141 144]	1995-97	Received funding from TI
Illinois Hospitality and Commerce Coalition[130]	2001	PM is a member
Indiana Restaurant and Hospitality Association[144]	1996-97	Received funding from TI
Iowa Restaurant Association[141 144]	1995-97	Received funding from TI
Kansas Restaurant Association[141]	1995	Received funding from TI
Les Benson Hotel Association of Los Angeles[141]	1995-96	Received funding from TI
Long Island Hospitality and Tourism Association, aka the Long Island Hospitality Board[44]	1994	Organised by McCrann Public Affairs, a PM public relations firm
Louisiana Restaurant Association[141]	1995-96	Received funding from TI
Maine Restaurant Association[124]	1998	Conducted poll funded by PM
Maryland Hotel and Motel Association[141 144]	1996-97	Received funding from TI
Maryland Licensed Beverage Association[141 144]	1995-97	Received funding from TI
Massachusetts Restaurant Association[141 148]	1978-present	Received funding from TI for 1995-1996. Has worked with the tobacco industry to fight state and local smoking restrictions in Massachusetts for more than 20 years.
Metro-WA Association of Restaurants[141 144] (Washington, DC)	1995-97	Received funding from TI
Michigan Licensed Beverage Association[149]	1996	Received unrestricted research grant from PM
Michigan Restaurant Association[149]	1996	Received unrestricted research grant from PM
Minnesota Licensed Beverage Association[141 144]	1995-97	Received funding from TI
Mississippi Restaurant Association[141 144]	1995-97	Received funding from TI
Nebraska Restaurant Association[141 144]	1995-97	Received funding from TI
New Hampshire Lodging and Restaurant Association[84 144]	1996-present	Received funding from TI, PM, and RJR
New Jersey Restaurant Association[141 144]	1995-96	Received funding from TI
New Mexico Hotel/Motel Association[141 144]	1996-97	Received funding from TI
New York Restaurant Association[141 144]	1995-97	Received funding from TI
New York Tavern Association[144]	1996-97	Received funding from TI

Table 1 continued

Name	Date†	Tobacco industry affiliation
Northern California Tavern and Restaurant Association[146]		Created by the Dolphin Group, a public relations firm for PM
Ohio Restaurant Association[124]	1998	Conducted poll funded by PM
Oklahoma Restaurant Association[124]	1998	Conducted poll funded by PM
Oregon Hotel Association[141 144 145]	1995-99	Received funding from TI
Oregon Restaurant Association[85 141 144 145 150]	1995-present	Received funding from TI. Hired a lobbyist representing RJR. PM Options is major sponsor of convention 2001
Restaurants for a Sound, Voluntary Policy (RSVP)[18, 43] (California)		Operated by Rudy Cole, political consultant for TI
Rhode Island Hospitality and Tourism Association[124]	1998	Conducted poll funded by PM
Sacramento Restaurant and Merchant Association[18] (California)	1991	A vehicle for Ray McNally & Associates, a public relations firm paid for by PM and reportable to TI
San Diego Tavern and Restaurant Association[146] (California)		Created by the Dolphin Group, a public relations firm for PM
South Dakota Inn Keepers Association[144]	1996-97	Received funding from TI
Tennessee Restaurant Association[141 144]	1995-97	Received funding from TI
Texas Hospitality Coalition on Indoor Air Quality[129]	2001	PM is founding member
Texas Restaurant Association[141 144]	1995-97	Received funding from TI
United Restaurant, Hotel and Tavern Association (aka New York Tavern and Restaurant Association, Empire State Restaurant and Tavern Association, and Manhattan Tavern and Restaurant Association)[44]	1987-present	Funnelled money for the Tobacco Institute to bypass New York lobbying laws
Utah Hotel and Motel Association[141 144]	1995-97	Received funding from TI
Vermont Business and Restaurant Coalition[151]	1993	Underwritten and organised by PM
Washington Restaurant Association[141 144 145]	1995-99	Received funding from TI
Washington State Hotel Association[141 144 145]	1995-99	Received funding from TI
Washington State Licensed Beverage Association[145]	1995-99	Received funding from TI
Washington State Tavern Association[141 144 145]	1995-99	Received funding from TI
Wisconsin Restaurant Association[124]	1998	Conducted poll funded by PM
Wyoming Hotel and Motel Association[141]	1995-96	Received funding from TI

*It is very likely that other hospitality associations linked to the tobacco industry exist and were not included in this table.
†Period of documented involvement with the tobacco industry.
PM, Philip Morris; RJR, RJ Reynolds; TI, The Tobacco Institute.

In 1994 PM paid $200 000 to International HORECA for support of the organisation's magazine, development of materials for HORECA's management curriculum, support for two different HORECA initiatives, and for membership dues.[96]

PM's "Three year plan for 1994-1996" included plans to continue a relationship with hospitality associations and to use these groups to generate and lobby for preemptive legislation that would stop enactment of clean indoor air laws and encourage pro-industry voluntary measures that would not affect smoking:

> "In order to avoid adverse national legislation affecting public places and especially [the hotels, restaurants and cafes sector] in the member states which have not yet introduced any legislation, we shall prepare together with the industry associations pre-emptive national legislation and/or voluntary measures and encourage adoption via the [the hotels, restaurants and cafes] associations. Together with the National [Tobacco] Manufacturers Associations, we should prepare and implement restaurant Accommodation Programs in all EC markets . . .[These programs] should be directed to the restaurant owners via [the hotels, restaurants and cafes] associations to promote reasonable voluntary smoking policies based on principles of accommodation and good ventilation."[97]

PM saw the national hospitality associations as such an important channel that in 1996 it was ready to create one if one was not already in existence; its 1996 "Worldwide strategy and plan" included the goal: "Develop, as needed, creation of national hospitality associations where none exist and encourage their affiliation with HORECA International."[98] By influencing the publications and conferences put out by these organisations, PM was able to create alliances and influence organisations around the world to support its accommodation message and create coalitions.[99]

HOTREC

HOTREC is the European Community lobbying office of 12 national hotel and restaurant associations and PM considered its relationship with HOTREC "of prime importance".[100] PM first approached HOTREC about contributing to their White Book in 1993. The White Book was a position paper HOTREC used to lobby for its members' interests. According to PM, "The White Book will provide an analysis of the various developments at the European level affecting the [hospitality] sector and the presentation of HOTREC's position on each issue."[101] PM was particularly interested in the 1993 White Book because it included a section on smoking in public places. HOTREC's secretary general, Marguerite Sequaris, told PM that they would welcome the tobacco's company help in addressing the issue of smoking and the hospitality sector.[101]

PM considered this project a way to influence the organization's position on smoking in public places and contributed $20 000 towards the printing, distributing, and promoting of the White Book.[101 102] Although HOTREC had not expressed its own opinion on this matter, PM planned to include "studies proving that smoking policy measures imply increased cost for management in the [hospitality sector and] HOTREC position's in favor of appropriate measures to meet customers' wishes" in the "Smoking in Public Places" section of the White Book."[101]

PM was also involved in promoting the White Book and its findings. In a 1993 letter to secretary general Sequaris, PM government affairs manager Gerard Wirz stated:

> "We once talked about presenting and promoting the White Book at a cocktail party for EC decisions makers and readers of Europe hotel and restaurant industry."[102]

Despite its willingness to accept PM's input on their position paper, HOTREC did not want to be publicly associated with a tobacco company. Helene Lyberopoulos of PM Corporate Affairs Europe wrote to David Bushong of PM Corporate Services in Belgium:

> "HOTREC and its national members do not feel comfortable with being publicly associated with PM, as the name representing the tobacco business. They underline the fact that a support from our side would be valuable for their organization but it should be either under the KJS [Kraft Jacob Suchard] company name or remain as discreet as possible (i.e. PM name should not appear on any of their materials)."[101]

Keeping PM's name off the materials also met PM's need to remain in the background and take advantage of HOTREC's seeming independence on the passive smoking issue.

Industry documents indicate that HOTREC continued to represent PM's positions to the European Union at least through 1996.[98]

International Hotel Association

The International Hotel Association (IHA) represents national hotel associations, international and national hotel groups, independent hotels, training institutes, and suppliers to the hotel industry in 145 countries.[103] The IHA engages in regular dialogue with intergovernmental organisations, and has "consultative status" with the United Nations, the Organisation for Economic Co-Operation and Development (OECD), the International Labor Organization, and the Council of Europe.[104] PM first approached the IHA for a "collaboration" in 1993.[104] PM wanted to deliver a presentation about the Accommodation Program during a meeting of the IHA's chief executives. The IHA agreed, and also organised a session during which the executives discussed the experiences of their national associations and the implications of the Accommodation Program. In addition, the two organisations began discussions about the PM sponsorship of the IHA's White Paper.[105]

The White Paper is a document that serves both as a lobbying tool for the IHA and to recruit members for IHA member organisations. It includes statistics about the hospitality industry worldwide and states IHA's position on several issues.[106] The 16 December 1993 White Paper draft outline contained a section titled "Concerns of the Industry"; the "Smoking and Non-smoking" caption included the notation, "Philip Morris involvement."

Not only was PM able to influence the IHA's official position paper in 1993, but it was optimistic that "the contents [of the 1993 White Paper] will likely set the tone for future IHA position papers."[107] Furthermore, PM hoped that the national and regional hotel associations would adopt this position statement.[107] PM anticipated that this project would publicise accommodation worldwide:

> "Essentially, our involvement in this project could reap long term and widespread benefits in terms of pro-Accommodation publicity. The White Paper is intended for use in all media, government and NGO [non-governmental organisation] contacts at national and international level by IHA worldwide."[107]

As a result of surveys conducted by PM to demonstrate interest,[108] PM began working with the IHA on an accommodation programme titled "Courtesy of Choice". PM's objectives were:

> "Promote self regulation of accommodating the preferences of smokers and non-smokers on a worldwide network of hoteliers, restauranteurs, and hospitality associations.
>
> Establish a framework for self-regulation which enhances customer satisfaction and helps guard against intrusive legislation or regulations . . .
>
> Develop a world-wide network within the hospitality sector in which PM can be involved locally, if appropriate."[108]

A memorandum dated 23 June 1994 announced the Courtesy of Choice programme to PM executives around the world. The memo revealed that the Courtesy of Choice programme is essentially the European version of the US Accommodation Program and an extension of HORECA's "Preserve Our Traditions" campaign.[109]

PM tested the Courtesy of Choice programme materials during August and September 1994 as part of a pilot project at the Langham Hilton hotel in London. The company anticipated releasing the materials to IHA national members in early September to formally introduce the programme and "solicit interest in PM's presentation at the IHA annual meeting in Sydney in October (presentation will consist of the London pilot project results)."[110]

A list of invoices and billing indicates that PM paid the IHA $50 000 on 24 May 1994. [111] In addition, PM spent $160 000 on the IHA for a pilot hotel project with Hyatt Regency for the preparation and translation of Accommodation/Courtesy materials, and $60 000 to pay for PM membership in the IHA.[96] Documents indicate that PM planned to conduct the pilot hotel project in Hyatt hotels located in England, Germany, and the United Arab Emirates.[95]

In the mid 1990s, the tobacco industry planned a worldwide expansion and implementation of the Courtesy of Choice programme.[66 98 112] (By 1994, Courtesy/Accommodation campaigns run by PM through other third party allies were being planned or administered in several European, Latin American, and Asian countries.[113]) A 1995 pamphlet published by PM titled "Courtesy and tolerance: common sense solutions for smokers and non-smokers" stated that the Courtesy of Choice programme had been or would be implemented in the UK, Belgium, Ireland, Germany, and Finland.[114]

PM planned to emphasise ventilation in future Courtesy of Choice campaigns. A 1996 document titled "Ensuring reasonable smoking policies by accommodating the preferences of smokers and non-smokers" stated that PM wanted to use the IHA to "enhance rules of ventilation and other technological options with existing cooperative programs with the hospitality industry."[98] Specifically, PM wanted to "support continued application of the IAQ [Indoor Air Quality] elements of the International Hotel Associations (IHA) Courtesy of Choice program."[98]

In late 1990s, the IHA changed its name to the International Hotel and Restaurant Association (IH&RA) and began to represent the restaurant industry as well. Although publicly available industry documents regarding IHA/IH&RA and the Courtesy of Choice programme end at about 1997, in late 2001 the IH&RA maintained a website[115] that defended the continuation of accommodating smoking in the hospitality industry and perpetuated the tobacco industry claims that "inflexible and restrictive legislation on smoking in public places . . .[would] almost certainly have harmful repercussions on their business, whilst not satisfying the needs of all clients."[115] In addition, the website "encourages self-regulation through the promotion of the 'Courtesy of Choice' program" and that "IH&RA support HOTREC's opposition to any action at the European level to impose restrictive legislation on smoking in hotels and restaurants."[115]

The IHR&A website contains a link to the Courtesy of Choice programme page (fig 2). This page displays the yin/yang symbol associated with the US Accommodation Program and the HORECA Preserve Our Traditions programme. It also lists over 50 countries worldwide where the programme is currently operating.[116] The 1998 and 1999 IHR&A annual congress reports of the IH&RA acknowledged support from PM Management Corporation,[117 118] suggesting that PM sponsorship is continuing.

DISCUSSION

The tobacco industry has co-opted and manipulated the hospitality industry to promote its agenda of preserving the social acceptability of smoking and preventing and opposing smoke-free restaurant policies by promoting the idea of "accommodation" of smokers and non-smokers as an alternative to creating smoke-free hospitality venues. When existing hospitality associations refuse to align themselves with the tobacco industry, the industry simply creates its own hospitality associations to promote industry arguments.[18 41–43]

Another variation of the accommodation programme is "Red Light Green Light" laws.[119] These laws are introduced to local level policymakers (typically by restaurateurs) in places where citizens are pressing for a 100% smoke-free ordinances. Like the Accommodation Program, "Red Light Green Light" laws only establish minimum restrictions and require signs be posted outside establishments saying whether smoking is allowed inside. These proposals have great appeal to local policymakers who feel pressured to address smoking in public places since these weak laws give the appearance of taking action without having any protective health effect. Introducing "Red Light, Green Light" laws is an industry tactic aimed at delaying and weakening popular smoke-free efforts.

For more than a decade the tobacco industry disseminated misinformation asserting that the hospitality industry will suffer financially when smoke-free environments are instituted. Despite the fact that these claims of negative impact are unfounded,[10 38 39 46 70 120–122] this argument has been widely accepted in the hospitality business, thanks to the relationship the tobacco industry has established with organisations whose alleged purpose is to protect the interests of businesses in the hospitality sector. This situation creates problems for public health advocates because individual restaurateurs and bar owners, having heard these claims repeatedly from organisations they trust, oppose smoke-free policies out of fear.

The ventilation "solution" is another important component of the accommodation strategy because it reduces potential for conflict between smokers and non-smokers. While ventilation does not protect against toxic effects of second hand smoke,[36 37] it may make it harder to perceive it. PM established the "PM Options" programme in the late 1990s to expand the ventilation component.[123 124] (Long time tobacco industry ventilation consultant Chelsea Group provides technical support to the Options Program through its "INvironment" project.[123 125 126]) Options also sponsored the creation of several other hospitality initiatives promoting ventilation, such as the Hospitality Coalition on Indoor Air Quality,[127] the "Atmosphere Plus" of the National Licensed Beverage Association,[128] and several state "Indoor Air Quality" coalitions.[129–131] A similar programme in the UK titled, "The Atmosphere Improves Results (AIR)" initiative, launched in 1997, received funding from the national tobacco manufacturers association.[132]

At the same time that it is promoting a ventilation "solution," the tobacco industry is careful to avoid claiming that ventilation will resolve the health dangers caused by second hand smoke.[126 133 134] The PM "Options" website states: "Options, Philip Morris, USA does not purport to address health effects attributed to environmental tobacco smoke."[125] By convincing hospitality businesses to invest in expensive ventilation equipment, the tobacco industry creates a constituency to oppose smoking restrictions. Once the investment is made, hospitality businesses will probably be even more likely to oppose creation of smoke-free environments.

The irony is that the tobacco industry has convinced many in the hospitality industry to embrace expensive ventilation systems to avoid non-existent losses in business of going smoke-free.

The tobacco industry works to stay out of the public spotlight during any debates over tobacco control policies because of its low credibility. In recent years, the tobacco industry, led by PM, has effectively turned the hospitality industry into its de facto lobbying arm on clean indoor air. Public health advocates need to understand that, with rare exceptions, when they are talking to the organised restaurant associations, they are talking to the tobacco industry, and act accordingly.

What this paper adds

When public health advocates seek to enact clean indoor air laws, they inevitably find the opposition coming from the hospitality industry rather than the tobacco industry. This paper demonstrates that the tobacco industry has had a worldwide programme to infiltrate and coopt the hospitaility industry to serve the tobacco industry's political needs. Public health advocates, decision makers, and the media should understand that opposition to smoke-free restaurants and bars that appears to come from the hospitality industry is really being orchestrated by the tobacco industry.

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Smooth Moves: Bar and Nightclub Tobacco Promotions That Target Young Adults

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Objectives. This article describes the tobacco industry's use of bars and nightclubs to encourage smoking among young adults.

Methods. Previously secret tobacco industry marketing documents were analyzed.

Results. Tobacco industry bar and nightclub promotions in the 1980s and 1990s included aggressive advertising, tobacco brand–sponsored activities, and distribution of samples. Financial incentives for club owners and staff were used to encourage smoking through peer influence. Increased use of these strategies occurred concurrently with an increase in smoking among persons aged 18 through 24 years.

Conclusions. The tobacco industry's bar and nightclub promotions are not yet politically controversial and are not regulated by the 1998 Master Settlement Agreement between the industry and the states. Tobacco control advocates should include young adults in research and advocacy efforts and should design interventions to counter this industry strategy to solidify smoking patterns and recruit young adult smokers. (*Am J Public Health.* 2002;92:414-419)

During the 1990s, tobacco industry sponsorship of bars and nightclubs increased dramatically,[1,2] accompanied by cigarette brand paraphernalia, advertisements, and entertainment events in bars and clubs.[3–7] Young adults are not immune to late smoking initiation, and they are vulnerable to concentrated tobacco industry marketing. The 1998 National Household Survey on Drug Abuse shows a steady increase in the smoking rate among young adults (aged 18–25 years) from 34.6% in 1994 to 41.6% in 1998.[8(p22)] Wechsler et al. reported an increase in smoking prevalence among college students from 22.3% in 1993 to 28.5% in 1998.[9]

These results are consistent with the association found in other studies between changes in tobacco marketing and parallel increases in smoking in the target population (e.g., women in the 1930s and 1960s and youth in the 1980s and 1990s[10–13]). In contrast to the view that smoking initiation occurs only before age 18, smoking initiation in young adults (18–24 years) occurred frequently during the early and mid 20th century and continues to be high among young adults in some ethnic groups.[8,14–18]

We used previously secret tobacco industry documents to describe why and how the industry uses bars to encourage smoking among young adults. (We use the term "bars" to include bars and nightclubs.) We sought to answer the following questions: (1) How did bar promotions develop, and what were the concomitant marketing benefits? (2) How did these promotions benefit the industry in the research, social, and political arenas? (3) What are the connections between bar promotions and other industry marketing programs, including advertising in the alternative press and studies of peer influence?

METHODS

We used standard techniques[19] to search tobacco industry document archives made available by tobacco litigation during the 1990s. The documents came from 4 sources: the Mangini collection of RJ Reynolds marketing documents at the University of California, San Francisco (http://www.library.ucsf.edu/tobacco/mangini), tobacco industry document Internet sites (Philip Morris, http://www.pmdocs.com; Brown & Williamson, http://www.brownandwilliamson.com; RJ Reynolds, http://www.rjrtdocs.com), and Tobacco Documents Online (http://www.tobaccodocuments.org).

We started with keyword searches on "bars," "nightclubs," "young adults," and "promotions," then searched for related documents, using authors, titles, dates, and Bates document numbers. Initial searches yielded thousands of documents; approximately 250 had content relevant to bar and nightclub promotional activities, the alternative press, and young adult peer influence. While the industry often uses the term "young adult" to refer to teenagers, it was clear from the context that the documents we identified were genuinely discussing young adults.

RESULTS

Development of Bar and Nightclub Promotions

Early plans for bar promotions were prepared for RJ Reynolds in the mid-1980s as part of a general industry trend toward increasing use of promotions[20] to reach young adults. RJ Reynolds' 1983 marketing plan strategy discusses the benefits of a "field marketing" strategy using person-to-person interaction at parties, concerts, and nightclubs to "reinforce Camel's masculine psychological image within the context of programs which are lifestyle oriented" and to integrate smoking with nightlife, music, and sports.[21] A proposal by Entertainment Marketing and Communications International submitted to RJ Reynolds in the mid-1980s emphasized the value of the bar setting to reach young people starting to smoke: "In general, this showcase nightclub audience targets perfectly new and current users at a time when brand loyalty is being tested and established."[22] A Romann & Tannenholz proposal to Philip Morris also described how its bar and nightclub program would compete with Camel's for the "entry-level" smoker.[23]

At a 1989 brainstorming session for the Camel Smooth Moves campaign, many of the elements of bar promotions "to elicit consumer involvement," including cigarette sampling, free Camel accessories, amateur band talent contests, comedy clubs, races, beaches, winter resorts, and "cruising," were presented.[24] A memorandum between RJ Reynolds executives described details of the promotional activities at Florida nightclubs during US universities' spring break in 1989:

> The Camel night club entertainment really was "cool." As you entered the club smokers received cigarettes, lighters, Camel t-shirts and a key which you brought over to the Camel tent for a chance to win the car. Once inside the club the classy Smooth Character girls, dressed in bright blue, sang and danced. The crowd was alive when the girls performed. Also, there was a really hip guy with sun glasses who led the girls.[25]

A detailed report from a marketing firm describes how RJ Reynolds' spring break promotions at Daytona Beach nightclubs used live music, contests, games, and distribution of free cigarette samples:

> The centerpiece of Camel's Spring Break program is the "Smooth Moves." Essentially the Smooth Moves consists of a male emcee and three very attractive and talented women who perform a professionally produced vocal/dance routine in Daytona's most popular clubs. . . . At each of the individual club promotions involving the Smooth Moves performance, several additional promotions will also be executed.
>
> 1. Smooth Moves Photoboard. . . .
> 2. Find Your Smooth Character Game. . . . All males entering will receive a male card. . . . All females entering receive a female card. . . . The objective is for both males and females to find their Smooth Character. If they find 2, 3, or 4 correct matches (tips) for the Smooth Move they have, they visit a prize center located in the club to receive a Camel prize.
> 3. Sampling will occur at each club promotion. Samplers will be distributing Camel Lights and Camel Filters along with a car key to smokers only. The key is an entry into a localized Smooth Car Sweepstakes where smokers have a chance to win a Nissan 300 ZX Turbo, or a variety of beach related Camel premiums.[26]

Brown & Williamson's bar promotions training manual outlines similar activities, such as a "Kool Theme Song Sing Along," a dance contest, and cigarette sample distribution.[27] Philip Morris events also included provocative games and cigarette sampling.[28]

Benefits of Bar Promotions to Tobacco Companies and to Bars

The tobacco industry cultivated brand presence in bar environments; this advertising grew more aggressive over time. Tobacco companies first provided bars with supplies to saturate the environment during events and provide a lasting presence. A 1989 marketing report for RJ Reynolds included a description of a "Bar/Nightclub Presence Kit" including Camel-branded items for patrons and staff:

> Establishments participating in Camel promotional activities will be supplied with the following items for special Camel nights and permanent brand presence:
>
> Cork lined bar trays
> Bar towels
> Simulated neon-lit write-on boards
> Napkin/Coaster/Stirrer Holders
> Ash Trays
> Coasters
> Napkins
> Table tents with write-in area[29]

Brown & Williamson used these tactics to promote Kool cigarettes in nightclub events during 1992[30]; its training manual instructs employees to remove the promotional materials belonging to competing tobacco companies during Kool events.[27] Philip Morris' 1990 bar promotions used Marlboro bar supplies, racing jackets, and pants for staff; in 1991 neon message boards and cocktail trays were added, to be "left behind as mementos from Marlboro."[31,32]

Tobacco companies also attracted bar owners with financial incentives. In 1991, RJ Reynolds hired Compel Marketing to conduct a survey of bar owners on their views of tobacco bar promotion. Compel recommended the following:

> I. A "bar paraphernalia" program should be tested incorporating a variety of Camel logo items.
> Over 40 percent of respondents were very interested and 70% were somewhat to very interested in purchasing from this type of program. . .
> II. A bar cigarette rack/sales program should be tested. . . . Discussions with attendants at the show strongly indicated that those bars who had established their own cigarette sales programs felt it represented a significant profit center. . . .
> III. A program of bar promotion kits should be tested. . . . Approximately 50 percent of respondents indicated a willingness to share the costs of these programs. It should be noted, however, that the level of cost sharing was modest; perhaps due to the $1500 estimated cost mentioned.[33]

A 1994 report to RJ Reynolds from KBA, an advertising firm that ran the RJ Reynolds Camel Club Program, addressed bar owners' cost concerns: "Using our Camel Club crew, we will approach clubs with promotional opportunities that will not only be cool and exciting, but also cost saving. . . . Being a Camel Club will make the venue eligible for valuable goods and services, both tangible and intangible."[34]

KBA recommended providing "premiums" worth $12 000 to bar owners and managers,[34] as well as offering promotional incentives to bar owners to display advertisements:

> In exchange for promotional support that we will provide for nightclubs, we will require the club to allow us to install in-club displays. These displays will be designed and coordinated keeping club aesthetics in mind. Nothing produced will be obtrusive, bright or out of the ordinary looking for a nightclub. Some of these items will be bar cigarette dispensers, cash register lights, and display marquees.[34]

A 1994 Philip Morris contract with a participating club guaranteed Parliament signage at the entrances, on the roof, and in at least 50% of available space during the events.[35] Memos from Brown & Williamson and Philip Morris indicate that these practices were expanded through 1995 to promote Lucky Strike and Parliament cigarettes.[28,36,37] In a 1996 operating plan, RJ Reynolds also stressed the importance of bartenders' selling cigarettes to bar patrons.[38]

Other Benefits to the Tobacco Companies

Research. Tobacco companies used promotions to build their name databases and collect information for marketing profiles, direct marketing, and potential political organizing.[39] A 1994 report to RJ Reynolds described how cigarette brand market research fit with promotional activities in bars and nightclubs:

> In order to monitor our success and evaluate strategies, market research will be a valuable tool. To maintain consistency with underlying discreet feel of the Camel Club Program, it is essential that market research is completed in non obtrusive fashion.
> In nightclubs, it is very common for an individual hired by the club to mingle with patrons, while obtaining names and information for the

> club's mailing list data base. As another perk for the nightclubs, we may hire and supervise this mailing list in person for them and use the information they collect for the purposes of Camel Club research. . . .[34]

A handwritten note on the document says, "This is also a service to the club—provide them with a general list—don't link back to the club—covert name-catching. . . . Can tailor a questionnaire for smoking with date of birth with signature."[34]

Brown & Williamson also designed smoker survey cards to profile smokers during nightclub promotions in 1988.[40] In a 1992 report, National Field Marketing Corporation advised the company to present the surveys as entries for a prize drawing.[30] Philip Morris documents list "name generation" for the company's consumer database as a primary objective of Parliament and Marlboro promotions.[41–43] Philip Morris used gifts, luxury car sweepstakes, and interactive video racing games to encourage patrons to fill out marketing surveys.[31,44,45] These 1993 promotions generated approximately 1.3 million new names for the Philip Morris database.[46] These databases were used to generate smoker profiles, direct mailing campaigns, and conduct telephone research studies after the bar events.[47]

Minority targeting. Bar promotions were also used to target specific communities, as was the case with RJ Reynolds' 1989 Camel Hispanic Program[29] and Philip Morris' Inner City Bar Night Program:

> To achieve trial, awareness and conversion objectives among Black smokers, Brand recommends an expansion of the Marlboro Menthol Inner City Bar Night Program developed during the second half of 1988. Given that we have limited tools to reach Black smokers, this represents an attempt to penetrate the audience via an aggressive event program which will work in combination with targeted in-store and media efforts.[48]

Philip Morris planned a $1.2 million expansion of this 1989 program.[48] A 1989 Brown & Williamson document also noted Philip Morris' pursuit of the "Black consumer" in bars.[40] Brown & Williamson's Kool Festival bar promotion events included a cocktail party for retailers to build awareness of Kool's "involvement in the community."[49]

A shield from social and political pressures. In the 1990s, bars provided a safe place to continue to promote cigarettes despite increasing social pressures against smoking. Reports from Brown & Williamson and Philip Morris note the "non hostile, festive lifestyle atmosphere"[30] and "smoker friendly environment" of bars.[50] Bar promotions also conferred protection against clean indoor air laws. In a 1994 report, Philip Morris consultant Romann and Tannenholz observed, "[f]acing increasing restrictions on smoking in public places, parties represent one of the last refuges—a place where smoking is not only permissible but part of the shared experience."[23]

Bar promotions also avoided the controversy around tobacco marketing to children. RJ Reynolds' 1996 operating plan mentions keeping marketing strategies "under the radar."[38] A Romann and Tannenholz 1994 market research report for Philip Morris recommends the company avoid political pressure by "develop[ing] a comprehensive below-the-line marketing program." The same report points out that bar promotions would "prevent potential public-relations issues [and] anticipate future restrictions on advertising."[23] Romann and Tannenholz correctly anticipated that marketing restrictions would likely be limited to youth and that bar and nightclub promotions would be immune, as they were in the 1998 Master Settlement Agreement.

Bar Promotions and the Alternative Press

The alternative press was an essential element of new tobacco industry advertising strategies to promote bar programs.[1,2,24] RJ Reynolds appears to have been the first to launch such an advertising campaign in the alternative press.[1,51] Other tobacco companies followed throughout the 1990s. The Ruxton Group, which managed alternative-press advertising in several major cities, recommended placing a "Smooth Character Column" on young adult entertainment in alternative newspapers in 1991:

> The Objective
> - To increase Camel's visibility with urban young adult smokers.
> - To identify Camel with young-adult entertainment in priority markets.
> - To maximize reader involvement with Camel ads . . .
> - To associate Camel with what's fun to do in town.
>
> The Concept
> Introducing The Smooth Character: a column of colorful banter about what's doing in town and who's been doing it with whom . . .
> The Benefits
> - Reaches young-adult smokers in priority markets.
> - Provides unique creative for each market on a weekly basis at a low cost.
> - Associates Camel with what's hot, what's fun, what's local.
> - Provides opportunities for promotional, and merchandising tie-ins.
> - Reaches research documented full- and part-time smokers.[52]

KBA advertising, in a 1994 marketing proposal, also recommended the alternative press as media support for bar promotions. The company noted how this technique was used by Girbaud jeans to reach young adults who frequent nightclubs:

> Every major city in the nation has a number of alternative media outlets. These newspapers and magazines appeal to the urban, progressive trend setters and often have gossip columns that speak of trendy happenings, such as art openings, nightclub events, underground parties, and benefits. These free periodicals are distributed at most trendy nightclubs and are found in the stores and coffeehouses that the club crowd frequents.
> Developing an alternative advertising campaign geared towards the club goers, would be ideal. In the past year, Girbaud jeans, a trendy high profile clothing company has sponsored a full-page calendar of hip events for the week in New York's Village Voice. The placement of this particular ad is directly adjacent to the nightclub gossip column. This has aligned Girbaud with every trend setting event in New York City for the past year. Girbaud clothing first became prominent seven years ago in the club scene and has sustained its hip image through its affiliation with the trend setting scene. Aligning Camel with certain publications by way of advertising lends immediate hip credibility to the brand.[34]

The 1996 operating plan for RJ Reynolds suggests placement of tobacco advertisements in the alternative press by the "use of club page local media to hype event."[38] An analysis of tobacco promotions in the alternative press shows that these strategies were implemented, with the highest concentration of tobacco advertisements in entertainment-focused sections.[1]

Bar Promotions and Young Adult Peer Influence

Bar promotions also provided a tool with which to engineer peer influence among young adults. The tobacco industry studied

peer influence for years and considered it to be a major factor in promoting smoking initiation among both adolescents and young adults.[22,53–55] The industry worked to identify "social leaders" or "trendsetters,"[53,55] believing that changing the smoking behavior of social leaders would, in turn, influence a large number of potential smokers.[54]

In 1992, Philip Morris conducted extensive research in its "Social Networks Project":

> If data from brief questionnaires can distinguish between leaders and other group members, this capability could be applied to:
> - Marketing efforts to communicate more extensively with leaders than other group members.
> - Screening for subsequent research, given leaders' importance in the diffusion process.[53]

Philip Morris attempted to design questionnaires that could differentiate leaders from nonleaders in a short telephone survey.[55] In the mid-1980s an RJ Reynolds contractor, Entertainment Marketing & Communications International (EMCI), attempted to reach "trendsetters" through make-your-own music videos in bars.[22] Brown & Williamson sought to market Lucky Strike cigarettes to social leaders in 1995.[36]

The relationships between bar owners, club promoters, employees, and patrons provided an ideal social structure for the use of leaders to encourage smoking. In 1994, the KBA advertising firm reported to RJ Reynolds on "trend influence marketing," a strategy that capitalized on clearly defined "leaders": bar owners, bar workers, club promoters, and bar patrons. KBA's "Camel Club Program" sought to influence 3 "tiers": bar owners, workers, and patrons. KBA recommended providing premiums totaling $12 000 to bar owners and managers (the first tier).[34] The tobacco-sponsored entertainment events also helped bar owners financially by encouraging patronage and defraying the cost of live entertainment. KBA observed that club promoters were another source of influence:

> A very important entity in the nightclub scene is the nightclub promoter. Most nightclubs utilize these individuals or groups to promote special events. Promoters are generally the trend setters of the nightclub scene. They define what is hip. A promoter will generate an idea for an event, usually something thematic that involves some sort of entertainment.
> In many cases, promoters use their own funds to produce events. In these cases, where promoters are self-financed, our financial support in the form of printing reimbursements and premium giveaway packages will win their loyalty with relative ease. . . .
> We will use the same techniques for club owners and managers to make promoters part of Camel Trend Influence Marketing effort, i.e. Camel jackets, premiums, event sponsorship funds, etc.[34]

Bar employees constituted the second tier of KBA's plan. The plan described how to influence bar employees to become allies in marketing cigarettes:

> Tier Two: Utilize our "foot in the door" to influence bar employees and convert them to Camel brand smokers and promote the brand. . . .
> The crux of Tier Two is to convert the bar staff to Camel. We will do so by offering top notch premiums such as leather motorcycle jackets, with the employees name embroidered on the front. Embroidering the employee's name will make the jacket a more valuable tool to reinforce and enhance our relationship with this influential segment. . . . In addition, our "Camel Club Crew" will develop relationships with these employees, always tip well at the bar (very important!) And occasionally schmooze the employees with other Camel gifts as well as dinner packages at local restaurants. Of course, Camel Club employees will have an ample supply of Camel cigarettes for personal use and to present to patrons.[34]

Bar employees were also slated to receive $12 000 in premiums, according to KBA's start-up budget.[34] Camel's 1996 operating plan also recommended cultivating a relationship with bar workers, stressing that it was "critical to convert bar staff to Camel [so they could] act as selling agents."[38]

The third tier consisted of trend-setting patrons who would be influenced by the bar management and staff to smoke Camels:

> Tier Three: Work with the bar employees to influence the trend setting patrons, which will then start to make smoking Camel a recognized trend . . .
> Once our relationship is solidified with club owners, management and bar staff, we will begin to subtly train the employees on how to influence smokers of competitive brands to sample Camel with the goal of eventually switching brands. Because we are making Camel "trendy" as well as formulating a positive and productive relationship with the staff . . . the process of generating trial among patrons will appear quite natural and uncontrived.[34]

Ideally, hip young bar patrons would also recruit their non–club-going friends who viewed them as leaders.

DISCUSSION

Bar and nightclub promotions started as part of an increase in promotional events that integrated tobacco marketing with young adult activities and reached beginning smokers. They were later expanded to increase consumer involvement and to create smoke-friendly promotional environments. These promotions are also used for marketing research, to target minorities, and as a haven from social pressures. They protect the industry from advertising regulations, clean indoor air laws, and accusations of marketing to adolescents. Bar promotions help the industry engineer peer influence to encourage tobacco use among young adults.

The volume of tobacco industry documents (more than 40 million pages) and the inefficiency with which many are indexed makes it difficult to know whether we located all relevant documents. Those we did analyze, however, provide a consistent picture of industry marketing activities that were still observable in bars and clubs in 2001. The fact that these practices have been duplicated over time and replicated by several tobacco companies increases our confidence in these findings. The relationship between tobacco and alcohol use in these venues is beyond the scope of this study, but it is a fertile topic for future inquiry.

Bar and nightclub promotions are an example of the tobacco industry's shift from traditional advertising to promotional activities. Tobacco promotional allowances tripled between 1988 and 1998, while spending on advertising remained constant.[20] The industry has taken affirmative steps to protect bar promotional venues. The 1998 Master Settlement Agreement between the tobacco industry and many states' attorneys general explicitly exempts marketing in "adult-only facilities" from its limitations on industry activities.[56] The industry opposes bar provisions of clean indoor air laws with particular vigor[57,58] and has fought hard (if unsuccessfully) to repeal the provisions in California's smoke-free workplace law that apply to bars and clubs.[59–61]

The industry's penetration into bars may have serious implications for smoking initiation among the young adults who frequent

bars. The industry's manipulation of peer influence through incentives to "social leaders" can encourage nonsmoking young adults to initiate smoking as well as move experimenters toward addiction.[22,23,34] The increase in smoking rates among young adults indicates that their smoking behavior is still amenable to outside influences and suggests the success of the tobacco industry's strategy.[8,9]

The fact that it is legal for young adults to smoke does not mitigate the public health burden of disease and suffering that will be incurred later in life by these young smokers and the nonsmokers who will be exposed to their secondhand smoke. Tobacco control advocates should include young adults in research and advocacy efforts and should design interventions to counter the tobacco industry's bar promotion strategy.

The industry's use of this strategy can also provide a guide for public health practitioners working with young adults. Bars' association with the tobacco industry should be portrayed as negative exploitation of social and cultural institutions. Rather than stressing resistance skills to counter peer pressure, public health educators should seek to identify social leaders and encourage them to promote and defend smoke-free lifestyles. Creation of smoke-free bars—with appropriate groundwork and public education—may be a key to undermining the tobacco industry's efforts to use bars to reestablish the social acceptability of smoking and secondhand smoke. ■

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Contributors

All authors contributed to the design of the study and writing and editing of the paper. E. Sepe and P.M. Ling collected the data.

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Tourism and Hotel Revenues Before and After Passage of Smoke-Free Restaurant Ordinances

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Context Claims that ordinances requiring smoke-free restaurants will adversely affect tourism have been used to argue against passing such ordinances. Data exist regarding the validity of these claims.

Objective To determine the changes in hotel revenues and international tourism after passage of smoke-free restaurant ordinances in locales where the effect has been debated.

Design Comparison of hotel revenues and tourism rates before and after passage of 100% smoke-free restaurant ordinances and comparison with US hotel revenue overall.

Setting Three states (California, Utah, and Vermont) and 6 cities (Boulder, Colo; Flagstaff, Ariz; Los Angeles, Calif; Mesa, Ariz; New York, NY; and San Francisco, Calif) in which the effect on tourism of smoke-free restaurant ordinances had been debated.

Main Outcome Measures Hotel room revenues and hotel revenues as a fraction of total retail sales compared with preordinance revenues and overall US revenues.

Results In constant 1997 dollars, passage of the smoke-free restaurant ordinance was associated with a statistically significant increase in the rate of change of hotel revenues in 4 localities, no significant change in 4 localities, and a significant slowing in the rate of increase (but not a decrease) in 1 locality. There was no significant change in the rate of change of hotel revenues as a fraction of total retail sales ($P = .16$) or total US hotel revenues associated with the ordinances when pooled across all localities ($P = .93$). International tourism was either unaffected or increased following implementation of the smoke-free ordinances.

Conclusion Smoke-free ordinances do not appear to adversely affect, and may increase, tourist business.

JAMA. 1999;281:1911-1918 www.jama.com

AS THE EVIDENCE THAT SECONDhand tobacco smoke endangers nonsmokers has accumulated,[1,2] more and more communities have eliminated smoking in public places and workplaces. As of September 1998, 212 communities and 3 states had enacted laws mandating smoke-free restaurants[3] and 1 state (California[4]) and 31 communities[3] had enacted local ordinances requiring smoke-free bars. These ordinances not only protect nonsmokers from the toxins in secondhand smoke, they also create an environment that encourages smokers to quit.[5]

The tobacco industry vigorously opposes these public health measures to protect its sales. During the debates over these laws, it is common for the tobacco industry (acting directly or through front groups[6-8]) to claim that these ordinances create severe economic problems for the restaurants and bars. After Glantz and Smith[9,10] published their study demonstrating that smoke-free restaurant ordinances have had no effect on restaurant revenues in the first 15 cities to pass such ordinances, the tobacco industry's claims of economic chaos lost credibility, particularly in California and Colorado, where the cities were located. Glantz and Smith[11,12] later updated this study and extended it to include smoke-free bars. Subsequent work by other researchers yielded similar findings for smoke-free restaurant ordinances in 89 cities in 6 states.[13-19] Despite tobacco industry protestations to the contrary, all the empirical evidence supports the proposition that smoke-free restaurant ordinances do not hurt the restaurant business.[20]

As the tobacco industry's claims of adverse effects on the restaurant and bar business have lost credibility, it has advanced a new economic argument against passing smoke-free restaurant ordinances: these ordinances will adversely affect tourism. In some places, the industry has claimed that tourism from countries such as Japan and Germany will be particularly affected. There is only 1 study of 1 city on the effects of a smoke-free ordinance on tourism.[18] We identified 3 states and 6 cit-

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ies in which opponents of clean indoor air ordinances specifically advanced claims that the ordinance would adversely affect tourism (TABLE 1[21-35]) and obtained data on tourism from the local authorities. Contrary to industry claims, these ordinances were not associated with significant drops in tourism. Quite the contrary, in several locales the ordinances were associated with significant increases in tourism.

METHODS

We searched newspaper databases and publications by tobacco industry groups (such as the National Smokers' Alliance that was created for Philip Morris Incorporated[36]) and contacted

Table 1. Predicted Effects of Smoke-Free Restaurant Ordinance on Tourism Made by the Tobacco Industry and Related Groups*

Location Effective Date of Law Population[21] (1989)	Predicted Effect
California January 1, 1995 29 760 021	Revenues of hotels and other lodging places create a significant number of jobs in California. If the proposed smoking ban is adopted by the state of California, some tourists, visitors, and convention delegates may travel to other states or forgo traveling altogether. In particular, a smoking ban in California could reduce expenditures in the following way: • *Reduced Domestic Out-of-State Tourism*—Many travelers, visitors, vacationers, and businesspeople may choose not to travel to California. • *Reduced Foreign Tourism*—Some foreign tourists, visitors, and business people may choose not to visit California. • *Reduced Conventions*—Some groups may decide not to hold conventions in California. The expenditures of these consumers significantly contribute to California's economy: Potential Losses for Each 1 Percent Reduction in Foreign Visitor Expenditures, $31 017 518[22]
Utah January 1, 1995 1 722 850	Richard Davis, Salt Lake Convention & Visitors Bureau president, said his agency supported the concept of protecting nonsmokers from dangerous second-hand smoke in restaurants. But he said making Utah the first state to enact such a ban would result in tourism losses. "Utah already is a leader in liquor control and abortion," Mr Davis said. Leading in restricting smokers would "have a negative effect on our tourism marketing efforts." Mr Davis warned passage of the bill could cost Utah $50 million in lost conventions right off the bat.[23] Opponents—including the Tobacco Institute—say Utah's measure will burden public establishments by separating smokers and could damage Utah's tourism industry.[24]
Vermont July 1, 1995 562 758	Since the Vermont Clean Indoor Act took effect on July 1, 1995, owners have claimed sales losses between 3% and 30%. Members of the Vermont Business and Restaurant Coalition and the Vermont Lodging and Restaurant Association said the ban would reduce tourism, average restaurant tabs, and sales overall.[25]
Boulder, Colo November 14, 1995 83 312	After a ferocious campaign to defeat the measure, some bar and restaurant owners said the ban would slash their business and drive smoking customers out of town. Some said they likely would go out of business.[26]
Flagstaff, Ariz June 18, 1993 45 857	Vote Yes on Proposition 310. . .to protect tourism revenues (estimated $150 million annual economic impact to Flagstaff from tourism!).[27] This could be a great loss for Flagstaff. Tour groups won't return, guests will never come to Flagstaff again.[28]
Los Angeles, Calif July 26, 1993 3 485 398	"Forget about loss of local business: that's bad enough," Richard Schilling, general manager of Hotel Sofitel Los Angeles, says. "What about tourism receipts?" The throngs of European visitors who flock to LA annually will instead fly south to Florida if they can't smoke while they dine, he says. "And we're not the only ones who are going to get hurt: These tourists take cabs, rent cars, and shop in local boutiques," he adds.[29] "Since implementation of the ban in January 1995, 46.2% of the California restaurants surveyed reported lower gross sales receipts while only 15.5% reported higher gross sales receipts," states Barbara Boultinghouse, a KPMG Peat Marwick LLP manager who coordinated the survey. "The reported losses of this magnitude are devastating to California's hospitality industry."[30]
Mesa, Ariz December 20, 1996 288 091	Tom Lauria, spokesman for the Tobacco Institute, a tobacco manufacturing industry trade association, said he expects local hospitality and restaurant associations to mount the defense against the initiative. "If they're not already well organized, they will be once they gauge the economic impact."[31] Chaos is the only word to describe what is happening in Mesa, Ariz. Business owners felt the economic blow immediately. Restaurant and bar owners are losing customers to nearby communities where smoking is still allowed, and one restaurateur cited the ban as the reason he went out of business. A convention has changed its meeting site from Mesa.[32]
New York, NY April 10, 1995 7 322 564	On a larger scale, New York stands to lose millions of dollars as the meetings and conventions that bring visitors from all over the world take their business and vacations elsewhere. New York today has over 25 million visitors every year. Tourism is a $14 billion industry. This helps support our city. It means jobs. Other big cities that compete for this business will be very glad to see this smoking ban pass.[33] New York has over 25 million visitors a year. Tourism is a $14 billion industry. But if this bill passes in its present form, tourists will steer clear of a city so harshly intolerant of smokers. The bill would encourage many smokers, tourists and residents alike, to abandon restaurants altogether in favor of bars and cabarets, where smoking would not be restricted.[34]
San Francisco, Calif January 1, 1995 723 959	The hospitality industry as a group is and has long been one of the largest employers in San Francisco. However, the current recession, combined with the aftereffects of the 1989 earthquake, has caused nearly every restaurant and hotel to cut their staffing drastically. The jobs are scarce; the job/labor pool ratio have reduced some wages to the lowest levels in 4 years. Any attempt to restrict activities of our patrons would reduce the traffic in our restaurants. Not only do the hardworking operators lose but their employees lose as well (Golden Gate Restaurant Association, written communication, February 13, 1992).

*All data are direct quotes from respective sources.

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Table 2. Data Sources*

Location	Hotel Revenue/Total Retail Data	International Tourism	Consumer Price Index
California	*California Travel Impacts by County*, prepared for the Division of Tourism, California Trade and Commerce Agency, California Travel Spending and Related Impacts, Travel Spending by Type of Business, Accommodations (CY 1987-1997)[36]	*A Market Profile of Overseas Visitors to California (1996),* Division of Tourism, California Trade and Commerce Agency, March 1998[37]	West urban
	Taxable Sales in California (Sales & Use Tax), statewide taxable sales, by type of business, retail stores totals, prepared by the California State Board of Equalization (CY 1986-1997, second quarter)[38]†‡		
Utah	*Gross Taxable Retail Sales, Services & (Use Tax) Purchases in Utah*, prepared by State of Utah Tax Commission, OBS 19, Services, Hotels & Lodging (7011-7041) (CY 1990-1997)	"International Visitation to Utah, 1990-97," provided by Division of Travel Development, US Department of Commerce, Tourism Industries[39]	US city average
	Gross Taxable Retail Sales, Services & (Use Tax) Purchases in Utah, prepared by State of Utah Tax Commission, Gross Retail Sales and Purchases Total (CY 1990-1997)		
Vermont	*State of Vermont, Department of Taxes, M&R Statistics*, gross (taxable) rents, grand total, prepared by State of Vermont Department of Taxes (FY 1988-1997)		Northeast urban
	State of Vermont, Department of Taxes Sales Statistics, gross sales, grand total, prepared by State of Vermont Department of Taxes (FY 1988-1997)		
Boulder, Colo	*Accommodations Tax Revenue*, prepared by City of Boulder, Finance Division (CY 1990-1998)§		Denver, Boulder, and Greenley, Colo
	Sales and Use Tax Revenue Report, retail sales tax, prepared by City of Boulder finance director, revenue collection supervisor, and budget director for acting city manager, May 1998 (CY 1990-1998)[40]§		
Flagstaff, Ariz	*City of Flagstaff BBB Sales History*, hotels/campgrounds, prepared by City of Flagstaff (CY 1988-1998)		West urban
	Retail Sales Report, prepared by City of Flagstaff (CY 1988-1998)		
Los Angeles, Calif	*Transient Occupancy Tax Revenue*, prepared by City of Los Angeles, Office of the City Clerk, Tax and Permit Division (FY 1988-1997)§		Los Angeles, Riverside, and Orange County, California
	Taxable Sales in California (Sales & Use Tax), taxable sales in the 240 largest cities, by type of business, retail stores totals, prepared by the California State Board of Equalization (CY 1986-1997, second quarter)[38]‡		
Mesa, Ariz	*Summary of Total Transient Occupancy Tax Revenue*, prepared by City of Mesa Tax & Licensing Administrator (CY 1989-1997)[41]§		West urban
	Sales Tax Revenue Information, prepared by City of Mesa Tax & Licensing (FY 1990-1998)§		
New York, NY	*NYC Hotel Tax Collections by Quarter*, prepared by New York City Department of Finance, Office of Tax Policy (FY 1989-1998)§	*New York City Visitor Statistics*, prepared by New York City Convention & Visitor's Bureau[42]	New York, northern New Jersey, Long Island, Connecticut, and Pennsylvania
	NYC Sales Tax Collections by Quarter, prepared by New York City Department of Finance, Office of Tax Policy (FY 1989-1998)§		
San Francisco, Calif	*Annual Report*, business tax section, statistical activity, hotel tax collection, prepared by San Francisco Treasurer/Tax Collector (FY 1989-1997)[43,44]§		San Francisco, Oakland, and San Jose, Calif
	Taxable Sales in California (Sales & Use Tax), taxable sales in the 240 largest cities, by type of business, retail stores totals, prepared by the California State Board of Equalization (CY 1986-1997, second quarter)†		
United States	*National Accounts Data, Gross Domestic Product by Industry in Current Dollars*, 1987-1991 and 1992-1997, line 62: Hotels and other lodging places, US Department of Commerce Bureau of Economic Analysis[45]¶		

*CY indicates calendar year; FY, fiscal year.
†Added quarterly figures to obtain annual results.
‡Added quarterly figures to obtain FY results.
§Revenues calculated based on tax receipts and tax rate.
¶Fiscal-year results by averaging 2 relevant CYs.

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tobacco control advocates in voluntary health agencies, nonsmokers' rights groups, and health departments to identify localities in which the issue of effect on tourism was raised in the debate over clean indoor air ordinances.

We then identified those local ordinances and state laws that required 100% smoke-free restaurants. (An exemption for the bar area of a restaurant did not disqualify a smoke-free restaurant ordinance from our study, so long as the eating areas were smoke-free.) Smoke-free restaurant ordinances and their effective dates were confirmed with local health department officials. This process yielded the 3 states and 6 cities that met the criteria for inclusion in the study outlined earlier. Because hotel revenue data for Aspen, Colo, were not available predating passage of its ordinance in 1985, we could not include it, leaving 6 cities for analysis (Table 1).

We used revenues from hotel rooms as our measure of tourism. Data on hotel revenues were obtained from the appropriate authorities (TABLE 2[37-46]). We analyzed the hotel revenues directly and in constant 1997 dollars using the appropriate seasonally unadjusted all-items consumer price index.

We also analyzed hotel revenues as a fraction of total retail sales, similar to the analysis we did in our studies of restaurant revenues.[9-12] Analyzing hotel revenues as a fraction of total retail sales accounts for underlying economic conditions and inflation.

In our earlier studies,[9-12] we compared restaurant revenues in similar control cities that did not have 100% smoke-free restaurant ordinances. Rather than doing a locality-by-locality matching, in this study our comparisons against control are done by comparing hotel revenues in the study localities with hotel revenues for the entire United States. We followed this approach because, unlike our earlier study, there was often not a natural match to the study cities and states or, when there may have been a logical match, the "control" locality did not have available data or had a smoking-restriction ordinance in place that prevented it from qualifying as a control locality. Comparing revenues in the study localities with the United States as a whole controlled for the overall health of the tourist industry.

The issue of impact of smoke-free ordinances on international tourism was raised in California, Utah, and New York City (Table 1). We obtained data on the numbers of international tourists for California, Utah, and New York City (Table 2) and analyzed the ef-

Table 3. Change in Hotel Revenues After Passage of Smoke-Free Restaurant Ordinances*

Location	Mean Value	Slope Change, y^{-1}		*P*	R^2
		Slope ± SE	95% CI		
1997 Dollars, Millions					
California	7386	291 ± 145	−43 to 625	.08	0.78
Utah	369	12.75 ± 4.85	0.28 to 25.22	.05	0.99
Vermont	200	7.18 ± 4.76	−4.08 to 18.44	.18	0.48
Boulder, Colo	3	−0.107 ± 0.067	−0.240 to 0.026	.12	0.89
Flagstaff, Ariz	4	−0.286 ± 0.038	−0.361 to −0.211	.001	0.97
Los Angeles, Calif	549	47.2 ± 14.6	12.7 to 81.7	.01	0.77
Mesa, Ariz	8	2.07 ± 0.65	0.78 to 3.36	.002	0.81
New York, NY	488	85.5 ± 15.3	54.4 to 116.6	.001	0.71
San Francisco, Calif	797	49.9 ± 26.0	−13.7 to 113.5	.10	0.83
Current Dollars, Millions					
California	6437	252 ± 129	−45 to 549	.09	0.96
Utah	307	16.23 ± 4.69	4.17 to 28.29	.02	0.995
Vermont	207	3.43 ± 3.52	−4.90 to 11.76	.36	0.94
Boulder	3	−0.060 ± 0.066	−0.191 to 0.071	.36	0.90
Flagstaff	4	−0.285 ± 0.042	−0.368 to −0.202	.001	0.96
Los Angeles	483	28.2 ± 14.8	−6.8 to 63.2	.10	0.42
Mesa	8	2.27 ± 0.69	0.90 to 3.64	.001	0.82
New York	440	77.4 ± 12.3	52.4 to 102.4	.00	0.86
San Francisco	724	42.6 ± 23.7	−15.4 to 100.6	.12	0.94
Fraction of Hotel Sales to Total Retail Sales, %					
California	3.45	−0.080 ± 0.057	−0.211 to 0.051	.21	0.92
Utah	1.97	−0.058 ± 0.039	−0.158 to 0.042	.20	0.50
Vermont	1.49	−0.034 ± 0.031	−0.107 to 0.039	.31	0.68
Boulder	2.28	0.037 ± 0.069	−0.100 to 0.174	.60	0.78
Flagstaff	3.99	−0.389 ± 0.038	−0.464 to −0.314	.001	0.96
Los Angeles	2.83	0.122 ± 0.049	0.006 to 0.238	.04	0.55
Mesa	1.90	0.262 ± 0.114	0.036 to 0.488	.02	0.79
New York	2.75	0.264 ± 0.069	0.124 to 0.404	.001	0.73
San Francisco	12.89	−0.589 ± 0.506	−1.827 to 0.649	.29	0.59
Pooled	2.43	0.054 ± 0.038	−0.128 to 0.020	.16	0.997
Hotel Revenues Divided by National Hotel Revenues (Normalized)					
California	1.037	0.150 ± 0.020	0.104 to 0.196	.47	0.32
Utah	1.080	0.005 ± .016	−0.036 to 0.046	.75	0.90
Vermont	1.786	0.026 ± 0.031	−0.047 to 0.099	.43	0.95
Boulder	1.656	−0.119 ± 0.016	−0.160 to −0.078	.001	0.99
Flagstaff	4.595	−0.479 ± 0.061	−0.628 to −0.330	.001	0.91
Los Angeles	0.663	0.057 ± 0.015	0.020 to 0.094	.01	0.94
Mesa	1.322	0.311 ± 0.047	0.190 to 0.432	.001	0.98
New York	1.058	0.140 ± 0.067	−0.024 to 0.304	.08	0.45
San Francisco	4.638	0.122 ± 0.151	−0.247 to 0.491	.45	0.13
Pooled	1.979	0.011 ± 0.012	−0.013 to 0.035	.93	0.99

*CI indicates confidence interval.

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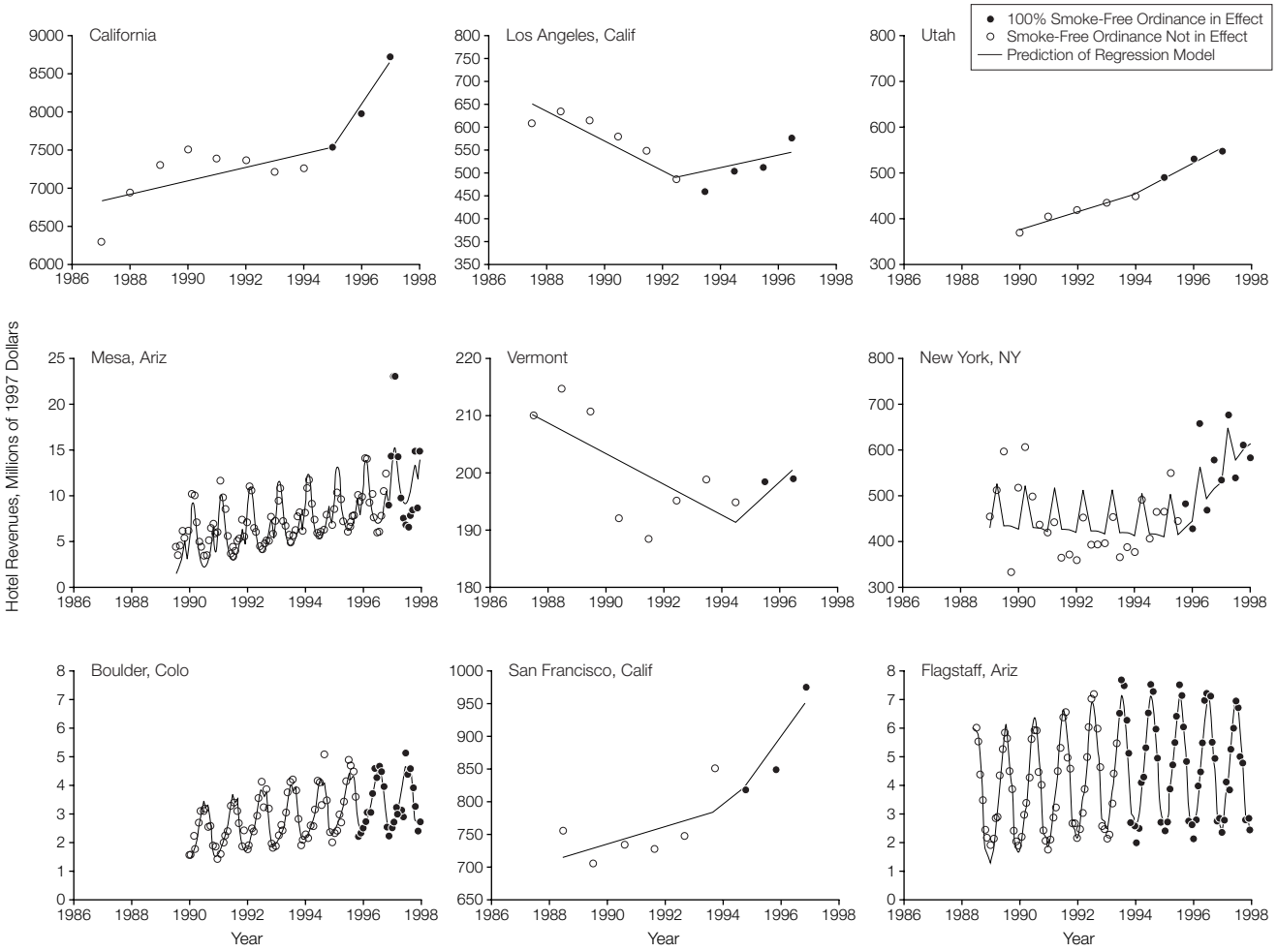
fects of the ordinance on the number of tourists over time. The dependent variable was the hotel revenues in the study locality divided by total US hotel revenues for the same year. To facilitate comparisons between localities, this ratio was normalized by 1989 population for each locality (Table 1) divided by the US population (248 709 873) from the 1990 census.[21] Data were analyzed with linear regression: $y = b_0 + b_t t + b_L(t - t_{law}) L + \Sigma b_i S_i$ where y indicates the dependent variables in TABLE 3 and TABLE 4; t, time to represent the underlying secular trend; L, a dummy variable that indicates whether a smoke-free restaurant law is in force; and t_{law}, the time the law went into force. The dummy variable L quantifies the presence of a smoke-free restaurant ordinance according to $L = 0$ if no ordinance and $L = 1$ if an ordinance is in effect. For the period in which the ordinance goes into

Table 4. Number of International Tourists in Thousands*

Tourist Home	Mean No.	Slope Change, y^{-1} Slope ± SE	95% CI	*P*	R^2
		California			
Germany	481	−32 ± 25	−89 to 25	.23	0.79
Japan	929	117 ± 45	14 to 220	.03	0.51
		Utah			
Germany	115	−25 ± 13	−59 to 8	.11	0.48
Japan	19.8	7 ± 3	−1 to 16	.07	0.65
		New York City			
Europe	2248.6	230 ± 41	116 to 345	.005	0.95
Asia	766.1	37 ± 55	−117 to 191	.54	0.75

*CI indicates confidence interval.

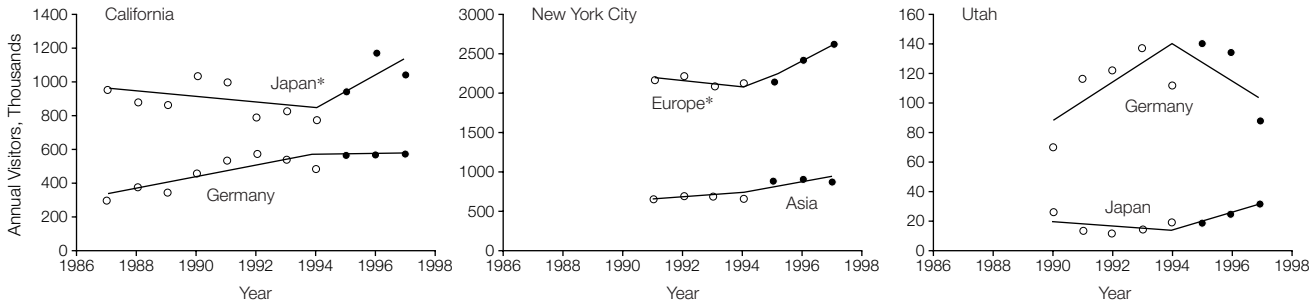
Figure 1. Hotel Revenues Before and After Implementation of the Ordinance



Hotel revenues in constant 1997 dollars for the 3 states and 6 cities with smoke-free restaurants included in this study. Significant changes in slope ($P<.05$) occurred for Utah, Los Angeles, Mesa, New York City, and Flagstaff.

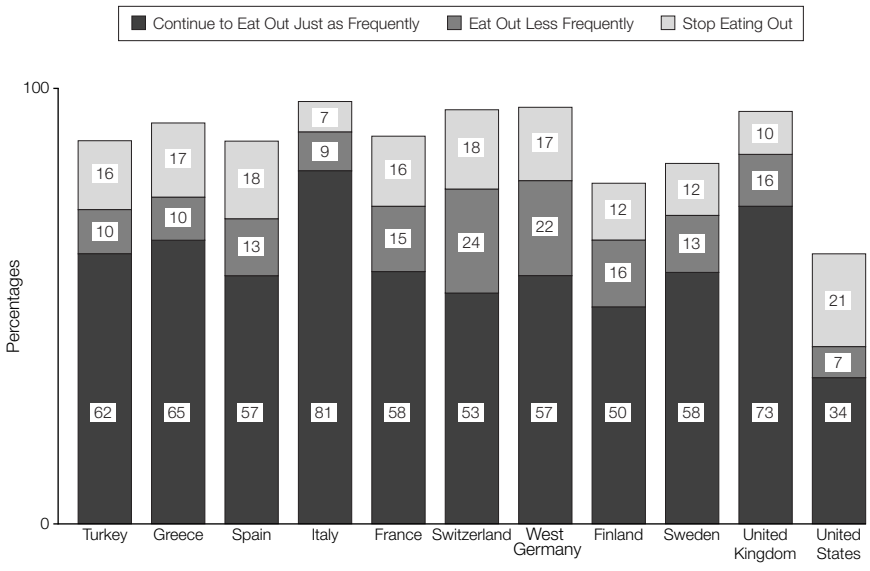
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Figure 2. Annual International Tourists and Effect of Smoke-Free Ordinances



Annual visitors from Japan (or Asia) and Germany (or Europe) to 3 locales where the effects of smoke-free restaurant ordinances on international tourism were an issue. The years in which 100% smoke-free bar ordinances were in effect are shown as solid points. Asterisks indicate significant changes in slope.

Figure 3. Reactions of European and American Smokers to Smoke-Free Ordinances in Restaurants



A survey done by Philip Morris Incorporated in 1989 demonstrated that European smokers were more accepting of smoke-free regulations than were Americans. Source of the data was the Minnesota Tobacco Litigation Depository (Bates No. 2500147496).[46]

effect, L is set to a value between 0 and 1 that corresponds to the fraction of the period that the ordinance was in force. The term $b_L\ (t - t_{law})L$ models the effect of the smoke-free law as a change in the slope of tourism revenues or volume over time. This approach differs from our earlier work, which modeled the effect of the ordinance as a simple intercept change. We found that modeling it as a slope change consistently gave better fits to the data than an intercept change model; the results obtained with an intercept change model were qualitatively similar to those presented in this article using the model above. For locations where data were available more frequently than annually (ie, quarterly or monthly), we also included a dummy variable, S_i, to allow for seasonal variability. The estimate of the coefficient b_t quantifies the annual rate of increase (or decrease) in the dependent variable y each year. The coefficient b_L quantifies the magnitude of the effect of the ordinance on the rate of change over time of the dependent variable.

For hotel revenues as a fraction of retail sales and normalized locality hotel revenues divided by total US revenues, we also conducted a pooled analysis with the equation above by adding effects-coded dummy variables to code for between-locality effects. The pooled analysis was done using annual data for all localities. A change is considered statistically significant when $P<.05$.

RESULTS

Table 3 and FIGURE 1 present the results for total hotel revenues over time before and after implementation of the law. In terms of constant 1997 dollars, the smoke-free law was associated with a significant increase in the rate of growth of hotel revenues in 4 localities, no significant change in 4 localities, and a significant slowing in the rate of increase of hotel revenues in 1 city (Flagstaff) where revenues tended to flatten out. Analysis of hotel revenues in current dollars or as a fraction of total retail sales (Table 3) yielded similar results. Pooled across all localities, there was no significant change in the fraction of hotel revenues as total retail sales ($P = .16$).

The smoke-free law was associated with no significant change in the rate of growth of hotel revenues compared with the United States as a whole in 5 localities, a significant speeding in 2, and a significant slowing in 2 localities (Table 3). Pooled across all localities, there was no significant change in the rate of change of hotel revenues compared with the United States as a whole ($P = .93$).

FIGURE 2 and Table 4 show the changes in the number of tourists from

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Japan (or Asia) and Germany (or Europe) associated with implementation of the California, Utah, and New York City smoke-free restaurant ordinances. The implementation of the ordinances was associated with a significant increase in the rate of change of tourists from Japan to California and from Europe to New York City. The other trends were not significantly affected by the ordinances.

The regressions for Flagstaff and Mesa, Ariz, exhibited significant Durbin-Watson statistics, indicating the presence of serial correlations in the residuals. We attempted a variety of alternate models using functions of time, changes in the intercept term associated with the ordinance, or interactions between the seasonal variables and the presence of the ordinance. None of these approaches substantially changed the value of the Durbin-Watson statistics. Figure 1 suggests that the significant Durbin-Watson statistic for Flagstaff is due to a period of rapid hotel building between 1989 and 1993; the rate of change in hotel revenues before and after this period (which includes the time covered by the smoke-free ordinance) were similar. For Mesa, the significant Durbin-Watson statistic is due to the disproportionate seasonal increase in business following implementation of the smoke-free ordinance.

COMMENT

This study debunks the tobacco industry allegation that smoke-free restaurant laws adversely affect tourism, including international tourism. Quite the contrary, implementation of these laws is often associated with an increase in the rate of growth of tourism revenues. In the pooled analysis, the ordinances had no significant effect, one way or the other, on tourist revenues as a fraction of total retail sales or compared with the rate of change in the United States as a whole. The cities and states included in this study represent a wide range of geographic locations and types of tourist destinations, a fact that increases the confidence one can have in the generality of the results.

The result that smoke-free restaurant ordinances did not hurt, and may have helped, international tourism was surprising because of the commonly held belief that Europeans are more willing to tolerate secondhand smoke and less supportive of clean indoor air regulations than are Americans. Secret research conducted for Philip Morris Incorporated in 1989, however, shows that this belief is incorrect.[46] Philip Morris polled 1000 people in each of 10 European countries and found that smokers were more accepting of smoke-free restaurant ordinances than were Americans (FIGURE 3).

In our analysis of smoke-free restaurant ordinances, we include Boulder, Colo, which permits the construction of a separately ventilated smoking room. While the Boulder Environmental Enforcement Office has not done a formal survey, they reported that "actual use" of such separate smoking rooms is rare. We also included Flagstaff and Mesa, cities that allowed for the application of hardship exemptions or exceptions. The Flagstaff County Health Department reported that no such hardship exemptions have been granted. As of August 1998, the City of Mesa Code Compliance Office cited 73 (3.5%) of 2080 businesses (including smoke shops) that were granted such exceptions. Our results are based on aggregate data, not results from individual businesses. As a result, we cannot exclude the possibility that some establishments experienced gains in business that exactly offset losses in other businesses. At the same time, no data have ever been published to support this possibility. In any event, it is the aggregate data that are necessary to test the tobacco industry's hypothesis that business is severely depressed by these laws.

Food-service workers enjoy the least protection from secondhand tobacco smoke of any employee group.[47] Legislators and government officials can enact such health and safety requirements to protect patrons and employees[48] in restaurants from the toxins in secondhand tobacco smoke without the fear of adverse effects on tourism. Indeed, these ordinances may even be beneficial for business.

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If you could write lucidly, simply, euphoniously and yet with liveliness you would write perfectly: you would write like Voltaire.
—W. Somerset Maugham (1874-1965)

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The New Battleground: California's Experience With Smoke-Free Bars

Sheryl Magzamen, MPH, and Stanton A. Glantz, PhD

A B S T R A C T

Objectives. This study examined the tobacco industry's tactics in the political, grassroots, and media arenas in attempting to subvert California's smoke-free bar law, and the efforts of health advocates to uphold and promote the law by using the same 3 channels.

Methods. Interviews with key informants involved in the development and implementation of the smoke-free bar law were conducted. Information was gathered from bill analyses, internal memoranda, tobacco industry documents, media articles, and press releases.

Results. The tobacco industry worked both inside the legislature and through a public relations campaign to attempt to delay implementation of the law and to encourage noncompliance once the law was in effect. Health groups were able to uphold the law by framing the law as a health and worker safety issue. The health groups were less successful in pressing the state to implement the law.

Conclusions. It is possible to enact and defend smoke-free bar laws, but doing so requires a substantial and sustained commitment by health advocates. The tobacco industry will fight this latest generation of clean indoor air laws even more aggressively than general workplace laws. (*Am J Public Health.* 2001;91:245–252)

In 1994, the California Legislature enacted the California Smoke-Free Workplace Law (Assembly Bill [AB] 13), which required indoor workplaces in California to be smoke free.[1,2] AB 13 went into effect January 1, 1995, except for the provisions governing bars, taverns, and gaming rooms; these provisions, which aimed to give bar employees the same protections as other workers, took effect on January 1, 1998. The tobacco industry claimed that making bars smoke free would devastate business, deny adults the freedom to smoke, violate the rights of business owners, and be difficult to enforce[3] (also J. Miller, interview with authors, December 4, 1998).

The tobacco industry always opposes smoke-free workplace legislation.[4–6] Except for 1 unsuccessful attempt to undermine implementation of a local clean indoor air ordinance after it passed in 1987,[7] the industry generally retreats and accepts the law after it takes effect. However, the tobacco industry went to extraordinary lengths—9 repeal attempts, an unsuccessful $18 million initiative campaign,[4] and a statewide public relations campaign—to prevent the implementation of the Smoke-Free Workplace Law in California bars. Public health groups countered with surveys and community activities to demonstrate that the personal testimonials the tobacco industry solicited did not reflect the broader public sentiment, which favored smoke-free bars. Tobacco control groups upheld smoke-free bars by expending considerable resources to mobilize public support, working in the legislature, and remaining focused on smoke-free bars as a workplace safety measure.

Methods

We interviewed representatives from voluntary health organizations, legislative offices, advocacy groups, state agencies, state contractors, interest groups, trade groups, and media observers. We obtained information from news reports, internal tobacco industry memoranda, personal correspondence, public documents, and legislative meetings. We contacted tobacco industry agency Burson-Marsteller for an interview; it deferred questions to its client, the National Smokers' Alliance (NSA), which declined to participate.

Results

Delaying Initial Implementation of the Smoke-Free Bar Provisions of AB 13

On February 23, 1996, AB 3037 was introduced to extend the bar exemption in AB 13—originally scheduled to expire on January 1, 1997—to January 1, 2000, to give the state Occupational Safety and Health Standards Board or federal Environmental Protection Agency additional time to develop a ventilation standard.[8] Neither AB 13 nor the proposed AB 3037 placed an affirmative duty on either agency to produce ventilation standards. In the more than 2 years between the passage of AB 13 in 1994 and January 1, 1997, no representatives from bars, taverns, gaming clubs, or the tobacco industry petitioned either agency to create a standard (L. Aubry Jr, memorandum to Gov. Pete Wilson, September 12, 1996).

The senate reduced AB 3037 to a 1-year extension (to January 1, 1998), and the bill passed without controversy. The health groups did not oppose the 1-year extension. John Miller, chief of staff for the Senate Health and Human Services Committee, explained why:

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"When we imposed a statewide ban on restaurants and workplaces, it was the first [such state law] in the country. Nobody really knew if it would work or not. And we did not know what the effects would be. We never anticipated what the [tobacco industry] said they were. But you need to demonstrate that. And you need to win the sympathy of the press. It took a little time for the public to get used to that idea" (J. Miller, interview with authors, December 4, 1998).

1997–1999 Attempts to Repeal Smoke-Free Bar Law

After AB 3037 passed, 8 additional bills were introduced to overturn the smoke-free bar provisions of AB 13, both before and after the law took effect.[9] Rather than the tobacco industry or its known front groups, the organizations publicly supporting the repeal laws were Tavern Owners United for Fairness, Northern California Coalition Against Prohibition, Northern California Tavern and Restaurant Association, and California Licensed Beverage Association, as well as individual bars and bowling alleys. Groups on record as opposing the repeal included the American Cancer Society, the American Lung Association, the American Heart Association, Americans for Nonsmokers' Rights, the California Medical Association, California Labor Federation (American Federation of Labor and Congress of Industrial Organizations [AFL-CIO]), the California Nurses Association, and the League of California Cities.

Two bills illustrate the key legislative battles.

AB 297. AB 297 was introduced by Assemblyman Ed Vincent (D-Inglewood) in February 1997 to amend the law relating to gaming clubs. In May 1997, Vincent inserted amendments into AB 297 written by a lobbyist[10] for Philip Morris and Hollywood Park, a casino and racetrack in Vincent's district.[11] AB 297 would have extended the exemption for bars until January 1, 2001, and required that if the federal Occupational Safety and Health Administration adopted a standard for secondhand smoke exposure, bars would have 2 years to comply.

AB 297 passed the Assembly Labor Committee in July, too late to be enacted during the current legislative session,[12] so it could not delay implementation of the smoke-free bar provisions on January 1, 1998. The bill, however, would remain alive when the legislature returned on January 5, 1998, and would provide a vehicle for tobacco industry efforts to overturn the law after it was in effect.

Senate Bill 137. In August 1997, Vincent amended Senate Bill (SB) 137, a horse-racing bill authored by Senator Ken Maddy (R-Fresno), to extend smoking in bars until January 1, 2001. SB 137 had already passed in the senate and could still be enacted during the 1997 legislative session to prevent the smoke-free bar law from going into effect. Assembly Speaker Cruz Bustamante (D-Fresno) granted SB 137 rule waivers that suspended the normal filing and hearing deadlines.[13,14] The California Occupational Safety and Health Administration was to create standards for safe levels of smoke in the bars and casinos by January 1999 or smoking would be permitted until 2001.[12] Because of the cost of developing such standards, the bill would have been sent to the Assembly Appropriations Committee, where the committee chair, a strong public health advocate who refused tobacco industry campaign contributions, opposed it.[12] To avoid this hostile committee, Vincent and Maddy removed the requirement that the state Occupational Safety and Health Administration develop ventilation standards. Bustamante then referred SB 137 to the Assembly Governmental Organization Committee, which approved it 11–2. This parliamentary maneuvering illustrates how the tobacco industry is able to use insider strategies to operate quietly through legislative leaders who control the process.[15]

Between July and September, the media reported on Maddy and Vincent's intentions to use SB 137 to delay implementation of smoke-free bars.[12,14,16] To counter the industry's insider strategies, the health groups publicized its activities. On August 28, 1997, the day SB 137 was amended into a smoke-free bar repeal law, the American Heart Association and Americans for Nonsmokers' Rights took out a full-page advertisement in the *New York Times* Western Edition headlined "Don't all workers deserve smoke-free workplaces? The law says yes. Big tobacco says no."

On August 29, the assembly passed SB 137 by a vote of 44–28. Legislators voting yes on SB 137 (pro-tobacco) received a total of $433 700 in tobacco industry campaign contributions in the period 1997 to 1998 (mean, $9857 per vote)[9]; those voting no on SB 137 (pro-health) received $1000 in tobacco industry campaign contributions in the period 1997 to 1998 (mean, $36 per vote) ($P < .001$ by Mann-Whitney test). Previous research in California,[9,17,18] other states,[15] and the US Congress[19] has shown that tobacco industry campaign contributions both influence legislators' voting patterns on tobacco issues and serve as a reward for voting favorably for the tobacco industry.

The amended bill went back to the senate for concurrence. Senate President Pro Tem Bill Lockyer (D-Hayward), who had been a strong ally of the tobacco industry,[18,20] had come to view protection of bar employees from secondhand smoke as a "worker's rights issue."[21] He referred SB 137 to the Senate Judiciary Committee to kill it.

The week before SB 137 was to be heard in the Judiciary Committee, the American Cancer Society held a widely covered press conference and took out a full-page advertisement in the *Sacramento Bee*—headlined "Can Californians Afford the Best Legislature Money Can Buy?"—lambasting the assembly and exposing the industry's manipulation of the legislative process.

The day before SB 137 was heard in the Senate Judiciary Committee, the American Heart Association, American Lung Association, American Cancer Society, and California Medical Association took out a full-page advertisement in the *Sacramento Bee* headlined "Big Tobacco Is At It Again!" The advertisment highlighted the industry's unjustified claims that the law was hurting business and costing jobs and contested the industry's claim that ventilation standards could control secondhand smoke. The advertisement also listed phone numbers of the members of the Senate Judiciary Committee and urged constituents to call. The next day, September 9, 1997, the Judiciary Committee deferred a vote on SB 137, killing it.

During the last days of the 1997 legislative session, a tobacco industry lobbyist proposed a 5-cent tax increase on cigarettes to Lockyer in exchange for legislation allowing smoking to continue in bars.[22] Lockyer refused, and California became the first state to have smoke-free bars.

AB 297 revisited. AB 297 was alive when the legislature returned on January 5, 1998, just 4 days after the smoke-free bar provisions went into force. According to American Lung Association lobbyist Paul Knepprath, "As soon as the [smoke-free bar provisions] went into effect, it changed the legislative landscape completely. Now the onus was on the tobacco industry and [its] supporters and allies to undo and repeal a law that had gone into effect, which is much more difficult than stopping something from going into effect" (P. Knepprath, interview with authors, November 23, 1998). Nevertheless, on January 28, the assembly passed AB 297 by 42–26. Those voting yes received $412 800 in tobacco industry contributions in the period 1997 to 1998 (mean, $9829), and those voting no received $1000 (mean, $38) ($P < .001$).[9]

AB 297 then moved to the senate. Lockyer had stepped down as president pro tem, and Senator John Burton (D-San Francisco), who had a strong public health record, succeeded him. Recognizing the controversy the tobacco industry's public relations campaign generated, Burton was willing to consider the alleged negative economic impact of smoke-free bars.[23] Because he viewed the law as a "worker safety issue" and not a "customer-preference issue,"[24] Burton put the burden of

proof on opponents to prove that the law was actually hurting business.[21,25,26]

Burton directed the bill to the Senate Health and Human Services Committee, chaired by anti-tobacco Senator Diane Watson (D-Los Angeles), who planned a public hearing.[21] Watson was concerned that the industry was "undermining the implementation of this public health law"[27] by urging noncompliance. Vincent wanted the hearing delayed until June, which would give the industry more time to build opposition, so he attempted to pull the bill off the voting calendar (J. Miller, interview with authors, December 4, 1998) and did not appear at the hearing in an effort to prevent a vote.[27] Watson kept AB 297 on the calendar and held the hearing.

The health advocates used the hearing as a focal point for their activities (M. Burgat, interview with authors, November 17, 1998). On March 12, 16, and 23, 1998, the health groups ran advertisements in the *Sacramento Bee*, *New York Times* Western Edition, and *La Opinion*, countering the tobacco industry's argument that AB 297 was about individual rights rather than employee protection from secondhand smoke.

On March 25, the day of the hearing, the American Cancer Society released the results of a poll conducted in February 1998 demonstrating public support for smoke-free bars[28]; 61% of voters surveyed supported the 2-month-old law. In another survey conducted for the California Department of Health Services, 61% reported that the new law had no effect on the likelihood of their visiting a bar, and 24% reported that they would be more likely to visit a smoke-free bar.[29] In addition, 75% of bar patrons who were smokers reported complying with the law when in a bar. This poll was consistent with other independent polls (Table 1) indicating public support for smoke-free bars and was used to counter widely accepted anecdotal claims of lost income and noncompliance in news reports orchestrated by the tobacco industry, mostly through the NSA, an organization created by the public relations firm Burson-Marsteller for Philip Morris.[36]

Americans for Nonsmokers' Rights linked groups such as the Northern California Bar and Tavern Association (created by the Dolphin Group, under contract with Philip Morris[37]) back to the tobacco industry or the NSA (C. Hallett, interview with authors, November 16, 1998). It also publicized Philip Morris documents disclosed during Minnesota's litigation against the tobacco industry that demonstrated that the NSA was a front group for the industry rather than an organization representing smokers.[38]

The hearing was a direct confrontation between the tobacco industry and the health groups. Bar owners, club owners, and bartenders opposing the law complained of lost business and infringement of their rights as business owners.[39] The health groups presented evidence that smoke-free workplaces were an integral part of the decline in smoking prevalence in California.[39] The president of the California Labor Federation (AFL-CIO) stated, "We believe disease and death should not be a condition of employment."[27] To put a human face on the issue, the health groups were also represented by individual bartenders, waitresses, and club owners who supported the law (M. Burgat, interview with authors, November 17, 1998; P. Knepprath, interview with authors, November 23, 1998).

AB 297 died in committee.

Putting the Economic Argument to Rest

In May 1998, the American Beverage Institute released a survey[3] of selected bar owners and managers in California that claimed a decline in business of 59.3% since January 1998, with stand-alone bars claiming a 81.3% drop.[3] Similar anecdotal claims of lost revenues have been used to fight smoke-free restaurant laws,[40–42] despite the fact that they have been repeatedly shown to be false in studies of actual restaurant[43–52] and bar[48] revenues.

Burton requested that the state Board of Equalization, California's sales tax collection agency, rapidly produce a preliminary analysis of taxable sales. On June 24, 1998, the board reported that the state's smallest 1161 establishments that serve alcohol (less than $50 000 in taxable sales per month) had a 1.06% increase in revenues in January 1998 compared with January 1997.[53] The board also found that the state's 131 smallest bars—those the industry claimed would be hurt most—showed the largest increase in business, 35% over the previous January.[53] Later, the board released data comparing January 1997 and 1998 sales for 1175 larger bars and restaurants with bars that showed a 1.07% increase in sales.[54] For the first quarter of 1998, there was a 6.0% increase in taxable sales for all eating and drinking establishments compared with 1997.[55] While the tobacco industry continued to press its economic claims in the media, the board reports ended the economic argument in the legislature.

State Efforts to Implement Smoke-Free Bars

As with other public health laws, the primary mode for implementing the Smoke-Free Workplace Law in 1995 was education, with formal enforcement actions (citations and fines) kept to a minimum. A public education campaign focusing on the dangers of secondhand smoke (the justification for the law) that started 6 months before the law took effect eased implementation and minimized the need for formal enforcement (R. Shimizu, California Department of Health Services (DHS), memo to J. Howard, D. Bal, and D. Lyman, May 27, 1997; C. Stevens, DHS, memo to M. Genest, September 30, 1997; C. Stevens, DHS, memo to L. Frost, May 23, 1997).

Refusal to use media campaign. Public health advocates were concerned that the tobacco industry would run a campaign to undercut compliance with the smoke-free bar provisions and felt it was important that the health message reach the public first. The Tobacco Control Section of the California Department of Health Services had 2 resources to undertake this task, a contract agency responsible for the implementation of the smoke-free bar provisions and a large statewide media campaign funded by the tobacco tax.[56,57] The Tobacco Education and Research Oversight Committee, the body with the legislative mandate to oversee the California Tobacco Control Program, recommended that an educational campaign begin as early as August 1997.[58]

The administration of Governor Pete Wilson (R) ignored this advice (M. Genest, memo to J. Howard and J. Stratton, May 28, 1997) and refused to implement an educational campaign on the grounds that promoting the new bar law would be considered "lobbying" against tobacco industry's efforts to overturn the law.[58,59] By October 1997, the American Heart Association and the American Cancer Society were complaining that bar patrons would be unprepared for the new provisions and that the tobacco industry would incite bar owners and patrons to violate the law.[60]

The Tobacco Education and Research Oversight Committee and public health advocates asked that, even if the administration would not allow advertisements while the legislature was in session, it at least develop and approve advertising that could air quickly after the legislature adjourned in September 1997. The administration refused (M. Genest, DHS, memo to J. Howard and J. Stratton, May 28, 1997), despite the fact that detailed advertising concepts had been presented by its advertising agency in April 1997 (A. Schafer, Asher/Gould Advertising, letter to C. Stevens, April 8, 1997). Only when legislative attempts to repeal the smoke-free bar law failed when the legislature adjourned did the administration begin working on an advertising campaign.[1] The first advertisement promoting smoke-free bars aired just 6 weeks before the law went into effect.

Supporting local agencies. By July 1996, when planning of the implementation of the smoke-free bar provisions began, 85% of California localities already had agencies designated to enforce the Smoke-Free Workplace Law because of the general workplace provisions implemented in 1995 (D. Kiser, interview with authors, November 11, 1998). In 1996, the Tobacco Control Section conducted

TABLE 1—Surveys of Popular Support of and Compliance With the California Smoke-Free Bar Law

Study Sponsor	Major Findings	Additional Findings
California Smokefree Cities[a] (March 1996)	64% agreed that bar employers had a responsibility to protect bar employees. 61% agreed that bar employers had a responsibility to protect bar patrons.	36% reported that they would be less likely to go to a bar that allowed smoking, as opposed to 11% who reported that they would be more likely to go to a bar that allowed smoking.
California Department of Health Services[b] (July 1997)	60% of bar patrons reported that they would prefer a smoke-free bar. 87% of bar patrons stated that it would make no difference *or* that they would be more likely to visit bars if they went smoke free.	75% of bar patrons reported that they did not smoke at all or did not smoke in bars. 64% of Californians had visited a bar in the past year; 11% reported being weekly bar patrons.
Los Angeles County Department of Health[c] (March 4, 1998)	85% of bar patrons were more likely to go to a smoke-free bar, or it made no difference. 70% of bar patrons reported that it was very or somewhat important to have smoke-free bars.	78% of frequent bar goers (1 or more times per week) reported that law increased or had an effect on their intent to visit bars. 61% of frequent bar goers strongly or somewhat approved of the smoking ban.
American Lung Association, Contra Costa–Solano[d] (March 11, 1998)	100% of bars in Jack London Square (Oakland) were smoke free. 96% of bars in Fisherman's Wharf (San Francisco) were smoke free.	The 2 areas are heavily patronized by tourists.
American Cancer Society, California Division[e] (March 25, 1998)	61% of voters supported the smoke-free bar law. 69% of voters were concerned about the effects of secondhand smoke on bar workers and patrons.	61% strongly agreed that the tobacco industry spent too much money on lobbying and advertising. 90% agreed that secondhand smoke is harmful to health. 75% favored a complete ban on smoking in all workplaces.
California Department of Health Services[f] (March 1998)	66% of bar patrons reported that having smoke-free bars was important. 61% reported that the law would have no effect on their likelihood of visiting a bar. 24% reported that they were more likely to visit a bar because of the new law.	33% of bar patrons reported that having smoke-free bars was not important. 14% reported that they were less likely to visit a bar because of the new law. 75% of smokers abided by the law the last time they were in a bar after January 1.
Los Angeles Times Poll[g] (May 27, 1998)	60% of respondents approved of the smoke-free bar law.	25% of smokers approved of the new law. 20% of respondents were smokers. 65% of Democrats, 57% of Republicans, and 59% of Independents supported the new law.
California Department of Health Services[h] (October 5, 1998)	65% of bar patrons approved of the smoke-free bar law. 68% reported that it was important to have a smoke-free environment inside bars.	87% went to bars more often, or did not change their behavior, after law was implemented. Since poll conducted in March, an increased number of smokers went outside to smoke (63% compared with 53% before March poll).
San Francisco Tobacco Free Project[i] (December 14, 1998)	Patrons were in compliance with AB 13 in 78.3% of San Francisco bars visited. 96.5% of restaurant bars visited in San Francisco were in compliance. 100% of hotel bars visited were in compliance.	50.6% of stand-alone bars visited were in compliance. 77.8% of nightclubs visited were in compliance. 57.9% of complying bars posted no-smoking signs. 76.5% of noncomplying bars posted no-smoking signs.

[a]Random-digit-dial telephone survey from February 7 to March 17, 1996, of 1283 adult members of California households. Sampling error is ±2.7%; sampling error with subsample of smokers (n=411) is ±4.8%. Survey was conducted by the Gallup Organization, Princeton, NJ.[30]

[b]Random-digit-dial telephone survey from July 11 to 17, 1997, of 1023 California adults 21 years or older, including 686 who were bar patrons. Sampling error is ±3.2%. Survey was conducted by the Field Research Corporation, San Francisco, Calif.[31]

[c]Random-digit-dial telephone survey in February 1998 of 455 Los Angeles County residents who had been inside a bar, nightclub, lounge, or bar attached to a restaurant after January 2, 1998, and who were 21 years or older. Sampling error is ±4.7%. Survey was conducted by Communication Sciences Group, San Francisco, Calif.[32]

[d]Site visits to 36 bars in Fisherman's Wharf, San Francisco, and 11 bars in Oakland by American Lung Association staff.[33]

[e]Random-digit-dial telephone survey in March 1998 of 600 California registered voters. Participants were 18 years or older. Sampling error is ±4.0%. Survey was conducted by Charlton Research Company, Walnut Creek, Calif.[28]

[f]Random-digit-dial telephone survey in February and March 1998 of 1001 California bar patrons, 21 years or older. A patron was defined as any adult 21 or older who reported visiting a bar, tavern, or nightclub, including one attached to a restaurant, hotel, or card club, in the last 12 months. Sampling error is ±3.2%. Survey was conducted by Field Research Corporation, San Francisco, Calif.[34]

[g]Random-digit-dial telephone survey in May 1998 of 1514 adults in California. Sampling error is ±3%. Survey was conducted by the *Los Angeles Times* Poll.

[h]Random-digit-dial telephone survey in August 1998 of 1020 bar patrons 21 years or older who in the last 12 months had visited a bar, tavern, or nightclub, including one attached to a restaurant, hotel, or card club. Sampling error is ±3%. Survey was conducted by Field Research Corporation, San Francisco, Calif.[35]

[i]Random sample of 225 bars in the city of San Francisco were generated. Each bar was initially contacted to confirm that a bar was in operation and to find out hours and location. A total of 217 bars were open and received compliance checks from 5 PM to 10 PM by consultants for the project for a 3-week period in November and December 1998.[29]

a Gallup poll to gauge public opinion on the Smoke-Free Workplace Law[28] and surveyed the county and city health departments (known as local lead agencies) to assess how to handle the transition to smoke-free bars.[61] The local lead agencies suggested various activities, including text for no-smoking signs informing people about the law, tip sheets for bar owners, bartenders, and wait staff, and enforcement suggestions.[61] In addition, by the end of 1996, 77 California communities had already implemented smoke-free bar ordinances, so the Tobacco Control Section could identify individuals who could advise state and local officials on implementation (T. Buffington, interview with authors, November 18, 1998). These efforts were less visible to political appointees within the Wilson administration and were easier for the Tobacco Control Section to complete than a media campaign.

To support the local implementation of the bar provisions, on March 1, 1997, the Tobacco Control Section awarded an American Lung Association affiliate a contract to assist the local lead agencies in implementing smoke-free bars. This project, named BREATH, allowed the Tobacco Control Section to support smoke-free bar implementation in a way that was more resistant to political interference.

In June 1997, information about the new law, answers to common questions, results from the Department of Health Services' 1997 poll showing public support for smoke-free bars (Table 1), and a letter from the department's director were sent to all 36000 bars in the state. BREATH followed with a poster mailing in late 1997 describing the new legal requirements regarding smoke-free bars, penalties for noncompliance, myths about ventilation and anticipated impacts, and public support. After the bar provisions went into effect, BREATH published 2 full-page advertisements in the *New York Times* Western Edition listing 140 well-known bars and restaurants with bars that supported the law to protect the health of their workers and customers.

The War of Perceptions

In 1994, well before implementation of the smoke-free bar provisions, Philip Morris contracted with a political public relations firm, the Dolphin Group, to develop a "California Action Plan" to "safeguard bars and taverns against the threat of a total smoking ban" and "protect and support point of sale retail/marketing strategies, visibility, and promotion."[37] Both Philip Morris and the NSA contacted bar owners and smokers through direct mail campaigns using Philip Morris's database of smokers[36,62–64] (also C. Hallett, interview with authors, November 16, 1998) to mobilize them against smoke-free bars.

Starting in February 1996, the NSA mounted a bar poster and coaster campaign, warning bar patrons, "You are being targeted," in more than 2000 bars[16] to enlist them in the campaign to postpone the phase-in of smoke-free bars (C. Hallett, interview with authors, November 16, 1998). The April 1996 NSA newsletter claimed that "California consumers now have a way to send a message to state lawmakers that they won't stand for an upcoming smoking ban that will force every bar in the state to quit serving their smoking customers."[65] Customers were asked to fill out the "action coasters" that were sent to state legislators. The NSA also took out a 4-page advertisement in the *Nation's Restaurant News* to promote the message that it wanted to help restaurateurs fight for their rights and that restaurants lose business when smoking ordinances go into effect.[38]

In December 1997 and January 1998, the NSA supplied 3000 bars with "action kits," which included a window sticker to register the bar's opinion of smoke-free bars, customer awareness posters to place in the bar, and customer action coasters that stated, "I'm a constituent, not a criminal," to be sent in NSA-provided envelopes to the bar owner's state legislator.[66] By March 1998, 4119 printed cards reached the Senate Health and Human Services Committee.[67]

The NSA, working through Burson-Marsteller, used print and electronic media to convey the impression that there were rampant public dissatisfaction with smoke-free bars and negative economic effects on small businesses (C. Hallett, interview with authors, November 16, 1998). Between January 1998 and June 1998, Burson-Marsteller issued more than 70 press releases claiming problems with the implementation of smoke-free bars.

The tobacco industry dominated early media coverage of the impact and popularity of smoke-free bars. Articles that were published the week before the smoke-free bar provisions went into effect, and until 3 months afterward, emphasized opposition to the law and claims of lost business, lost jobs, and problems with enforcement, as well as the probability that the law would be repealed[25,66,68–76] (also J. Miller, interview with authors, December 4, 1998). The Department of Health Services had tried to anticipate this argument by commissioning opinion polls in 1996 and 1997, which demonstrated that about two thirds of the population supported smoke-free bars (Table 1). These polls, however, did not have the same emotional appeal as the personal stories that the tobacco industry's media operation generated. Even so, support for smoke-free bars increased throughout 1998[34] (also C. Hallett, interview with authors, November 16, 1998).

Discussion

The tobacco industry's campaign to fight smoke-free bars in California was unprecedented in its duration and intensity and evolved over time.

The industry's initial arguments against the law centered on predictions of economic disaster and government interference with free choice. The economic argument lost steam after studies showed no effect of local smoke-free bar laws on bar revenues[48] and effectively ended after the Board of Equalization reported that bar business increased (D. Kiser, interview with authors, November 11, 1998; P. Hunting, interview with authors, December 18, 1998). The free-choice argument subsided as polling data from the state, voluntary health agencies, and the *Los Angeles Times* showed that most bar patrons supported smoke-free bars.[77] Research showing that bar workers' health improved 4 to 8 weeks after the law took effect[78] reinforced the concept of smoke-free bars as a workplace safety issue.

Throughout these battles, the industry tried to create a positive feedback loop in which smokers would be encouraged to ignore the law because it was going to be repealed, and the industry then used the noncompliance as an argument in the legislature for repeal. Although this strategy failed to get the law repealed; however, it did create compliance problems.

Although the health groups were outspent by the tobacco industry,[79] they were willing to make the implementation of smoke-free bars a priority and commit resources to defending the law (P. Knepprath, interview with authors, November 23, 1998). In addition to funds for polling and advertising, these groups used their credibility to garner public support for smoke-free bars and to counter the tobacco industry's activities, both outside and inside the legislature. Repeating the successful strategy used in other legislative battles,[1] the groups directly attacked the tobacco industry and state legislators willing to support the industry through a series of advertisements, which served as both a call to action for the public and a message to the legislature that the health groups were willing to use their public regard to hold the industry's political allies accountable. In addition, the health groups were able to attract critical support for smoke-free bars from entities outside the traditional public health community, including the California Labor Federation, the California League of Cities, and individual cities across the state (M. Burgat, interview with authors, November 17, 1998; P. Knepprath, interview with authors, November 23, 1998).

The public health groups also were aided by powerful legislators sympathetic to their cause. For years, Democrat Willie Brown, who

received more tobacco industry campaign contributions than any other legislator in the country,[18,80] used his power as speaker of the assembly to protect the tobacco industry. After Brown left the legislature in 1996, anti-tobacco senators in the Democratic Caucus convinced President Pro Tem Lockyer that the Democrats were on the wrong side of the tobacco issue, particularly since the industry was favoring Republicans in its campaign contributions (D. Watson, T. Hayden, N. Petris; memorandum to Caucus Position on Tobacco Interests; April 24, 1996). As the bar law went into effect in 1998, new President Pro Tem Burton made it clear that the only reason the senate would reconsider the smoke-free bar law was if there was a substantial negative economic impact. After the Board of Equalization results were released, repeal of the smoke-free bar provisions was a dead issue in the senate.

The health groups were not as successful in getting the Wilson administration to ensure implementation of the smoke-free bar law. Despite the recommendations of the Department of Health Services' advertising agency, the Tobacco Education and Research Oversight Committee, and the health groups, the administration delayed using the statewide media campaign to educate the public. It also refused to use the licensing power of the Department of Alcoholic Beverage Control to see that bars did not participate in the tobacco industry's efforts to encourage people to ignore the law (M. Espinoza, letter to Assemblyman Brett Granlund, December 18, 1997). As elsewhere,[81,82] the health groups were not willing to be as public or aggressive in dealing with the administration as they were with the legislature, and they enjoyed less success there.

This situation left pro-health forces limited to lower-profile implementation efforts that would not attract the attention of high-level political figures in the administration. Fortunately, they could build on the infrastructure present in California, created by its large tobacco control program[57] and through the implementation of smoke-free workplaces and restaurants in 1995. Because approximately 90% of the state's bars are part of bar–restaurant combinations[83] (also D. Kiser, interview with authors, November 11, 1998), a large majority of bar owners and managers had already implemented the Smoke-Free Workplace Law in the restaurant sections of their establishments in 1995. As a result, compliance in bar–restaurant combinations was high from the beginning (88% of local lead agencies estimated that "most," "almost all," or "all" bar–restaurant combinations in their jurisdictions were complying with AB 13 by the end of January 1998[83]) and remained high (D. Kiser, interview with authors, November 11, 1998). Virtually all the controversy and problems centered on stand-alone bars.

Why Bars?

Why did the tobacco industry fight so hard against the smoke-free bar law, particularly since the number of cigarettes smoked in bars is much smaller than the number smoked in workplaces? Part of the answer may lie in the fact that bars have become viewed as the "last bastion"[84] of socially acceptable smoking, and smoke-free bars send a strong message that smoking is not socially desirable (A. Henderson, interview with authors, February 12, 1999).

A more direct reason may have to do with marketing tobacco products. In recent years, the tobacco industry's marketing efforts directed at young children have become a political liability. As a result, the industry may be shifting at least some of its marketing efforts to young adults, where the arguments that public health advocates have mounted about smoking and children do not apply. Smoking is increasing among college-age students (aged 18–24),[85,86] and young adults (aged 21–30) represent a substantial percentage of bar patrons.[87] The industry explicitly protected bars as promotional venues in the Master Settlement Agreement that settled lawsuits that the states brought against the tobacco industry.[88]

As early as 1996, Philip Morris and RJ Reynolds started marketing efforts in bars and clubs through the Camel Club and Marlboro Days campaigns.[89–96] The Camel Club program seeks to "create an alternative marketing campaign and cigarette distribution network that will not be affected by changing federal regulations or the scores of tobacco related lawsuits."[90] KBA Marketing, the Chicago firm that runs the Camel Club program, states in its marketing material that "[b]y operating in the nightlife scene, the objective is to directly reach the trend influencers, the people who start and maintain trends. Our association with trend influencers will have a lasting impact on club goers who will begin to associate Camel with what is 'cool.'"[97] In addition to reaching these young adults, this group serves as important role models for teens. Increasing smoking among young adults also promotes teen smoking.[98]

Although there is nothing in AB 13 that prohibits these promotional activities in bars, conducting them in a smoke-free bar presumably may reduce the effectiveness of these promotional campaigns: smoke-free bars send a strong social message that smoking is no longer socially acceptable.

Lessons Learned

Don't start with bars. The smoke-free bars were phased in 3 years after all other workplaces in California went smoke free. It was beneficial to implement the Smoke-Free Workplace Law incrementally to prepare for the tobacco industry responses to the law and to conduct educational efforts targeting bar owners and workers and the public.

Don't let the tobacco industry define the issue. The industry attempted to make the fight over smoke-free bars an economic debate, framing the small business owner as the victim of this law. Instead of using public appearances to respond to the tobacco industry's message, the health groups framed AB 13 as a health and worker safety issue.

Health groups must commit resources to upholding the law. The health groups spent an estimated $200 000 to promote and uphold the law. Polling, advertising, action alerts, and lobbying all take commitment and resources. The health groups were also willing to take on not only the tobacco industry but also tobacco's political allies in the legislature.

Once the law passes, the fight has just begun. The passing of AB 13 was only the beginning of the fight over smoke-free bars. The tobacco industry will continue to seek to undermine the law, even after it is passed. Although low-level officials in the Department of Health Services sought to implement the law, they did not receive high-level political support, and this reduced the effectiveness of their efforts. The private health groups did not apply effective pressure on the administration to secure optimal implementation. Long-term success requires that public health groups work to ensure not only passage but active implementation of clean indoor air laws. □

Contributors

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Print media coverage of California's smokefree bar law

Sheryl Magzamen, Annemarie Charlesworth, Stanton A Glantz

Abstract

***Objective*—To assess the print media coverage of California's smokefree bar law in the state of California.**

***Design*—Content analysis of newspaper, trade journal, and magazine items.**

***Subjects*—Items regarding the smokefree bar law published seven months before and one year following the implementation of the smokefree bar law (June 1997 to December 1998). Items consisted of news articles (n = 446), opinion editorials (n = 31), editorials (n = 104), letters to the editor (n = 240), and cartoons (n = 10).**

***Main outcome measures*—Number and timing of publication of items, presence of tobacco industry arguments or public health arguments regarding law, positive, negative, and neutral views of opinion items published.**

***Results*—53% of items published concerning the smokefree bar law were news articles, 47% were opinion items. 45% of items regarding the smokefree bar law were published during the first month of implementation. The tobacco industry dominated coverage in most categories (economics, choice, enforcement, ventilation, legislation, individual quotes), except for categories public health used the most frequently (government role, tactics, organisational quotes). Anti-law editorials and letters to the editor were published more than pro-law editorials and letters. Region of the state, paper size, presence of local clean indoor air legislation, and voting on tobacco related ballot initiatives did not have an impact on the presence of opinion items.**

***Conclusions*—The tobacco industry succeeded in obtaining more coverage of the smokefree bar law, both in news items and opinion items. The tobacco industry used historical arguments of restricting freedom of choice and economic ramifications in fighting the smokefree bar law, while public health groups focused on the worker protection issue, and exposed tobacco industry tactics. Despite the skewed coverage, public health groups obtained adequate attention to their arguments to keep the law in effect.**

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Keywords: content analysis; politics; passive smoking; smokefree bar law; California

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The California Smokefree Workplace Law (AB 13) was implemented in public and private workplaces and restaurants on 1 January 1995, and in bars, taverns, and gaming rooms on 1 January 1998 to create the first state wide smokefree bar law.[1 2] Public health advocates were able to enact this law and defend it against tobacco industry efforts to repeal it, in part by engaging the public through the media and using this public pressure to influence the state legislature.[2–9] The media served as a vehicle for dissemination of information concerning the law, provided the general public and key decision makers with a sense of progress in implementing the law, and served as the primary public forum for the debate about the efficacy, necessity, and impact of the law.

The media plays two primary roles in the policy making process: to inform the public of pertinent issues at the time, and to shape public thought about these issues.[10–12] Framing is the process by which groups of facts are packaged to create a story through images and symbols, use of selected spokespersons or organisations for information or opinions, specific language, and the amount of attention devoted to the issue.[11] In debates over clean indoor air laws, tobacco control advocates frame the issue in terms of the need to insure public safety (protecting people from secondhand smoke[9]) and the low credibility of the tobacco industry.[11] The tobacco industry frames the issue as restrictions on adult freedom of choice, economical damage to bars, and unnecessary government interference.[13 14]

Both public health advocates and the tobacco industry sought to influence the coverage of the smokefree bar law. Tobacco control advocates, including voluntary health organisations and local health departments, held press conferences, released polls showing public support for the law, and used grassroots networks to write letters and visit editorial boards.[5] The tobacco industry primarily worked through the National Smokers Alliance, which the public relations firm Burson Marsteller created for Philip Morris tobacco company.[15 16] In addition, Burson Marsteller issued over 70 press releases over a six month period of time (approximately one every three days) over PR Newswire, a pay-for subscriber media service.[5]

This study analyses the print media coverage of the California Smokefree bar law, from seven months before and one year after the implementation of the law. We assess what was stated and reported in the print media about the smokefree bar law, who provided the information for the

Table 1 Smokefree bar law media framing categories

Theme	*Tobacco industry frame*	*Health groups frame*
Economic	Hurts business Decreasing revenues and tips	No negative effects/good for business Usual adjustment period
Choice	Smokers' rights Adult choice	Non-smokers' rights Public supports the law
Enforcement	Inconsistent/no enforcement	Enforcement is going well/being worked out
Government role	Government interference	Government role to protect employees
Ventilation	Need to create state standards	No standards would be sufficient
Legislation	Bills to repeal or delay law	Attempts to uphold law
Tactics	Attack academic/economic studies	Attacking tobacco industry credibility
Civil disobedience	Purposefully disobeying law	–
Patron habits	Drinking and smoking go together	–
Workplace hazards	Employees should accept workplace hazards	Employees should not be subject to workplace hazards

news articles, editorials, and letters covering the law, and how these two factors changed over time.

Methods

We obtained all print media items (news articles, letters to the editor, editorials, opinion editorials (op-eds), and cartoons) that appeared in California publications (daily and weekly newspapers, magazines, and trade publications) related to the smokefree bar law from Burrelle's Information Services. Burrelle's collects all print media items relating to smoking and tobacco in California publications for the public relations firm Rogers and Associates (which is under contract with the California Department of Health Services) using the search terms "tobacco" "cigarettes" and "smoking." Burrelle's estimates that they capture at least of 85% of items related to the search criteria,[17] so we considered the items captured to be the entire population of print news coverage, rather than a sample.

Rogers and Associates provided us with the items related to bar, tavern, and gaming rooms: 446 news articles, 240 letters to the editor, 31 op-eds, 104 editorials, and 10 political cartoons. Our population contains items that appeared beginning in June 1997, when Rogers and Associates created a separate category for coverage of smokefree bars, through 31 December 1998, a year after the law went in to effect. Items that appeared on various news services (UPI, AP, PR Newswire) that were not published in a newspaper or trade journal were excluded, since the information was not available to the general public.

All items were classified into one of five categories (news article, editorial, op-ed, letter to the editor, or cartoon). Each item was coded by author, date of publication, type of newspaper or publication (daily, weekly, monthly), and publication title. We used the Gale Directory of Publications and Broadcast Media[18] to identify the city of publication and circulation of the newspaper. When we encountered a publication that did not appear in the Gale Directory (that is, trade journals and weekly papers), we contacted the publisher for the city of publication, frequency of publication, and circulation. We coded the publications by geographic regions using pre- 1 November 1997 telephone area codes of the city of publication to give us six regions.

Items that appeared in different editions of a single newspaper (for example, the San Diego County *North County Times* publishes six local versions of the paper) were counted as one item. When the copy provided by the clipping service was incomplete, we contacted the publisher, and searched the microfilm archives at the University California, Berkeley, and the internet for the full item. There were only four instances in which we failed to find the full item; these were excluded from our analysis.

We used previous research on the political battle over the smokefree bar law[5] to identify the major arguments for and against the law, together with previous work by Menashe and Siegel[13] and by Cardador and colleagues[14] to design a coding scheme to classify arguments for and against the law (table 1). We analysed each item for the presence of these arguments, and counted the amount of distinct arguments that appeared in each item, allowing us to quantify the frequency of the appearance of these arguments for all of the items in the analysis. If an argument was present more than once in an item, it received only one "present" code. Opinion items were additionally scored as "pro-law", "anti-law", or "neutral". We did not score news articles in this manner.

Aside from the themes, we also included categories for groups or individuals cited in the items. The anti-law organisational quotes category included cigarette manufacturers, the National Smokers Alliance, and restaurant/tavern associations. Anti-law individual quotes included bar patrons, employees, employers, politicians, and enforcement officials. The pro-law organisational quotes category included voluntary health organisations, state and local health departments, local enforcement agencies, academic institutions, and unions. The pro-law individual quotes category included patrons, employees, employers, and politicians supporting the law.

The items were coded by two individuals (SM and AMC). To test for consistency, both coders evaluated the same 47 items, selected using a table of random digits. The median agreement (both raters coding a category present or both coding it absent[19]) for the 22 categories between the two raters was 93% (range 81–100%; interquartile range 84–94%). The median value of κ was 0.74 (range 0.47–1.00; interquartile range 0.63–0.84), excluding three categories in which κ was 0 because of a very small number (< 5) of positive results. (The per cent agreement for these three categories was 92%, 92%, and 92%.)

We wanted to examine whether items that appeared in newspapers were related to the tobacco control sentiment of the communities and regions that they served. We utilised the circulation of the newspaper to approximate the exposure to an argument published in an opinion item, and coded the newspapers by city of publication. We were then able to measure the tobacco control sentiment of each city

Table 2 Distribution of opinion items on California's smokefree bar law

Type of item	*Support*	*Oppose*	*Neutral*	*Total*
Editorial	41 (39%)	49 (47%)	14 (14%)	104 (100%)
Opinion editorial	17 (55%)	13 (42%)	1 (3%)	31 (100%)
Letter to the editor	96 (40%)	122 (51%)	22 (9%)	240 (100%)
Cartoon			10 (0.1%)	10 (100%)
Total	154 (41%)	181 (49%)	37 (10%)	375 (100%)

by two proxies: presence of a local clean indoor air law, and voting records on a state wide proposition concerning clean indoor air regulations.

To assess whether the existence of a local clean indoor air law before implementation of the state smokefree bar law was associated with coverage of the issue, we examined opinion items (editorials, letters to the editor, and op-eds) published in a specific locality as a function of whether the locality had implemented a general clean indoor air law or a smokefree restaurant law as of 1 January 1995, (when the state Smokefree Workplace Law, was implemented) using the Americans for Nonsmokers' Rights local ordinance database. (Twenty communities had smokefree bar laws in place as of that date, but this number was too small to support meaningful analysis of any possible effect on media coverage of the debate over the state law.) We did a similar analysis based on how the locality voted three years earlier on proposition 188, a 1994 initiative sponsored by Philip Morris to repeal the smokefree bar law and pre-empt all local tobacco control ordinances in California.[2 3] (The vote on proposition 188 provided a direct measure of public sentiment on the issues raised later in the public debate over the implementation of the smokefree bar law.) Public health advocates defeated proposition 188 in all counties in California. We ranked the 112 localities that had opinion items present in its newspapers by margin of defeat, then divided the localities into quartiles (measured by margin of defeat of proposition 188) to assess if there was an association between the tobacco control sentiment and arguments subsequently presented in local newspapers.

All results were tabulated using SPSS 8.0. To assess the number of media impressions (item frequency times publication circulation) for each item, we multiplied the circulation of each publication times the frequency of items using the "weight" function in SPSS. Since we consider the collection of items a census of the population rather than a sample, we did not compute any hypothesis tests or p values.

Results

We collected and classified 831 unique items (news articles, editorials, letters to the editor, op-eds, and cartoons) covering the smokefree bar law: 93% appeared in daily newspapers, 4% in weekly papers, and 3% in monthly publications; 14% of the items appeared in the Sunday newspaper, which is the highest readership day for newspapers,[20] about 1/7 of all the items; 3% of the items appeared in trade or professional journals; 19% of the news articles appeared on the front page, the most frequently read page of the newspaper, indicating that the issue of smokefree bars was considered an important topic.

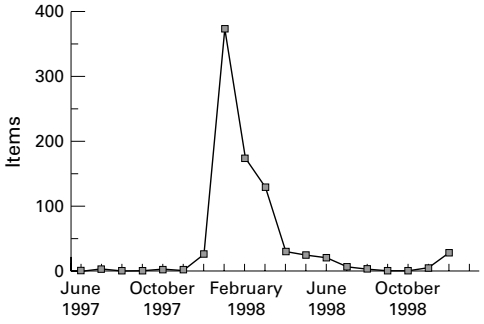


Figure 1 Items present in California newspapers and print publications reached a high in January 1998, the month the smokefree bar law went into effect. After the state Senate voted to uphold the law in March 1998, coverage of the smokefree law dropped to pre-implementation levels, and only increased slightly again when the law was reaching its one year mark in December 1998.

CLASSIFICATION OF ITEMS

News articles constituted the largest category of items (446/831, 54%). Opinion items included 104 editorials (13%), 31 op-eds (4%), 240 letters to the editor (29%), and 10 cartoons (0.1%). Most editorials and letters to the editor opposed the law, whereas op-eds tended to support the law (table 2).

TIMING

Appearance of items about the smokefree bar law was minimal throughout 1997, slightly increased in December 1998, the month before implementation, and reached a peak in January 1998, the first month of implementation (fig 1), when 41% of all items written about the law appeared. Presence of items about the law remained high for the following two months, and dropped precipitously by April 1998. Coverage continued to decrease throughout the year until December 1998, when there was a slight increase, reflecting stories reviewing the first year that the law was in force.

The frequency of news articles followed the general pattern of frequency of all items. The frequency of opinion items followed different patterns. Opinion items supporting the law started to appear in July 1997, before opinion items opposing the law, which started to appear in December 1997, and peaked in January 1998. Pro-law editorials, letters to the editor, and op-eds reached highest frequency in January 1998, February 1998, and March 1998, respectively.

The timing of the arguments in the individual categories (table 1) followed the general pattern of frequency of all items in fig 1 except in two cases. The tobacco industry's arguments that the law would be difficult or impossible to enforce peaked in December 1997, before the law went into effect, whereas general coverage peaked in January 1998, the month the law went into effect. The public health arguments criticising legislators for attempting to repeal the law[5] reached its highest point in February 1998, after the California assembly voted to repeal the law, and before

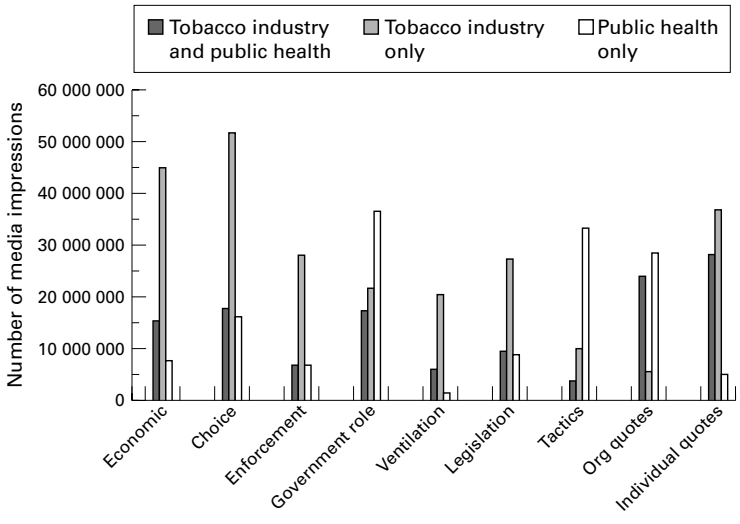


Figure 2 The tobacco industry viewpoint dominated coverage of the smokefree bar law in six of the nine argument categories. Public health dominated in the government role category, the tactics category (discrediting the tobacco industry), and organisational (org) quotes. Both viewpoints had different groups representing their stance on the issue: public health viewpoints were largely represented by organisations, and the tobacco industry viewpoint was represented by individual quotes.

the senate held a hearing that killed the repeal attempt and upheld the law.

ARGUMENTS

Figure 2 shows the number of media impressions that presented public health or tobacco industry arguments. The argument used most frequently by the tobacco industry was choice (freedom of choice, smokers rights, adult decision), followed by economics (bar law would hurt business), and enforcement (law was difficult to enforce). The argument used least often by tobacco industry was attacks on academic studies (studies about secondhand smoke, economics, or the bodies that performed these studies).

The arguments used most frequently by the public health groups differed from the tobacco industry's most frequent arguments. The most frequent public health argument was government role (government needs to protect workers from secondhand smoke). The second most used argument was attacking the tobacco industry's credibility (linking industry activity opposing the smokefree bar law to the industry's general pattern of disinformation). The third category of arguments by public health groups was choice (non-smokers rights and the majority of Californians supporting the smokefree bar law). Public health groups used the ventilation argument the least (countering tobacco industry claims that ventilation systems installed in bars would be adequate to protect workers from secondhand smoke).

BALANCE OF COVERAGE

Figure 2 also shows the balance of coverage. The tobacco industry perspective was represented more heavily in six of the nine categories (economics, choice/rights, enforcement, legislation, ventilation, and individual quotes). The public health perspective only lead the coverage in three categories (government role, and attacking credibility of the opposition, and organizational quotes).

REPRESENTATIVE VOICES

Public health dominated the organisational quotes. Organisational quotes were from voluntary organisations, academics and researchers, the state Department of Health Services, local health coalitions, departments of public health, and enforcement agencies. Tobacco industry organisations represented were infrequently cigarette manufacturers, but were more often bar/tavern alliances (both directly affiliated with the tobacco industry and not directly affiliated), the National Smokers' Alliance, and enforcement agencies that were not intending to enforce the law.

Individual quotes were skewed towards repealing the law. In 60% of the news articles that had individual quotes present, there were only quotes from individuals critical of the law; 31% of the news articles with individual quotes had quotes from both a pro-law, and a pro-repeal perspective, while only 9% of the news articles with quotes had quotes from only a pro-law perspective.

IMPACT OF NEWSPAPER SIZE

We assessed newspaper size using the Newspaper Association of America's circulation categories[20]: under 50 000, 50 001–100 000, 100 001–250,000, and over 250 000. Six newspapers (*Los Angeles Times*, *San Diego Union-Tribune*, *Orange County Register*, *San Jose Mercury-News*, *San Francisco Chronicle*, *Sacramento Bee*) in the six largest media markets (Los Angeles, San Diego, Orange County, San Jose, San Francisco, Sacramento) in the state had circulations exceeding 250 000.

The largest number of items appeared in the small papers (under 50 000 circulation) (311). However, on a per paper basis, the smaller papers had 2.5 smokefree bar law items per paper, while the large newspapers (over 250 000 circulation) had 16.2 smokefree bar law items per newspaper. The larger newspapers covered the debate over the smokefree bar law more intensively than the small newspapers.

There was not a consistent pattern in opinion articles with regards to newspaper size. All newspaper sizes had more anti-law editorials than pro-law editorials, except for large (100 001–250 000) newspapers (five pro-law, two anti-law editorials). The smallest (under 50 000 circulation) and largest (over 250 000 circulation) newspapers ran editorials about two to one against the law (32/55, 58% and 12/18, 66%, respectively).

In every newspaper size category, there were more letters to the editor published opposing the law (119) than supporting it (96). Midsize papers (50 000–100 000 circulation) had the greatest number of pro-law letters to the editor (29), but also the greatest number of anti-law letters to the editor (38).

PROXIES FOR TOBACCO CONTROL SENTIMENT

We wanted to assess whether the presence of an existing local tobacco control ordinance was related to opinions reflected in local print media coverage, measured by the number of media impressions (defined by the number of

opinion items in a paper, multiplied by the circulation of the paper for all papers published in the same locality) for each locality. We divided general workplace (not including restaurants) local clean indoor air laws into three categories: no law or only public/government places, which would constitute a weak law; law present, not 100% smokefree, which meant that there were exceptions to the law, and would constitute the middle ground; 100% smokefree, which is a strong law. Regardless of the presence or strength of the local clean indoor air law, there were more opinion items published against the law than for the law (fig 3A). The largest disparity was in localities with 100% smokefree workplace laws.

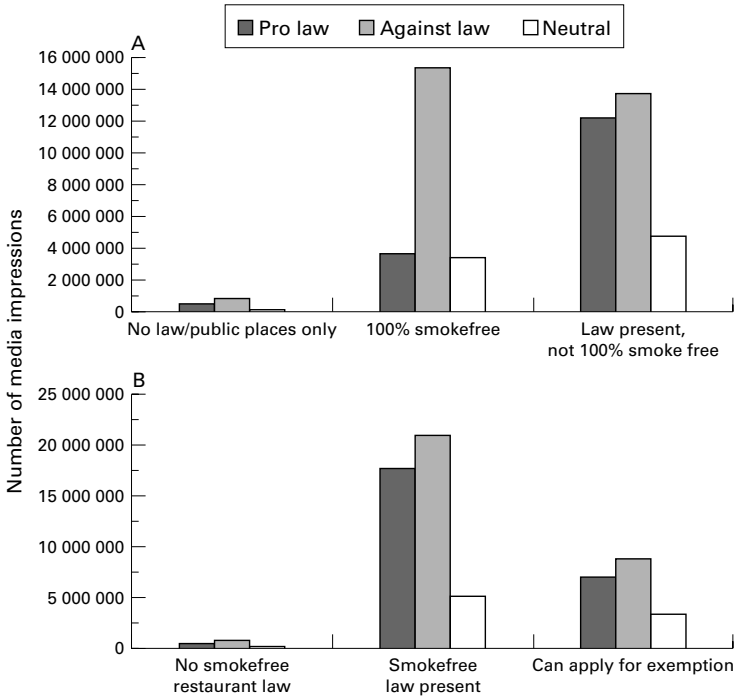


Figure 3 (A) Despite the local smokefree workplace laws present, communities with 100% smokefree workplace laws had more opinion items against the smokefree bar law than supporting the law. Communities with no law/public places law or a smokefree workplace law that was not 100% smokefree also had more opinion items against the law. (B) For restaurants, communities with 100% smokefree restaurant laws had the most opinion items, but again, there were more items against the law than pro-law. Communities with no laws or with exemptions followed a similar pattern.

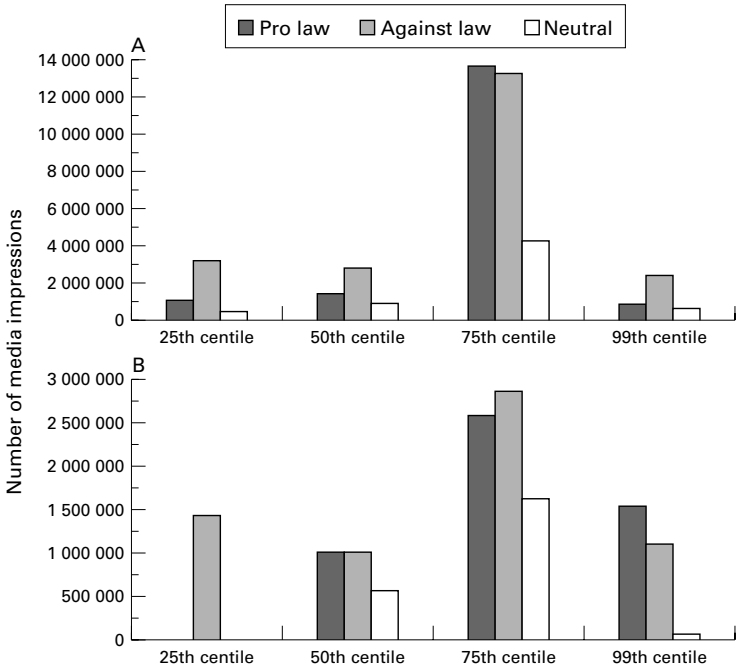


Figure 4 There was no systematic relation between community sentiment against the tobacco industry, as expressed in the vote against Proposition 188, and opinion items related to the smokefree bar law. (A) Communities in the 75th centile regarding percentage of the community voting against Proposition 188 in 1994 was the only group to have more pro-law letters to the editor as opposed to against law. (B) This pattern changed for editorials where only communities in the 99th centile had more editorials present in community papers that were pro-law rather than against law.

Local clean indoor air laws dealing with restaurants were divided into three categories: no law, laws in which restaurants can apply for an exemption, representing the middle ground, and smokefree laws with no exemptions (strong law). As with general clean indoor air laws, more opinion items were published opposing the state smokefree bar law than supporting it, independent of the presence and strength of an existing local smokefree restaurant law (fig 3B). Thus, the community support that presumably existed in order to pass the local clean indoor air law did not seem to affect media presentation of local opinions on the state law.

We also assessed local tobacco control sentiment by examining the percentage of each locality voting against Proposition 188.[21] We compared the number of pro-law, anti-law, and neutral media impressions from publication of letters to the editor and editorials on the smokefree bar law to the quartile of the localities' vote against Proposition 188 (with higher quartiles indicating stronger anti-tobacco sentiment). There was no systematic pattern between the local vote and letters to the editor and op-eds (fig 4A) or editorials (fig 4B) on the smokefree bar law, with most published opinion items opposing the law. However, it was interesting to note that for the localities in the lowest quartile of voting against Proposition 188, only negative editorials were present in the newspapers that served those communities.

Discussion

Despite strong public support for the smokefree bar law as evidenced in several public opinion polls[5] and the resounding defeat of Proposition 188 a few years earlier, the tobacco industry claims dominated the print media coverage of the smokefree bar law. Nevertheless, public health advocates were able to convey the purpose of the law and their messages sufficiently to keep the smokefree bar law intact.

The tobacco industry used its usual arguments[2] that the implementation of the smokefree bar would not work, restricted smokers' rights and freedom of choice, would have negative economic impacts on bars, and would not be enforceable. News articles used quotes from bartenders, bar owners, and individuals in bars to oppose the law. The tobacco industry also introduced a non-traditional category, called patron habits. Individuals were quoted as saying "Drinking and smoking just go together" and perpetuating the idea that it

does not want public health forces to change the accepted cultural norm. Coverage of the smokefree bar law was dominated by tobacco industry issues. In no argument category did balanced coverage predominate.

To disseminate their message, the tobacco industry used public relations firm Burson Marsteller to create press releases for the media and legislators, organise press conferences featuring bar owners opposed to the law, and disseminate information through its National Smokers Alliance.[5 16] Public health groups did not have the extensive media resources that the tobacco industry did to generate coverage, but were often sought out by newspapers for quotes and information, and wrote op-eds and letters to the editor in support of the smokefree bar law. While the tobacco industry received more favourable coverage overall, public health groups were also a substantial presence in the public debate.

Public health groups stuck to the message that the purpose of the law was to protect the health and safety of bar workers in California and the need to provide bar employees the same protection every other worker in the state enjoyed.[5] Public health groups were also able to refute tobacco industry claims of economic hardship and freedom of choice by utilising public opinion surveys, published research, both economic and scientific, as well as citing the success of the state smokefree workplace law in general workplaces and restaurants since those provisions went in to force in 1995.

In addition, examining the frequency that items appeared in newspapers regarding the smokefree bar law, there was an immediate decline in items published shortly after the law was in effect, and the state legislature decided to table a major repeal effort and uphold the law. Although the tobacco industry claimed that the smokefree bar law would cause undue financial hardship to bars, be difficult to enforce, and strip adults of their freedom of choice, it seemed that there was a short adjustment period to the new law, after which the public accepted the change in the bar environment around the state.

Our study did not include advertisements that appeared in the print media. The tobacco industry publishes advertisements promoting smoking and bar promotions and the tobacco control groups published a series of opinion leader advertisements in newspapers likely to be read by opinion leaders (*Sacramento Bee* and the *New York Times* Western Edition) that called attention to the tobacco industry's attempts to repeal the law and calling on members of the legislature to uphold the law.[5] These advertisements may have an impact on the public and legislative perception of the smokefree bar law.

Opinion pieces published in the newspapers did not match public sentiment regarding smokefree bar law. Polling by the state Department of Health Service, the American Cancer Society, and the *Los Angeles Times*[22–27] all reflected high public support for the law. The disparity in this situation could be the result of editorial bias, or simply reflect the view that it was better "news" to report on people who were unhappy about the new smokefree bar regulations. In the future, the tobacco control community can identify individual advocates and proponents of these laws who can act as media spokespersons to give the public the impression that clean indoor air laws have broad based public support.

One might think that a community organising around a previously passed local clean indoor air law would increase acceptance of the state law. This situation did not turn out to be the case: There was not a relationship between opinion items and previous experience with clean indoor air ordinances, region of the state, or voting on tobacco control ballot initiatives. There are several plausible explanations for this situation. First, the tobacco industry public relations effort to mobilise opposition to the smokefree bar law was the most visible aspect of the opinion items that appeared in newspapers around the state. Secondly, although public opinion polling demonstrated that the public supported the smokefree bar law, relatively few people felt moved to write and express this opinion. It is possible that health groups did

What this paper adds

While there have been several studies of media coverage of debates before passage of tobacco control legislation, no one has studied the public debate after the law goes into effect. This paper assesses California newspaper coverage of the state smokefree bar law during the seven months before, and one year following, the implementation of the law in January 1998. The analysis considered the number of items, trends in their timing, prevalence of different frames in the items, and correlation between anti- and pro-law frames and level of local support for clean indoor air legislation. While anti-law arguments predominated in the media coverage, the level of pro-law arguments was high enough to sustain public and policy maker support for the law, which remains in effect.

This is the first article that analyses newspaper coverage of a tobacco control policy following implementation of that policy in order to provide feedback to public health practitioners on how well the policy is being supported in the media. California's smokefree bar law is so progressive that its success will likely determine the success of similar efforts throughout the USA. If not successfully implemented (and especially if overturned), the California experience might deter other states from taking similar action. In contrast, if successfully implemented (and not overturned), the California experience could provide strong support for other states to adopt similar policies. Understanding the way in which the law's implementation is covered in the print media provides important lessons for public health practitioners.

not invest the same resources in generating letters to the editor and editorials with the same vigour as the tobacco industry did in generating opinion pieces in opposition to the law. Finally, the public considered the issue of smokefree public places settled with the defeat of Proposition 188, and felt the law was secure.

Several of the larger newspapers in California have staff writers and reporters that have covered tobacco control issues for some time, particularly the California Tobacco Control Program, and so have reporters who have developed expertise in tobacco issues. Smaller newspapers often rely on wire services or the larger newspapers for national stories, and reporters are more likely concerned with community events or occurrences. It did not appear that there was a systematic difference between news or opinion coverage in the large newspapers (*Los Angeles Times*, *Sacramento Bee*, *San Diego Union-Tribune*, *Orange County Register*, *San Jose Mercury-News*, *San Francisco Chronicle*) who had reporters who regularly covered tobacco compared to the smaller local newspapers.

The tobacco industry's public relations effort was successful in generating media coverage sympathetic to the tobacco industry's position on the smokefree bar law. Nevertheless, public health advocates were able to achieve enough coverage to prevent the law from being weakened or repealed.

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The Effect of Ordinances Requiring Smoke-Free Restaurants and Bars on Revenues: A Follow-Up

Stanton A. Glantz, PhD, and Lisa R. A. Smith

ABSTRACT

Objectives. The purpose of this study was to extend an earlier evaluation of the economic effects of ordinances requiring smoke-free restaurants and bars.

Methods. Sales tax data for 15 cities with smoke-free restaurant ordinances, 5 cities and 2 counties with smoke-free bar ordinances, and matched comparison locations were analyzed by multiple regression, including time and a dummy variable for the ordinance.

Results. Ordinances had no significant effect on the fraction of total retail sales that went to eating and drinking places or on the ratio between sales in communities with ordinances and sales in comparison communities. Ordinances requiring smoke-free bars had no significant effect on the fraction of revenues going to eating and drinking places that serve all types of liquor.

Conclusions. Smoke-free ordinances do not adversely affect either restaurant or bar sales. (*Am J Public Health.* 1997;87:1687–1693)

Introduction

By March 1997, more than 150 communities in the United States had eliminated smoking in public places and workplaces.[1] California law now requires that all restaurants be smoke-free and that all bars become smoke-free on January 1, 1998.[2] In 1994, using sales tax data, we evaluated the effects of ordinances requiring smoke-free restaurants on restaurant revenues in the first 15 US cities that had passed ordinances prohibiting smoking in the enclosed areas of restaurants (not necessarily including bar areas).[3] We found that restaurant revenues were not affected, and subsequent studies confirmed this result.[4–8] The tobacco industry and its front groups continue to claim that these ordinances create severe economic problems for restaurants and bars.[9–11] We have added 3 more years of data (through the second quarter of 1996) for the original 15 cities (Table 1) as well as data for the first 5 cities and 2 counties to require bars to be smoke-free (Table 2).

Methods

We conducted two sets of analyses: (1) an analysis of the effects of smoke-free restaurant ordinances on restaurant revenues, and (2) an analysis of the effects of smoke-free bar ordinances on bar revenues.

As before, we obtained data on taxable restaurant sales and total retail sales[12,13] for communities that had smoke-free restaurant ordinances in force as well as for comparison cities (matched on population, income, smoking prevalence, and geographic location) that provided less than 60% of seating for nonsmokers (Table 1; Point Arena is the comparison city for Ross, because Tiburon, the comparison city in our earlier study, passed a smoke-free ordinance). Analysis of the restaurants in California comparison cities could not go beyond December 1994, after which a state law required all restaurants to be smoke-free.[2] All comparison cities were selected before the statistical analysis was performed.

In the study of smoke-free bar ordinances, all communities with ordinances that clearly identified bars as smoke-free and that had been in effect long enough for us to obtain 1 year of sales tax data were included. For the five cities that require bars to be smoke-free, sales tax data were obtained from the Research and Statistics Division of the California Board of Equalization for 1991 through 1995. Data for the two counties with smoke-free bar ordinances, published in quarterly reports,[12] were available from 1986 through 1996. So that we could examine effects on eating and drinking establishments that sell all types of liquor, we gathered sales tax data separately for eating places serving no alcoholic beverages (category 24), those serving beer and wine (category 35), and those serving all types of liquor (category 36). Detailed breakdowns of revenues by category number are available only for 1991 and later years; the Board of Equalization had disposed of the detailed data from earlier years. For San Luis Obispo, however, we have these data from an earlier study.[14] No comparison city is available for San Luis Obispo because its ordinance went into effect in August 1990. Data were also obtained for comparison communities without smoke-free bar ordinances (Table 2).

The analysis was conducted as before. Briefly, we computed (1) the fraction of total retail sales at restaurants and (2) the ratio of restaurant sales in cities with ordinances to restaurant sales in comparable cities without ordinances. The linear regression analysis included time; a dummy variable, L, that indicated whether

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TABLE 1—Profile of Smoke-Free Restaurant and Comparison Cities

Smoke-Free City and Matched Comparison City	1989 Population[a]	Location[b]	Type of Smoking Restriction[c]	1989 Median Household Income[a]	% of Smokers[d]	Date Ordinance in Effect	No. Months in Effect[e]
Aspen, Colo	5 049	O	100%	37 467	23.5	8/85	119
Vail, Colo	3 659	O	Some	41 211	23.5		
Auburn, Calif	10 592	O	100%	37 272	24.1	4/91	63
Oroville, Calif	11 960	O	Some	16 614	23.6		
Beverly Hills, Calif	31 971	I	100%	54 348	21.8	4/87–7/87	4
Santa Monica, Calif	86 905	I	Some	35 997	21.8		
Bellflower, Calif	61 815	I	100%	32 711	21.8	3/91–6/92	16
Lakewood, Calif	73 000	I	Some	44 700	21.8		
El Cerrito, Calif	22 869	I	100%	39 538	22.9	11/91	56
San Pablo, Calif	25 158	I	Some	25 479	22.9		
Lodi, Calif	51 874	I	100%	30 739	24.1	12/90	67
Merced, Calif	56 216	I	Some	24 727	25.1		
Martinez, Calif	32 038	I	100%	45 964	22.0	3/92	52
Pleasant Hill, Calif	31 585	I	Some	46 885	22.0		
Palo Alto, Calif	55 544	I	100%	55 333	19.7	9/92	46
Mountain View, Calif	67 460	I	Some	42 431	19.7		
Paradise, Calif	25 408	O	100%	22 954	23.6	8/91	59
Red Bluff, Calif	12 363	O	None	19 474	23.6		
Roseville, Calif	44 685	I	100%	39 975	24.1	10/91	57
Chico, Calif	40 076	I	Some	19 005	23.6		
Ross, Calif	2 180	I	100%	84 414	21.6	1/90	78
Pt. Arena, Calif	428	R	None	21 250	23.6		
Sacramento, Calif	369 365	I	100%	28 183	25.2	5/92	50
Fresno, Calif	354 202	I	Some	24 923	25.1		
San Luis Obispo, Calif	41 958	I	100%	25 982	18.9	8/90	71
Santa Maria, Calif	61 284	I	Some	29 492	18.9		
Snowmass, Colo	1 426	R	100%	39 107	23.5	5/89	87
Breckenridge, Colo	1 285	R	None	33 259	23.5		
Telluride, Colo	1 292	R	100%	31 968	23.5	4/88	99
Steamboat Springs, Colo	6 695	O	None	29 363	23.5		

[a]Data are from US Census Bureau.[21]
[b]O = outside urban area; I = inside urban area; R = rural, nonfarm area.
[c]"Some" refers to no more than 60% seating area for nonsmokers.
[d]Data are from Pierce et al.[22] (California) and Centers for Disease Control[23] (Colorado).
[e]Number of months for which data were available for this study.

or not a smoke-free restaurant law was in force; and, for Colorado, a dummy variable for the winter tourist season. The regression coefficient b_L quantifies the magnitude of the effect of the ordinance. In addition to analyzing data for each city separately, we pooled all data on restaurant sales as a percentage of total retail sales for all 15 cities with ordinances for the entire year in a single analysis, including dummy variables to allow for between-city differences.

For analysis of the smoke-free bar ordinances, in addition to the analyses just described, we evaluated sales for eating and drinking establishments with liquor licenses (category 36) as a fraction of all retail sales and as a fraction of all sales by eating and drinking establishments, using the same procedures just described, by computing

$$\frac{\text{Bar Sales}}{\text{Total Eating and Drinking Places Sales}}$$

In a few cases, the residuals showed evidence of a positive serial correlation (evidenced by a statistically significant Durbin-Watson statistic). The residual plots suggested a long-term nonlinear relationship that may have reflected the business cycle in California, which was strong near the beginning and end of our study period and in recession in the middle of the study period (early 1990s). We reanalyzed the data, including a quadratic term in time (after centering the time variable to reduce the structural multicollinearity[15]). $P < .05$ is considered statistically significant.

Results

Table 3 summarizes the results for total restaurant sales as a fraction of all retail sales and for the ratio between total restaurant sales in cities with ordinances and sales in the matched comparison cities. The first column in the table is the mean value observed over the study period.

Smoke-free ordinances generally had no statistically significant effect, either on the fraction of total retail sales that went to

TABLE 2—Profile of Smoke-Free Bar and Comparison Cities and Counties, California

Smoke-Free City or County and Comparison City or County	1989 Population[a]	Location[b]	Type of Smoking Restriction[c]	1989 Median Household Income[a]	% of Smokers[d]	Date Ordinance in Effect	No. Months in Effect[e]
Anderson[f]	8 299	O	100%	22 321	23.6	2/93	35
Red Bluff	12 363	O	None	19 474			
Davis	46 209	I	100%	29 044	23.6	3/93	33
Chico	40 079	I	None	19 005			
Redding	66 462	I	100%	25 828	23.6	2/93	35
Healdsburg	60 471	I	None	33 712			
San Luis Obispo	41 958	I	100%	41 676	18.9	8/90	65
(None available)							
Shasta County	72 275	R	100%	25 581	23.6	2/93	30
Butte County	98 625	R	None	22 776			
Santa Clara County	106 183	I	100%	48 115	19.7	2/94	42
Alameda County	119 882	I	None	37 544			
Tiburon	7 532	I	100%	75 864	21.7	11/93	25
Sausalito	7 152	I	None	60 471			

[a]Data are from US Census Bureau.[21]
[b]O = outside urban area; I = inside urban area; R = rural, nonfarm area.
[c]"None" refers to localities in which bars are specifically exempted from or not mentioned in any existing ordinance.
[d]Data are from Pierce et al.[22]
[e]Number of months for which data were available for this study.
[f]County ordinance is enforced in city.

restaurants or on the ratio between sales in smoke-free cities and sales in comparison cities (Table 3 and Figure 1). The linear model indicates that the fraction of total retail sales that went to restaurants increased in two cities (Bellflower and Martinez) and decreased in two cities (Paradise and Roseville). Restaurant sales relative to sales in the comparison city increased in one city (Palo Alto) and decreased in another (Paradise). These results are similar to those we previously reported.[3] The nonlinear model produced similar estimates for the ordinance effects; two cities showed an increase and one a significant decrease in terms of restaurant revenues as a fraction of retail sales, and one city showed a significant increase in terms of the ratio between its sales and those of its comparison city (Table 3). Analysis of all the data in pooled regressions did not result in significant changes when either model was used.

The results of the analysis of the bar data appear in Table 4 and Figure 2. The linear model indicates that there were no significant effects of the smoke-free ordinances on bar sales as a fraction of total retail sales, on the ratio between bar sales in cities with ordinances and sales in comparison cities, or on the fraction of all eating and drinking place revenues reported by establishments that sell all types of liquor (category 36). The nonlinear model indicated that there was one significant drop in sales (in Davis relative to its comparison city). Analysis of all the data in pooled regressions did not result in significant changes in any variable when either model was used.

The nonlinear model resolved the few statistically significant serial correlations we observed, but it had little effect on the estimates of the ordinance effects. This result suggests that the estimates of the ordinance effects are not artifacts of the model specification. The lack of consistent response suggests that the few statistically significant changes we estimated may simply reflect random variation, given the large number of P values that were computed, rather than a systematic effect of the ordinances.

Discussion

This study expands and confirms our earlier work showing that smoke-free restaurant ordinances do not affect restaurant revenues. It also shows that the same is true for smoke-free bar ordinances. The cities and counties with smoke-free bar ordinances are diverse. Anderson and Redding are isolated cities within a predominantly agricultural region of California. Davis is a university town. Tiburon is an affluent suburban community that enjoys heavy tourist business. San Luis Obispo is a coastal community that has a major college as well as substantial tourism. The two smoke-free counties, Shasta and Santa Clara, have ordinances that cover unincorporated areas; Shasta is rural and Santa Clara is a suburban county in the San Francisco Bay Area.

Our earlier work attracted criticism from the tobacco industry,[16] acting through Philip Morris' National Smokers Alliance.[17] The criticisms have included claims that there were errors in the effective dates of the ordinances, that we mischaracterized the ordinances as smoke-free when they were not, and that sales tax data are not accurate (Evans MK. A review of "The effect of ordinances requiring smoke-free restaurants on restaurant sales" by Stanton A. Glantz and Lisa R. A. Smith. March 1997. Unpublished.). Correcting the effective dates of these ordinances does not affect the conclusions in our earlier paper.[18] A careful review of the ordinances for both the smoke-free and comparison cities shows that they meet our stated criteria in both cases.[3] Sales tax data include all restaurant and bar sales and are collected by an agency

TABLE 3—Effect of Smoke-Free Restaurant Ordinances on Total Restaurant Sales

City	Mean	Effect of Ordinance		Model	
		Change, b_L	*P*	R^2	*P*
Fraction of total retail sales, %					
Aspen, Colo	24.9	−0.3 ± 1.1	.820	.650	.000
		−0.4 ± 1.7	.809	.650	.000
Auburn, Calif	8.6	−0.1 ± 0.8	.865	.640	.000[a]
		−0.1 ± 0.5	.805	.834	.000
Bellflower, Calif	12.6	2.4 ± 0.4	.000	.503	.000
		2.0 ± 0.4	.000	.548	.000
Beverly Hills, Calif	13.0	0.8 ± 1.4	.564	.043	.428
		0.3 ± 1.3	.794	.192	.042
El Cerrito, Calif	12.8	0.0 ± 0.7	.964	.052	.350
		0.3 ± 0.7	.703	.095	.278
Lodi, Calif	11.3	0.0 ± 0.5	.954	.115	.092
		0.0 ± 0.5	.896	.153	.095
Martinez, Calif	11.0	2.5 ± 1.0	.021	.267	.007
		4.4 ± 3.2	.182	.705	.000
Palo Alto, Calif	16.2	0.0 ± 1.0	.988	.176	.023
		0.2 ± 0.1	.896	.177	.058
Paradise, Calif	14.6	−2.0 ± 0.8	.015	.264	.003
		−2.2 ± 0.8	.009	.288	.006
Roseville, Calif	6.8	−1.1 ± 0.4	.006	.402	.000
		−1.0 ± 0.4	.012	.423	.000
Ross, Calif	48.9	−10.9 ± 5.9	.070	.543	.000
		−3.7 ± 7.2	.609	.580	.000
Sacramento, Calif	14.1	1.1 ± 0.6	.066	.145	.048
		1.2 ± 0.6	.076	.147	.106
San Luis Obispo, Calif	13.0	0.0 ± 0.5	.953	.256	.003
		0.1 ± 0.5	.789	.267	.008
Snowmass, Colo	45.3	−4.2 ± 4.3	.337	.530	.000
		−3.9 ± 5.8	.506	.530	.000
Telluride, Colo	30.1	2.8 ± 3.7	.488	.062	.482
		13.5 ± 5.0	.011	.230	.042
All combined	18.9	0.0 ± 0.6	.964	.890	.000
		0.0 ± 0.6	.879	.891	.000
Ratio between sales in smoke-free city and sales in comparison city					
Aspen, Colo	1.17	.09 ± .12	.459	.223	.003
		.32 ± .18	.083	.262	.002
Auburn, Calif	.44	.03 ± .02	.170	.077	.267[a]
		.04 ± .02	.844	.370	.002
Bellflower, Calif	.50	−.01 ± .02	.726	.028	.629
		.01 ± .02	.698	.029	.814
Beverly Hills, Calif	.56	−.06 ± .04	.158	.279	.005
		−.06 ± .04	.178	.283	.015
El Cerrito, Calif	1.32	.08 ± .08	.333	.089	.214
		−.05 ± .10	.606	.221	.148
Lodi, Calif	.86	−.01 ± .03	.834	.554	.000
		.00 ± .03	.921	.572	.000
Martinez, Calif	.44	.04 ± .03	.120	.705	.000
		.04 ± .03	.182	.705	.000
Palo Alto, Calif	1.71	.27 ± .07	.001	.349	.001
		.07 ± .09	.421	.479	.000
Paradise, Calif	.69	−.09 ± .04	.018	.329	.001[a]
		−.07 ± .04	.119	.355	.003
Roseville, Calif	.68	−.02 ± .03	.511	.042	.490
		−.06 ± .03	.081	.173	.104
Ross, Calif	.60	−.12 ± .42	.769	.564	.002
		1.93 ± .62	.008	.784	.000
Sacramento, Calif	1.10	−.03 ± .03	.322	.310	.002
		−.05 ± .04	.211	.324	.005
San Luis Obispo, Calif	1.12	−.08 ± .05	.142	.158	.059
		−.08 ± .05	.154	.179	.094
Snowmass, Colo	.80	−.13 ± .14	.342	.699	.000
		−.27 ± .18	.138	.710	.000
Telluride, Colo	.43	.04 ± .05	.456	.283	.005
		.09 ± .08	.266	.297	.010
All combined	.85	−.01 ± .03	.627	.802	.000
		−.01 ± .03	.589	.805	.000

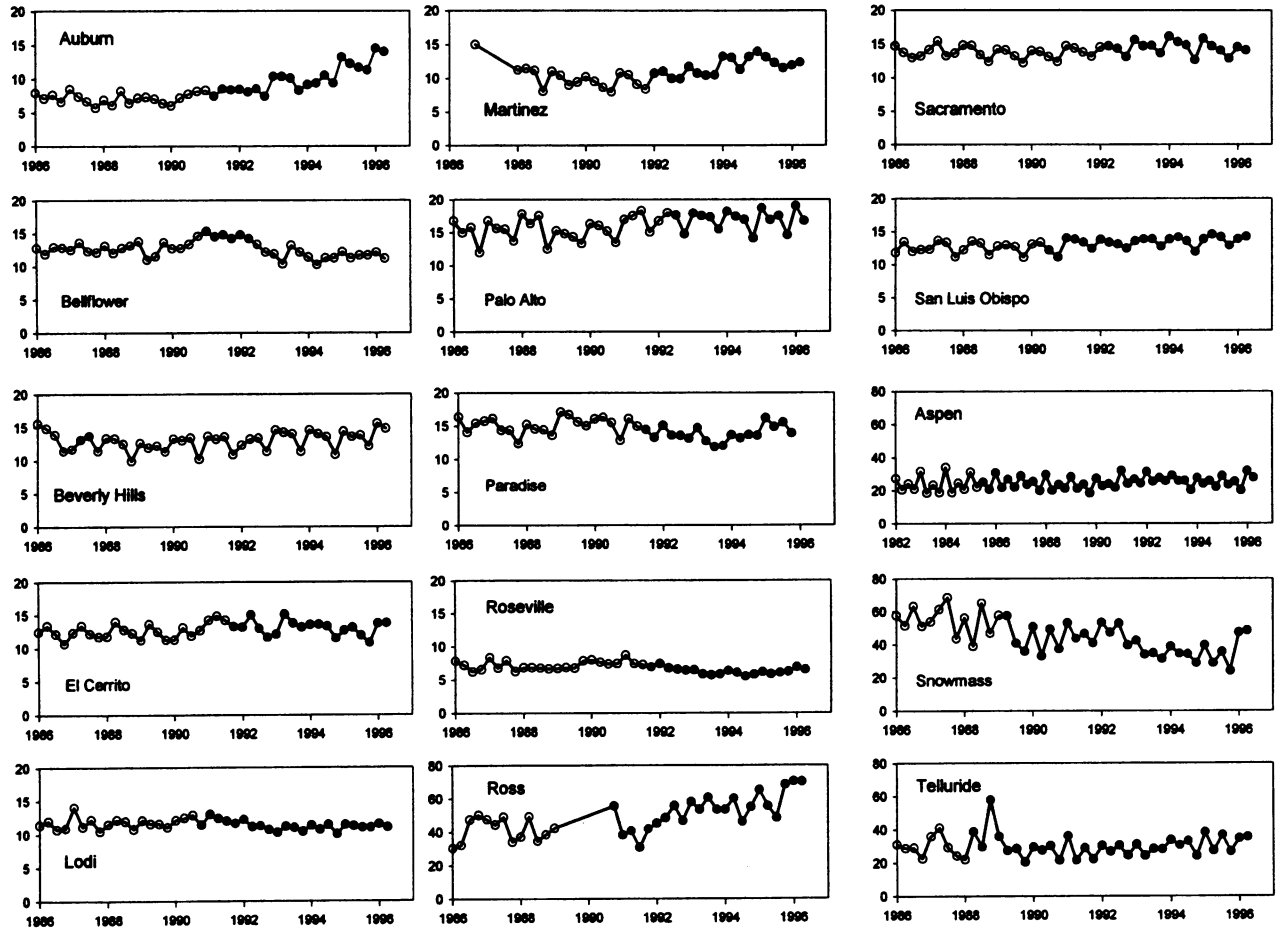
Note. The first row for each city shows results of linear time model; the second row shows results of quadratic time model.
[a]Significant positive serial correlation of residuals.

with no interest in the effects of smoke-free ordinances. (For a detailed response to the Evans critique, contact the authors. This response is also posted on the World Wide Web at http://www.tobacco.org/Misc/evansresponse.html.)

As noted above, an exemption for the bar area of a restaurant did not disqualify a smoke-free *restaurant* ordinance from our study of smoke-free restaurant ordinances,[3] so long as the eating areas were smoke-free. The present study shows that smoke-free bar ordinances do not affect bar revenues. It is important to note that our analysis of the smoke-free bar ordinances relied on data for establishments with full liquor licenses (category 36). This category includes free-standing bars and bars within restaurants. It is not possible to analyze the effects of these ordinances on these two subcategories of business separately. Nevertheless, it is important to evaluate the effects of smoke-free ordinances on this category of eating and drinking establishments because of claims by the tobacco industry that smoke-free ordinances particularly affect sales of establishments that sell liquor. Moreover, the fact that some of the restaurant ordinances permitted smoking in bar areas does not support the tobacco industry's assertion that the lack of change in restaurant revenues in the cities shown in Table 1 is due to a shift of business to bars and the bar areas of restaurants.

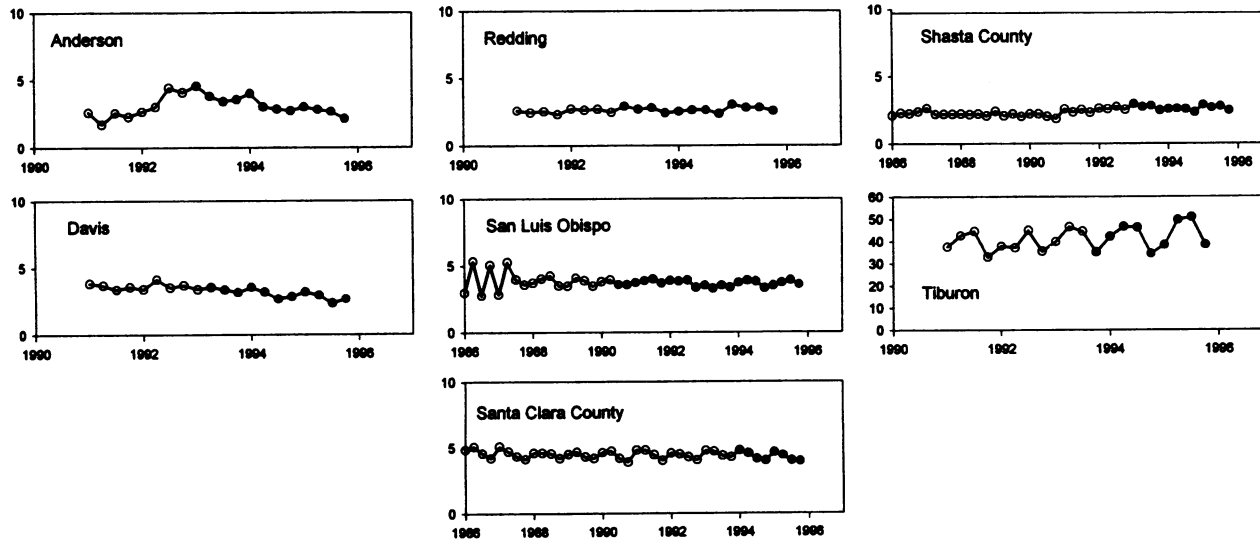
The fact that we did not observe changes in the fraction of eating and drinking establishment revenues going to category 36 businesses is evidence that these ordinances do not cause shifts between types of business. It is also important to emphasize that the purpose of this study, like that of our earlier study, was to address the claim that smoke-free ordinances substantially decrease revenues across the board; the usual claim is a reduction of 30%. The data do not support this claim. (Our analytic methods have a power exceeding .99 to detect a 30% change in restaurant or bar revenues with $\alpha = .05$.)

Food service workers enjoy less protection from secondhand tobacco smoke than any other group of employees.[19] Legislators and government officials can enact health and safety regulations to protect patrons and employees[20] in restaurants and bars from the toxins in secondhand tobacco smoke without fear of adverse economic consequences. □



Note. The quarters in which 100% smoke-free restaurant ordinances were in effect are shown as solid points.

FIGURE 1—Restaurant sales as a percentage of total retail sales for the 15 communities with smoke-free restaurant ordinances included in this study.



Note. The quarters in which 100% smoke-free bar ordinances were in effect are shown as solid points.

FIGURE 2—Bar sales as a percentage of total retail sales for the 7 California communities with smoke-free bar ordinances included in this study.

TABLE 4—Effects of Smoke-Free Bar Ordinances on Total Bar Sales, California

City	Mean	Effect of Ordinance: Change, b_L	Effect of Ordinance: P	Model: R^2	Model: P
Fraction of total retail sales, %					
Anderson	3.1	−0.7 ± 0.8	.404	.043	.689[a]
		−0.4 ± 0.5	.514	.613	.001
Davis	3.3	0.1 ± 0.8	.752	.658	.000
		0.0 ± 0.2	.943	.718	.000
Redding	2.6	0.1 ± 0.2	.456	.098	.417
		0.0 ± 0.2	.731	.129	.516
San Luis Obispo	3.8	0.0 ± 0.3	.907	.052	.374
		0.0 ± 0.3	.945	.053	.574
Santa Clara County	4.5	0.0 ± 0.2	.775	.135	.059
		0.0 ± 0.2	.996	.137	.129
Shasta County	2.4	0.2 ± 0.1	.076	.505	.000
		0.2 ± 0.1	.270	.508	.000
Tiburon	41.3	0.6 ± 5.1	.904	.103	.396
		0.3 ± 0.6	.964	.105	.610
All combined	7.1	0.5 ± 0.4	.258	.979	.000
		0.3 ± 0.5	.456	.979	.000
Ratio between sales in smoke-free city and sales in comparison city					
Anderson	.49	−.15 ± .12	.224	.153	.244[a]
		−.27 ± .11	.033	.400	.038
Davis	.42	−.08 ± .04	.073	.696	.000
		−.10 ± .04	.021	.767	.000
Redding	18.05	.66 ± 5.3	.902	.023	.823[a]
		−7.41 ± 3.91	.076	.596	.002
San Luis Obispo	.31	...	...	...	...
		...	...	...	...
Santa Clara County	1.52	.05 ± .06	.411	.486	.000
		.04 ± .09	.664	.486	.000
Shasta County	1.07	.02 ± .01	.067	.576	.000
		−.02 ± .08	.757	.601	.000
Tiburon	0.70	−.10 ± .06	.134	.411	.011
		−.09 ± .07	.205	.413	.032
All combined	2.76	−.24 ± .45	.589	.898	.000
		.21 ± .53	.695	.903	.000
Fraction of total restaurant sales, %					
Anderson	19.9	4.8 ± 5.5	.401	.042	.692
		−3.2 ± 3.4	.358	.711	.000
Davis	17.9	−1.5 ± 1.1	.194	.739	.000
		−1.6 ± 1.1	.147	.753	.000
Redding	26.6	−0.9 ± 0.9	.373	.533	.002
		−1.1 ± 1.1	.331	.539	.005
San Luis Obispo	29.3	0.0 ± 0.3	.907	.052	.374
		1.0 ± 2.6	.704	.197	.046
Santa Clara County	34.8	0.9 ± 0.5	.065	.809	.000
		0.1 ± 0.7	.890	.827	.000
Shasta County	23.9	1.5 ± 0.8	.067	.576	.000*
		0.5 ± 1.0	.597	.603	.000
Tiburon	76.6	−1.6 ± 3.1	.603	.036	.732
		−1.7 ± 3.4	.623	.036	.894
All combined	.32	0.6 ± 0.8	.505	.955	.000
		0.4 ± 1.0	.692	.955	.000

Note. For each city, the first row of data shows results of the linear time model; the second row shows results of the quadratic time model.
[a]Significant positive serial correlation of residuals.

Acknowledgment

This work was supported by National Cancer Institute grant CA-61021.

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Thyroxine Values from Newborn Screening of 919 Infants Born before 29 Weeks' Gestation

M. Lynne Reuss, MD, MPH, Alan Leviton, MD, SM, Nigel Paneth, MD, MPH, and Mervyn Susser, MB, BCh, FRCP(E), DrPH

ABSTRACT

Objectives. Severe transient hypothyroxinemia in premature infants is associated with cerebral palsy and mental retardation; this study assessed its prevalence in very premature infants.

Methods. Congenital hypothyroidism screening programs in three states provided thyroxine values for 919 newborn infants younger than 29 weeks who were enrolled in a multicenter study.

Results. Thyroxine values were lower than 4.0 μg/dL in 21% of survivors and increased each week by 0.6 μg/dL (95% confidence interval [CI] = 0.4, 0.7). At tests done 1 to 2 days after birth, levels were 2.5 μg/dL higher (95% CI = 1.8, 3.3) than at tests done at 8 to 14 days. In New York, levels were 1.0 μg/dL higher (95% CI = 0.3, 1.6) than elsewhere. The levels of infants who died were 1.3 μg/dL lower (95% CI = 0.6, 2.0) than those of survivors.

Conclusions. Severe transient hypothyroxinemia is common in very premature infants and deserves further study. (*Am J Public Health.* 1997;87:1693–1697)

Introduction

Preterm infants often have low thyroxine levels postnatally, a condition referred to as transient hypothyroxinemia of prematurity.[1–13] Transient hypothyroxinemia of prematurity is a self-limited phenomenon thought to be caused by immaturity of the hypothalamic-pituitary-thyroid system and by changes in thyroid function that accompany severe illness, that is, nonthyroidal illness. Congenital hypothyroidism is not thought to explain why transient hypothyroxinemia is detected at newborn screening of premature infants because thyrotropin levels are normal. However, recent studies of preterm infants have linked very low thyroxine levels with abnormal cognitive and neurological development at ages 2 through 9 years.[14–18] It has been difficult to establish what represents a very low thyroxine level at any given gestational age because little is known about the gestational age–specific distribution of thyroxine values in very preterm infants. State screening programs tend to collect and report information classified by birthweight, not by gestational age,[12] and they rarely report quantitative results.

In this paper we describe thyroxine-screening findings in 919 preterm infants born before 29 weeks' gestation and enrolled in a multicenter study of cranial ultrasonographic abnormalities, the Developmental Epidemiology Network Study. These infants, whose gestational ages were established according to a study protocol, received intensive neonatal care in one of four nurseries in three states: Massachusetts, New Jersey, and New York. Quantitative thyroxine-screening results were obtained from state congenital hypothyroidism–screening programs and were assessed in relation to survival, postmenstrual and postnatal age at the time of screening, and site of care.

Methods

From January 1991 through December 1993, 1662 infants weighing 500 through 1500 g were systematically enrolled in a multicenter study of neonatal brain injury, the Developmental Epidemiology Network Study. Study infants were born in four hospitals in Massachusetts, New Jersey, and New York (two hospitals). Of the 919 born at less than 29 weeks' gestation, and therefore at high risk for severe transient hypothyroxinemia of prematurity, 746 survived to discharge from the intensive care nursery.

Gestational-age estimates were based on fetal ultrasound obtained before the 14th week of gestation (32%), dates in the prenatal record (62%), maternal postpartum interview (4%), and the admission logbook of the neonatal intensive care unit (2%).

At the time of the study, M. Lynne Reuss was with the Sergievsky Center, Columbia University, New York, NY. She is now with the Bellevue Research Foundation, Niskayuna, NY. Alan Leviton is with Harvard Medical School, Boston, Mass. Nigel Paneth is with the College of Human Medicine, Michigan State University, East Lansing. Mervyn Susser is with Columbia University, New York, NY.

Requests for reprints should be sent to M. Lynne Reuss, MD, MPH, Bellevue Research Foundation, 2210 Schenectady Troy Rd, Niskayuna, NY 12309.

This paper was accepted November 8, 1996.

Editor's Note. Dr Heinz Berendes served as the responsible editor and Dr Mary Northridge as editor for this paper. As is our practice, Dr Mervyn Susser had no part in the review and decision process.

From: hjc@cohensw.com
To: BOS-Supervisors; BOS-Legislative Aides; Carroll, John (BOS)
Cc: Howard Cohen
Subject: Please support smokefree bar patios
Date: Tuesday, May 12, 2026 11:07:49 AM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Gentlemen:

I am a Palo Alto, California resident who often frequents San Francisco
for its cultural and culinary delights as well as for business.

I support File #260361 for smokefree bar patios in San Francisco. I support
every environment being smoke free, including these, open spaces, stores,
offices, etc. As is well known, smoke, direct or second hand, promotes
a plethora of diseases, many of them debilitating or fatal. No one should
be exposed to such an insult to their physical being, including workers
and patrons of these establishments.

Please vigorously support File #260361 and public health and well-being.

Thank you,
Howard J Cohen, Ph.D.
--
Howard J. Cohen, Ph.D., President howard@cohensw.com
Cohen Software Consulting, Inc.
https://url.avanan.click/v2/r01/___http://www.cohensw.com___.YXAzOnNmZHQyOmE6bzpmOGUwN2I3MGZmMmE2ZGUyZDllZjk5NGRkNTQ1OTk5Nzo3OmNiNjE6MTYxM2VhYjYyZjIyMDIzYWU0NjA1NjhmYTU4YTg5NTI5MDA0MjczNGE2OTg2YzM5NDc5YmVhMjk0ODRjMWE5ZjpwOlQ6Tg
Applications, Algorithms, GUI, RDBMS (650) 856-8123
Bioinformatics (650) 856-4273 (fax)
Litigation Support

From:	Low, Jen (BOS)
To:	Carroll, John (BOS)
Subject:	Letters of Support - File No. 260361 - Smokefree Places
Date:	Monday, May 11, 2026 12:17:33 PM
Attachments:	ALA_SanFrancisco_04.2026.pdf ANR Letter to San Francisco_bar patios_04.20.26.pdf APPEAL SF Bar Patio LOS April 26.pdf ASH Support Letter - Ban on Bar Patio Smoking 4-10-26.pdf Binder1_Redacted - Copy.pdf Letter in Support of Smoke-Free Patio Ordinance -- Marriage Equality MM.pdf Letter of Support for SF Smokefree Patios - 4.9.26.pdf San Francisco SF Bar Patio Letter of Support.pdf SF_outdoor SF patiosbars_April 2026.pdf Smoke Free Bar Patios SF 4-10-26.pdf Support Ordinance 260361 -- Smoke-Free Bar Patios.pdf yli Support Letter - Ban on Bar Patio Smoking - Supervisor Melgar.pdf

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Hi John,

Here are the letters we received so far.

Thank you!

Jen

Jen Low | 羅菁霞
pronouns: she, her/hers *(What's this?)*
Legislative Aide
Supervisor Myrna Melgar
San Francisco Board of Supervisors, District 7
P: 415.554.6521 | **E:** jen.low@sfgov.org
www.sf.gov/sfbos/melgar
Sign up to receive Supervisor Melgar's Newsletter

American Lung Association

Mayor and Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA. 94102

4/6/2026

Dear Mayor Lurie and members of the Board of Supervisors:

On behalf of the American Lung Association in California, the leading public health organization fighting to reduce and prevent the harmful effects of tobacco use, I am writing to express our support for the smoke-free ordinance currently under consideration that would designate bar patios as smoke-free spaces.

With a mission of saving lives and improving the health of Californians and their lungs, the Lung Association strongly supports measures to protect San Francisco residents from the harms of secondhand tobacco. Each year in California, nearly 40,000 adults die from smoking-related causes.

In Alameda and San Francisco counties, food prep and service workers are more than 5 times as likely as people with desk jobs to report secondhand smoke exposure in the workplace. These workers are disproportionately young, low-income, and Latine. This highlights the urgent need for stronger workplace protections to ensure a healthier environment for all employees.

Designating bar patios as smoke-free would significantly improve San Francisco's grades in the American Lung Association's State of Tobacco Control – California Local Grades report, raising both the smoke-free outdoor air grade and the overall tobacco control grade from a 'B' to an 'A'. This step would enhance public health by reducing exposure to secondhand smoke and demonstrate the city's commitment to creating healthier environments for all residents and visitors.

Over 100 California cities and counties, including over 50 in the Bay Area, have successfully implemented similar policies. Historical evidence from the implementation of indoor smoking bans in the late 1990s shows that such policies ultimately benefit businesses, contrary to initial concerns.

The American Lung Association strongly urges you to pass this ordinance to protect residents and employees from the dangerous effects of secondhand smoke. A comprehensive smoke-free policy will benefit public health and create clear, consistent standards for businesses and residents.

Thank you for your consideration of this important public health measure.

Sincerely,

Kesa Bruce

Kesa Bruce

Director, Advocacy

AMERICANS FOR NONSMOKERS' RIGHTS

STAFF

Cynthia Hallett, MPH
President and CEO

Operations

Len Casey
Director of Operations

Joseph Cadiz
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Tricia Lew
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April 20, 2026

San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102-4689

Re: File #260361 – Health Code – Smokefree Bar Patios

Dear members of the San Francisco Board of Supervisors,

Americans for Nonsmokers' Rights is writing to express our support for the proposed ordinance to end smoking and vaping on outdoor patios and in semi-enclosed rooms at San Francisco's bars and taverns.

Expanding the city's smokefree air law to these worksites will close a longstanding loophole to ensure that bar workers have the same right to breathe smokefree air on the job as other workers in San Francisco. We're also pleased that the proposal would reflect the state law requiring owner-operated bars and all hotel/motel rooms to be 100% smokefree indoors.

Action needs to be taken on this issue because bar staff are some of the only workers in San Francisco who are still exposed to secondhand smoke on the job, and they deserve to breathe clean air just like other workers in the city and around the state. Workers shouldn't have to choose between their health and their paycheck.

Smoking and vaping on outdoor patios is not just a nuisance; exposure to secondhand smoke in these spaces is also a health hazard. The U.S. Surgeon General concluded that there is no safe level of exposure to secondhand smoke, and even small amounts of tobacco smoke over short periods of time can be harmful.[i]

Exposure to secondhand smoke and aerosol released by smoked and vaped products remains a significant health threat. Secondhand tobacco smoke contains fine particulate matter called PM2.5—and aerosol from electronic smoking devices contains even smaller ultrafine particulate matter. Fine and ultrafine particles can be breathed deeply into the lungs and can cause lung irritation, asthma attacks, and makes respiratory infections more likely.[ii] Fine and ultrafine particles also constrict arteries, which can trigger a heart attack.[iii]

Outdoor secondhand smoke levels in places where people gather can be high enough to exceed safe air quality guidelines, which creates a particular risk for workers in outdoor spaces like restaurant and bar patios.[iv]

Air quality measurements were gathered at nine San Francisco bar patios in 2022, which found that six of the bars had air quality ranges that peaked in the EPA Air Quality Index's "unhealthy" range or higher, with one venue reaching into the

"hazardous" range. Bar staff and nonsmoking patrons deserve protection from breathing toxic smoke.

An air quality study in Canada found that laws for smokefree indoor areas of bars do not provide workers with adequate protection from secondhand smoke if smoking is still allowed on adjacent patios, and that in order to protect worker health, smoking should be not allowed on bar patios.[v] Research also shows that smokefree policies for bar and restaurant patios result in decreased secondhand smoke exposure in these spaces.[vi]

Smokefree bar patios are a well-established practice and San Francisco would be in good company by joining Oakland, San Jose, and more than 50 other cities and counties in the Bay Area, along with more than 120 communities around the state that have adopted these policies locally. We know these policies work well in practice, and smokefree laws are both good for health and good for business.

Adopting the proposed ordinance will create a level playing field that provides equal health protections, and a simple, strong and fair law that applies equally to all bars and taverns makes it easier for bar owners, patrons, and enforcement agencies to understand, follow, and comply with the law.

San Francisco has a long history of leadership in tobacco prevention, and we encourage you to continue prioritizing the health of all San Franciscans by enacting this ordinance.

Thank you for your leadership and desire to make San Francisco the best place to live, work, and visit. Please feel free to contact me at 510-841-3045 or Liz Williams at liz.williams@no-smoke.org or 510-333-4559 if you have questions, comments, or feedback.

Sincerely,

Cynthia Hallett

Cynthia Hallett, MPH
President and CEO

Americans for Nonsmokers' Rights is a national, member-based, not-for-profit organization based in Berkeley, CA that is dedicated to helping nonsmokers breathe smokefree air since 1976.

---

[i] U.S. Department of Health and Human Services. "The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General," U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Office on Smoking and Health, 2006.

[ii] "Air and Health: Particulate Matter." National Environmental Public Health Tracking Network, U. S. Environmental Protection Agency.

[iii] American Nonsmokers' Rights Foundation, Electronic Smoking Devices and Secondhand Aerosol Fact Sheet; July 2025.

[iv] Licht, A.S.; Hyland, A.; Travers, M.J.; Chapman, S., "Secondhand smoke exposure levels in outdoor hospitality venues: a qualitative and quantitative review of the research literature," *Tobacco Control* 22(3): 172-179, May 2013.

[v] Zhang, B.; Bondy, S.; Ferrence, R., "Do indoor smoke-free laws provide bar workers with adequate protection from secondhand smoke?," *Preventive Medicine*, July 6, 2009.

[vi] Azagba, S., "Effect of smoke-free patio policy of restaurants and bars on exposure to second-hand smoke," *Preventive Medicine*, April 22, 2015.

A P P E A L

ASIAN PACIFIC PARTNERS FOR EMPOWERMENT, ADVOCACY AND LEADERSHIP

April 25, 2026

Board of Supervisors
City Hall
1 Dr. Carlton B Goodlett Place
San Francisco, CA 94102

Re: Ordinance 260361 (Melgar)
Position: Support

Dear Board of Supervisors:

Asian Pacific Partners for Empowerment, Advocacy and Leadership (APPEAL) urges your strong Support for Supervisor Melgar's ordinance to improve the health of workers and the public by closing a dangerous public health loophole. The ordinance would prohibit smoking or vaping on bar patios and semi-enclosed rooms in bars, closing a hazardous loophole that exposes San Franciscans and visitors to dangerous secondhand smoke. No one should have to choose between their health or a paycheck.

As a national organization with nearly 30 years of experience, APPEAL has been working towards building and facilitating effective national networks on tobacco, chronic diseases, and health equity for Native Hawaiian and Pacific Islander (NHPI) and Asian American (AA) communities. Our mission is to achieve equity (including data equity) and empowerment for all marginalized communities by supporting and mobilizing community-led movements through advocacy and leadership development on critical public health issues.

San Francisco law protects people from secondhand smoke nearly everywhere, including farmer's markets, sports arenas, movie lines, ATM lines, bus stops, parklets, restaurant patios, and indoor areas of bars, BUT NOT bar patios. Workers and patrons deserve the same protection at bar patios as they have at restaurant patios, bus stops and ATMs.

Despite leading in other areas, San Francisco has fallen far behind other cities and counties in the Bay Area when it comes to ensuring clean air for workers and patrons. More than 50 other Bay Area cities including Oakland and San Jose have closed this loophole.

While any business might be fearful of changes to how they operate, 25 years of data shows that smoke-free air laws do not have a negative impact on bar or restaurant employment. After the law designated indoor areas of California bars smoke-free in 1998, California's bars GAINED revenue. Any discomfort with change is nothing compared to the well-established and proven health impact for those that must suffer the severe consequences of secondhand smoke. The Centers for Disease Control and Prevention (CDC) states there is "no safe level of exposure to secondhand smoke." Nonsmokers who are exposed to secondhand smoke, even for a short time, can suffer harmful health effects, including cancer, bronchitis, asthma, heart disease, stroke, and Type 2 diabetes. Underrepresented groups, including LGBTQ+ adults in California, use tobacco at higher rates than their non-LGBTQ+ counterparts, and face higher levels of secondhand smoke and vape exposure.

For these reasons, and many more, we urge your support for this important ordinance.

Thank you,
Sincerely,



Rod Lew, MPH
Executive Director, APPEAL
rodlew@appealforhealth.org 510-757-8668

ASH
ACTION ON SMOKING & HEALTH

Dedicated to ZERO Tobacco Deaths

April 10, 2026

Board of Supervisors
City Hall
1 Dr. Carlton B Goodlett Place
San Francisco, CA 94102

Re: Ordinance 260361 (Melgar)
Position: Support

Dear Board of Supervisors:

Action on Smoking and Health (ASH) urges your strong Support for Supervisor Melgar's ordinance to protect and improve the health of San Franciscan workers and the public by closing a dangerous public health loophole. The ordinance would prohibit smoking or vaping on bar patios and semi-enclosed rooms in bars, closing a hazardous loophole that exposes San Franciscans and visitors to dangerous secondhand smoke. No one should have to choose between their health and a paycheck.

ASH is the nation's oldest anti-tobacco organization, formed in response to the US Surgeon General's 1964 report, which definitively showed that tobacco use causes a wide range of preventable diseases and disabilities, and causes premature deaths. Each year in the US, more **than 480,000 deaths are caused by tobacco-related diseases**, including approximately **41,000 deaths from secondhand smoke exposure**.

San Francisco law protects people from secondhand smoke nearly everywhere, including farmer's markets, sports arenas, movie lines, ATM lines, bus stops, parklets, restaurant patios, and indoor areas of bars, BUT NOT bar patios. Workers and patrons deserve the same protection at bar patios as they have at restaurant patios, bus stops, and ATMs.

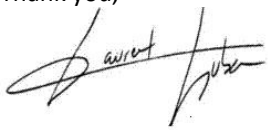
Despite leading in other areas, San Francisco has fallen far behind other cities and counties in the Bay Area when it comes to ensuring clean, safe air for workers and patrons. **More than 50 other Bay Area cities including Oakland and San Jose have closed this loophole.**

While any business might be fearful of changes to how they operate, 25 years of data shows that smoke-free air laws do not have a negative impact on bar or restaurant employment. After the law designated indoor areas of California bars smoke-free in 1998, California's bars GAINED revenue.

Any discomfort with change is nothing compared to the well-established and proven health impact for those that must suffer the severe consequences of secondhand smoke. The Centers for Disease Control and Prevention (CDC) states there is "no safe level of exposure to secondhand smoke." Nonsmokers who are exposed to secondhand smoke, even for a short time, can suffer harmful health effects, including cancer, bronchitis, asthma, heart disease, stroke, and Type 2 diabetes. Underrepresented groups, including LGBTQ+ adults in California, use tobacco at higher rates than their non-LGBTQ+ counterparts, and face higher levels of secondhand smoke and vape exposure.

For these reasons, and many more, we urge your support for this important ordinance.

Thank you,



Laurent Huber
Executive Director

1250 Connecticut Avenue, NW • Suite 700 – PMB 5019
Washington D.C. 20036 • **p** 202 659 4310
ash.org

From: Hal..Naph
To: Melgar, Myrna (BOS); MelgarStaff (BOS)
Subject: Message View Support for Sup. Melgar ordinance protecting workers and patrons from secondhand smoke exposure on bar patios
Date: Thursday, April 9, 2026 12:02:36 AM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

April 8, 2026

Supervisor Myrna Melgar
City Hall
1 Dr. Carlton B Goodlett Place
San Francisco, CA 94102

Re: Sup. Melgar ordinance closing loophole
permitting smoking in bar patios
Position: Support

Dear Supervisor Melgar:

(FYI, I have sent a version of this letter to every Supervisor. Thank you for introducing the ordinance. It is the right thing to do and all San Franciscans--whether they know it or not--are in your debt.)

I am writing to urge your strong Support for Supervisor Melgar's ordinance to improve the health of workers and the public by closing a dangerous public health loophole. The ordinance would prohibit smoking or vaping on bar patios and semi-enclosed rooms in bars, closing a hazardous loophole that exposes San Franciscans and visitors to dangerous secondhand smoke. No one should have to choose between their health or a paycheck.

San Francisco law protects people from secondhand smoke nearly everywhere, including farmer's markets, sports arenas, movie lines, ATM lines, bus stops, parklets, restaurant patios, and indoor areas of bars, BUT NOT bar patios. Workers and patrons deserve the same protection at bar patios as they have at restaurant patios, bus stops and ATMs.

Despite leading in other areas, San Francisco has fallen far behind other cities and counties in the Bay Area when it comes to ensuring clean air for workers and patrons. More than 50 other Bay Area cities including Oakland and San Jose have closed this loophole.

While any business might be fearful of changes to how they operate, 25 years of data shows that smoke-free air laws do not have a negative impact on bar or restaurant employment. After the law designated indoor areas of California bars smoke-free in 1998, California's bars GAINED revenue.

Any discomfort with change is nothing compared to the well-established and proven health impact

for those that must suffer the severe consequences of secondhand smoke. The Centers for Disease Control and Prevention (CDC) states there is "no safe level of exposure to secondhand smoke." Nonsmokers who are exposed to secondhand smoke, even for a short time, can suffer harmful health effects, including cancer, bronchitis, asthma, heart disease, stroke, and Type 2 diabetes. Underrepresented groups, including LGBTQ+ adults in California, use tobacco at higher rates than their non-LGBTQ+ counterparts, and face higher levels of secondhand smoke and vape exposure.

For these reasons, and many more, I urge your support for this important ordinance.

Thank you,

Naphtali Offen
1127 Hyde St.
San Francisco, CA 94109
[redacted]

From: Marriage Equality
To: MelgarStaff (BOS)
Subject: New Op-Ed in Support of Smoke-Free Bar Patios (Ord # 260361)
Date: Monday, April 27, 2026 8:07:31 AM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Office of Supervisor Melgar,

Thank you again for introducing the smoke-free bar and tavern patios ordinance (No. 260361). We are writing to follow up on our April 15 email and to share with you the op-ed we just published in the *San Francisco Bay Times* in strong support of the ordinance. Please feel free to share it widely:
https://sfbaytimes.com/smoke-free-bar-patios-a-matter-of-simple-common-sense/

As we have explained in emails to the Supervisor's colleagues on the Board, this ordinance is a matter of simple common sense that would enable all San Franciscans, including those with respiratory, lung, or heart conditions, to work at and/or patronize bars and taverns with patios without risking their health from exposure to secondhand smoke. The measure simply eliminates the exception that bar and tavern patios currently have from San Francisco's otherwise comprehensive laws that ensure smoke-free access to nearly all spaces open to the public across the city.

We understand how some bar owners may fear losing customers if all San Franciscans, patrons and bar employees alike, are ensured smoke-free access to bar patios. But businesses expressed similar fears 32 years ago when the city passed groundbreaking smoke-free legislation in 1994. Those fears proved unfounded, and San Francisco remains a vibrant restaurant and nightlife destination today.

Moreover, as the op-ed explains, the ordinance is not just about protecting the health of San Franciscans today, it's about protecting future generations. Years ago, smoking was the norm in innumerable public venues, but visionary members of the San Francisco Board of Supervisors and the California legislature did not give into fear and enacted laws to ensure a healthier future for all of us. They created a new norm, and today, we all benefit from their actions.

Please let us know if you have any questions for us or if there is any way we could further support the ordinance.

Thank you very much.

Our best,

John Lewis & Stuart Gaffney
Marriage Equality
marriageequality.me@gmail.com

On Wed, Apr 15, 2026 at 8:05 AM Marriage Equality <marriageequality.me@gmail.com>

wrote:

> Dear Office of Supervisor Melgar,
>
> We are writing to thank Supervisor Melgar and you as her staff for introducing the smoke-free bar and tavern patios ordinance (No. 260361) on April 7, 2026, and to share our vigorous support for the legislation.
>
> As you know, the Board of Supervisors in 2010 voted unanimously to ensure that all San Franciscans have smoke-free access to nearly all spaces open to the public across the city, including restaurant patios, parks, and even tobacco shops. We agree with you that it's now time to remove the exception for bar and tavern patios and enable all San Franciscans to have smoke-free access to these spaces, too.
>
> We reach out to you and Supervisor Melgar in our individual capacities as San Francisco residents, longtime LGBTIQ+ advocates, and as a plaintiff couple in the lawsuit the city and same-sex couples brought that established marriage equality in California in 2008. We do so also on behalf of the educational nonprofit we co-founded Marriage Equality.
>
> The attached letter explains our reasons for strongly supporting the ordinance in detail. Please let us know if you have any questions for us or if there is any way we could further support the ordinance.
>
> Thank you very much.
>
> Our best,
>
> John Lewis & Stuart Gaffney
> Marriage Equality
> marriageequality.me@gmail.com

From:	SF Carl
To:	Chan, Connie (BOS); ChanStaff (BOS); Sherrill, Stephen (BOS); SherrillStaff; Sauter, Danny (BOS); SauterStaff; Wong, Alan (BOS); WongStaff (BOS); Mahmood, Bilal (BOS); MahmoodStaff; Dorsey, Matt (BOS); DorseyStaff (BOS); Mandelman, Rafael (BOS); MandelmanStaff (BOS); Fielder, Jackie (BOS); FielderStaff; Walton, Shamann (BOS); Waltonstaff (BOS); Chen, Chyanne (BOS); ChenStaff; Melgar, Myrna (BOS); MelgarStaff (BOS)
Subject:	Ordinance 260361 (Melgar) Position: Support
Date:	Tuesday, April 21, 2026 11:47:59 PM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Supervisors:

As a San Franciscan and a Physician Assistant, I am writing to urge your strong Support for Supervisor Melgar's ordinance to improve the health of workers and the public by closing a dangerous public health loophole. The ordinance would prohibit smoking or vaping on bar patios and semi-enclosed rooms in bars, closing a hazardous loophole that exposes San Franciscans and visitors to dangerous secondhand smoke. No one should have to choose between their health or a paycheck.

San Francisco law protects people from secondhand smoke nearly everywhere, including farmer's markets, sports arenas, movie lines, ATM lines, bus stops, parklets, restaurant patios, and indoor areas of bars, BUT NOT bar patios. Workers and patrons deserve the same protection at bar patios as they have at restaurant patios, bus stops and ATMs.

Despite leading in other areas, San Francisco has fallen far behind other cities and counties in the Bay Area when it comes to ensuring clean air for workers and patrons. More than 50 other Bay Area cities including Oakland and San Jose have closed this loophole.

While any business might be fearful of changes to how they operate, 25 years of data show that smoke- free air laws do not have a negative impact on bar or restaurant employment. After the law designated indoor areas of California bars smoke-free in 1998, California's bars GAINED revenue.

Any discomfort with change is nothing compared to the well-established and proven health impact for those that must suffer the severe consequences of secondhand smoke. The Centers for Disease Control and Prevention (CDC) states there is "no safe level of exposure to secondhand smoke." Nonsmokers who are exposed to secondhand smoke, even for a short time, can suffer harmful health effects, including cancer, bronchitis, asthma, heart disease, stroke, and Type 2 diabetes. Underrepresented groups, including LGBTQ+ adults in California, use tobacco at higher rates than their non-LGBTQ+ counterparts, and face higher levels of secondhand smoke and vape exposure.

For these reasons, and many more, I urge your support for this important ordinance. Please give priority to health.

Thank you,

Carl Stein

From: Catherine Blebea
To: MelgarStaff (BOS)
Subject: Please Support Ordinance 260361- Prohibit Outdoor Smoking
Date: Thursday, April 30, 2026 6:13:30 PM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Supervisor,

I am writing to in support of Ordinance 260361 to improve the health of the public and workers by reducing secondhand smoke.

While San Francisco law currently provides protection in most public spaces, including farmers' markets, sports arenas, and restaurant patios, bar patios remain a notable exception. Workers and patrons deserve the same protections in these areas as they do at bus stops or outdoor dining establishments. There is no safe level of secondhand smoke, and I am glad you are taking this important step to close the loophole. Thank you.

All the best,
Catherine Blebea
8 Locksley Ave, San Francisco, CA 94122

From:	Jeff Patterson
To:	Chan, Connie (BOS); ChanStaff (BOS); Sherrill, Stephen (BOS); SherrillStaff; Sauter, Danny (BOS); SauterStaff; Wong, Alan (BOS); WongStaff (BOS); Mahmood, Bilal (BOS); MahmoodStaff; Dorsey, Matt (BOS); DorseyStaff (BOS); Mandelman, Rafael (BOS); MandelmanStaff (BOS); Fielder, Jackie (BOS); FielderStaff; Walton, Shamann (BOS); Waltonstaff (BOS); Chen, Chyanne (BOS); ChenStaff; Melgar, Myrna (BOS); MelgarStaff (BOS)
Subject:	Please Support Smoke-Free Bar Patios
Date:	Friday, April 10, 2026 12:48:49 PM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Supervisors:

Please take strong action to improve the health of workers and the public by prohibiting smoking or vaping on bar patios and semi-enclosed rooms in bars. No one deserves the known harms of exposure to secondhand smoke.

San Francisco law protects people from secondhand smoke nearly everywhere, including farmer's markets, sports arenas, movie lines, ATM lines, bus stops, parklets, restaurant patios, and indoor areas of bars, BUT NOT bar patios. Workers and patrons deserve the same protection at bar patios as they have at restaurant patios, bus stops and ATMs. Despite leading in other areas, San Francisco has fallen far behind other cities and counties in the Bay Area when it comes to ensuring clean air for workers and patrons. More than 50 other Bay Area cities, including Oakland and San Jose, have closed this loophole.

I strongly urge you to require bar patios in San Francisco to be smoke and vape-free.

Thank you,

Jeff Patterson
2236 15th St
San Francisco, CA 94114
28-year resident

From:	Erik Greenfrost
To:	Chan, Connie (BOS); ChanStaff (BOS); Sherrill, Stephen (BOS); SherrillStaff; Sauter, Danny (BOS); SauterStaff; Wong, Alan (BOS); WongStaff (BOS); Mahmood, Bilal (BOS); MahmoodStaff; Dorsey, Matt (BOS); DorseyStaff (BOS); Mandelman, Rafael (BOS); MandelmanStaff (BOS); Fielder, Jackie (BOS); FielderStaff; Walton, Shamann (BOS); Waltonstaff (BOS); Chen, Chyanne (BOS); ChenStaff; Melgar, Myrna (BOS); MelgarStaff (BOS)
Subject:	SUPPORT: Smoke Free Patios Legislation (Melgar)
Date:	Monday, April 13, 2026 8:01:51 AM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

My name is Erik Greenfrost, and I'm writing to ask you to please **SUPPORT** the legislation for Smoke Free Patios (Melgar) currently assigned to the Land Use Committee.

I am a gendqueer, gay person living in the Bay Area for nearly two decades and am currently a resident of D10. I am also an event producer, including the annual Bearrison Street Fair, which brings 5,000+ people to the historic Leather & LGBTQ+ Cultural Distrcit every October. I also have asthma, and am very sensitive to smoke; I develop cold- and flu-like symptoms when around smoke for any extended amount of time, indoor or outdoor, and so any place that allows smoking is inhospitable, inaccessible, and an unwelcome place for me.

I am particularly concerned about the effects of smoking on the gay community. LGBTQ Californians are 60% more likely to use tobacco, largely due to stress from discrimination, and 25% more likely to be exposed to secondhand smoke than non-LGBTQ Californians. Marketing strategies from tobacco companies like Project SCUM have deliberately targeted my communities, so much so that some folks actually consider smoking part of "gay culture" - a true indicator of the success of these evil tactics.

Passing a city-wide ban on smoking in all public areas - including patios - is needed to protect our patrons, our workers, and our community. Some of the many arguments for this include:

* San Francisco law protects workers from secondhand smoke and vaping nearly everywhere: farmer's markets, sports arenas, bus stops, ATM lines, parklets, restaurant patios, and indoor areas of bars. Bar workers deserve the same protections on their workplace patio as restaurant workers do on theirs.

* Some establishments with extensive food service claim to be bars to skirt smoke-free protection. Food prep and food service workers in San Francisco and Alameda counties are over 5 times as likely as people with desk jobs to report secondhand smoke exposure in the workplace. These workers are disproportionately young, low income, and Latine.

* A survey of over 1,000 LGBTQ Californians with a current or former history of tobacco use found 65% agreed with the statement that smoke-free outdoor spaces, like bars, help or would have helped them to quit. Trans people and former smokers were more likely to say having these spaces smoke-free would be helpful.

* San Francisco would join the 115+ CA Municipalities that ban smoking in outdoor bar areas. Many cities actually go further, banning smoking in all public areas including sidewalks and streets.

* Bar revenue has not collapsed in those municipalities, and in fact, research suggests revenue would increase. After indoor areas of California bars went smoke-free in 1998, bar revenues continued to climb. LGBTQ Minus Tobacco surveyed 379 people who could name a San Francisco bar with a patio that they go to and found that nearly half would visit those bars more often if city law made the patios smoke-free. 46% would go to those bars more often, 47% would go the same, and only 7% would go less.

There is honestly no legitimate argument against this legislation. Please, for the sake of my health, the health of our dedicated bar workers, and the health of my communities, vote **in favor** of this legislation in the Land Use Committee and when it comes to a vote of the full Board.

Thanks,

--
~Erik Greenfrost
An individual has not started living until they can rise above the narrow confines of their individualistic concerns to the broader concerns of all humanity. (MLK Jr., paraphrased)

From: Jeffrey T. Senna
To: Chan, Connie (BOS); ChanStaff (BOS); Sherrill, Stephen (BOS); SherrillStaff; Sauter, Danny (BOS); SauterStaff; Wong, Alan (BOS); WongStaff (BOS); Mahmood, Bilal (BOS); MahmoodStaff; Dorsey, Matt (BOS); DorseyStaff (BOS); Mandelman, Rafael (BOS); MandelmanStaff (BOS); Fielder, Jackie (BOS); FielderStaff; Walton, Shamann (BOS); Waltonstaff (BOS); Chen, Chyanne (BOS); ChenStaff; Melgar, Myrna (BOS); MelgarStaff (BOS)
Subject: Smoke-Free Bar Patios Letter
Date: Wednesday, April 15, 2026 7:07:49 PM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Supervisors:

I am writing to urge your strong Support for Supervisor Melgar's ordinance to improve the health of workers and the public by closing a dangerous public health loophole. The ordinance would prohibit smoking or vaping on bar patios and semi-enclosed rooms in bars, closing a hazardous loophole that exposes San Franciscans and visitors to dangerous secondhand smoke. No one should have to choose between their health or a paycheck.

San Francisco law protects people from secondhand smoke nearly everywhere, including farmer's markets, sports arenas, movie lines, ATM lines, bus stops, parklets, restaurant patios, and indoor areas of bars, BUT NOT bar patios. Workers and patrons deserve the same protection at bar patios as they have at restaurant patios, bus stops and ATMs.

Despite leading in other areas, San Francisco has fallen far behind other cities and counties in the Bay Area when it comes to ensuring clean air for workers and patrons. More than 50 other Bay Area cities including Oakland and San Jose have closed this loophole.

While any business might be fearful of changes to how they operate, 25 years of data shows that smoke- free air laws do not have a negative impact on bar or restaurant employment. After the law designated indoor areas of California bars smoke-free in 1998, California's bars GAINED revenue.

Any discomfort with change is nothing compared to the well-established and proven health impact for those that must suffer the severe consequences of secondhand smoke. The Centers for Disease Control and Prevention (CDC) states there is "no safe level of exposure to secondhand smoke." Nonsmokers who are exposed to secondhand smoke, even for a short time, can suffer harmful health effects, including cancer, bronchitis, asthma, heart disease, stroke, and Type 2 diabetes. Underrepresented groups, including LGBTQ+ adults in California, use tobacco at higher rates than their non-LGBTQ+ counterparts, and face higher levels of secondhand smoke and vape exposure.

For these reasons, and many more, I urge your support for this important ordinance.

Thank you,
Jeffrey Senna

67 Manchester St. , SF

From: Linda Rothfield
To: MelgarStaff (BOS)
Subject: Smoking ban outside bar patios
Date: Friday, May 8, 2026 5:16:53 PM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Supervisor Melgar,

I just want to thank you for your proposed legislation to bar smoking on outdoor bar patios. Although I do not live in your District this affects everyone in San Francisco.

As a non-smoker when it is warm I would like to be outside but I can't go outside because I am allergic to the smoke and it is like being stuck in the middle of an ashtray. I know you are getting a lot of push back but I urge you to fight for this ordinance. I know I'm not the only one because my friends agree with me that we would rather have the outside areas free of smoke.

In fact, yesterday I went in for a quick drink to a local bar where there were no seats so I went to the outside patio where there were only a couple of people and none were smoking. As soon as a man came in and started smoking I had to get up and go to the front of the bar and stand.

Again I just want to thank you for introducing this legislation.

Best regards,

Linda Rothfield

Yahoo Mail: Search, Organize, Conquer

From:	Todd McGregor
To:	Chan, Connie (BOS); ChanStaff (BOS); Sherrill, Stephen (BOS); SherrillStaff; Sauter, Danny (BOS); SauterStaff; Wong, Alan (BOS); WongStaff (BOS); Mahmood, Bilal (BOS); MahmoodStaff; Dorsey, Matt (BOS); DorseyStaff (BOS); Mandelman, Rafael (BOS); MandelmanStaff (BOS); Fielder, Jackie (BOS); FielderStaff; Walton, Shamann (BOS); Waltonstaff (BOS); Chen, Chyanne (BOS); ChenStaff; Melgar, Myrna (BOS); MelgarStaff (BOS)
Subject:	Stop Smoke on Bar Parios
Date:	Friday, April 10, 2026 2:13:29 PM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Supervisors:

Prohibiting smoking or vaping on bar patios (and semi-enclosed rooms in bars) would close a hazardous loophole that exposes San Franciscans to dangerous secondhand smoke.

San Francisco law protects people from secondhand smoke nearly everywhere, including farmer's markets, sports arenas, movie lines, ATM lines, bus stops, parklets, restaurant patios, and indoor areas of bars, BUT NOT bar patios. Workers and patrons deserve the same protection at bar patios as they have at restaurant patios, bus stops and ATMs.

San Francisco has fallen far behind other cities and counties in the Bay Area when it comes to ensuring clean air for workers and patrons. More than 50 other Bay Area cities, including Oakland and San Jose, have closed this loophole.

25 years of data shows that smoke- free air laws do not have a negative impact on bar or restaurant employment. After the law designated indoor areas of California bars smoke-free in 1998, California's bars GAINED revenue.

Nonsmokers like myself who are exposed to secondhand smoke, even for a short time, can suffer harmful health effects.

I strongly urge you to require bar patios in San Francisco to be smoke and vape-free.

Thank you,

Todd McGregor
4300B 17th Street
San Francisco, CA 94114

From: Raven Twilling
To: Chan, Connie (BOS); ChanStaff (BOS); Sherrill, Stephen (BOS); SherrillStaff; Sauter, Danny (BOS); SauterStaff; Wong, Alan (BOS); WongStaff (BOS); Mahmood, Bilal (BOS); MahmoodStaff; Dorsey, Matt (BOS); DorseyStaff (BOS); Mandelman, Rafael (BOS); MandelmanStaff (BOS); Fielder, Jackie (BOS); FielderStaff; Walton, Shamann (BOS); Waltonstaff (BOS); Chen, Chyanne (BOS); ChenStaff; Melgar, Myrna (BOS); MelgarStaff (BOS)
Cc: mrbdavis@hotmail.com
Subject: Support Ordinance 260361 -- Smoke-Free Bar Patios
Date: Monday, April 20, 2026 5:11:30 PM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Supervisors,

I am writing to urge your strong support for **Supervisor Melgar's Ordinance No. 260361** to protect the health of workers and the public by closing a longstanding and dangerous public health loophole. This ordinance will prohibit smoking and vaping on bar patios and in semi-enclosed bar spaces, where employees and patrons are still regularly exposed to harmful secondhand smoke.

My family has lived in San Francisco for over four generations. We care deeply about this city and want to see local leadership prioritize the health and wellbeing of everyone who lives, works, and visits here.

Secondhand smoke exposure is not evenly distributed. It is an issue of equity. Involuntary exposure disproportionately impacts low-income communities, communities of color, and residents of multi-unit housing. **Due to uneven smokefree protections**, socioeconomic factors, and targeted tobacco industry marketing, these groups face significantly higher exposure risks.

Why should residents with greater financial means be better protected simply because they can afford to live farther from bars or in single-family homes? **And why are residents in more than 50 neighboring jurisdictions already protected by comprehensive smokefree bar patio laws, while San Francisco lags behind?**

We can and should do better. It's 2026. Smoking on domestic flights in the US was banned over 25 years ago. **The expectation of clean air in shared spaces is not new—it is long overdue in these remaining settings.**

For these reasons, I strongly urge your support for this important ordinance.

Thank you for your leadership,

Raven Twilling
1448 9th Ave.
San Francisco, CA

From:	Russell Long
To:	Chan, Connie (BOS); ChanStaff (BOS); Sauter, Danny (BOS); SauterStaff; Wong, Alan (BOS); WongStaff (BOS); Mahmood, Bilal (BOS); MahmoodStaff; Dorsey, Matt (BOS); DorseyStaff (BOS); Mandelman, Rafael (BOS); MandelmanStaff (BOS); Fielder, Jackie (BOS); FielderStaff; Walton, Shamann (BOS); Waltonstaff (BOS); Chen, Chyanne (BOS); ChenStaff; Melgar, Myrna (BOS); MelgarStaff (BOS)
Subject:	Support Ordinance 260361 -- Smoke-Free Bar Patios
Date:	Friday, April 10, 2026 8:09:27 AM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Supervisors,

I am writing to urge your strong support for Supervisor Melgar's ordinance number 260361 to improve the health of workers and the public by closing a dangerous public health loophole. The ordinance would prohibit smoking or vaping on bar patios and semi-enclosed rooms in bars, closing a hazardous loophole that exposes San Franciscans and visitors to dangerous secondhand smoke. No one should have to choose between their health or a paycheck.

San Francisco law protects people from secondhand smoke nearly everywhere, including farmer's markets, sports arenas, movie lines, ATM lines, bus stops, parklets, restaurant patios, and indoor areas of bars, BUT NOT bar patios. Workers and patrons deserve the same protection at bar patios as they have at restaurant patios, bus stops and ATMs.
Despite leading in other areas, San Francisco has fallen far behind other cities and counties in the Bay Area when it comes to ensuring clean air for workers and patrons. More than 50 other Bay Area cities including Oakland and San Jose have closed this loophole.

While any business might be fearful of changes to how they operate, 25 years of data shows that smoke- free air laws do not have a negative impact on bar or restaurant employment. After the law designated indoor areas of California bars smoke-free in 1998, California's bars GAINED revenue.

Any discomfort with change is nothing compared to the well-established and proven health impact for those that must suffer the severe consequences of secondhand smoke. The Centers for Disease Control and Prevention (CDC) states there is "no safe level of exposure to secondhand smoke." Nonsmokers who are exposed to secondhand smoke, even for a short time, can suffer harmful health

effects, including cancer, bronchitis, asthma, heart disease, stroke, and Type 2 diabetes. Underrepresented groups, including LGBTQ+ adults in California, use tobacco at higher rates than their non-LGBTQ+ counterparts, and face higher levels of secondhand smoke and vape exposure.

For these reasons, and many more, I urge your support for this important ordinance.

Thank you,

Russell Long
29 Toledo Way
SF, CA 94123

From:	Luis Dominguez
To:	Chan, Connie (BOS); ChanStaff (BOS); Sherrill, Stephen (BOS); SherrillStaff; Sauter, Danny (BOS); SauterStaff; Wong, Alan (BOS); WongStaff (BOS); Mahmood, Bilal (BOS); MahmoodStaff; Dorsey, Matt (BOS); DorseyStaff (BOS); Mandelman, Rafael (BOS); MandelmanStaff (BOS); Chen, Chyanne (BOS); ChenStaff; Melgar, Myrna (BOS); MelgarStaff (BOS)
Subject:	Support Ordinance 260361 -- Smoke-Free Bar Patios
Date:	Friday, May 8, 2026 4:04:27 PM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Supervisors:

I am writing to urge your strong support for Supervisor Melgar's ordinance number 260361 to improve the health of workers and the public by closing a dangerous public health loophole. The ordinance would prohibit smoking or vaping on bar patios and semi-enclosed rooms in bars, closing a hazardous loophole that exposes San Franciscans and visitors to dangerous secondhand smoke. No one should have to choose between their health or a paycheck.

San Francisco law protects people from secondhand smoke nearly everywhere, including farmer's markets, sports arenas, movie lines, ATM lines, bus stops, parklets, restaurant patios, and indoor areas of bars, BUT NOT bar patios. Workers and patrons deserve the same protection at bar patios as they have at restaurant patios, bus stops and ATMs.

While any business might be fearful of changes to how they operate, **25 years of data shows that smoke- free air laws do not have a negative impact on bar or restaurant employment**. After the law designated indoor areas of California bars smoke-free in 1998, California's bars GAINED revenue. Additionally, bar staff can and have been health promoters by educating customers about similar laws before while still being able to do their jobs and benefitting from smoke-free environments.

Any discomfort with change is nothing compared to the well-established and proven health impact for those that must suffer the severe consequences of secondhand smoke. The Centers for Disease Control and Prevention (CDC) states there is "no safe level of exposure to secondhand smoke." Nonsmokers who are exposed to secondhand smoke, even for a short time, can suffer harmful health effects, including cancer, bronchitis, asthma, heart disease, stroke, and Type 2 diabetes.

Despite leading in other areas, San Francisco has fallen far behind other cities and counties in the Bay Area when it comes to ensuring clean air for workers and patrons. More than 50 other Bay Area cities including Oakland and San Jose have closed this loophole.

For these reasons, and many more, I urge your support for this important ordinance.

Thank you,

Luis Dominguez

1184 Florida St.,

San Francisco CA 94110

From:	Joseph Andrew Hayden, Juris Doctor
To:	Chan, Connie (BOS); ChanStaff (BOS); Sherrill, Stephen (BOS); SherrillStaff; Sauter, Danny (BOS); SauterStaff; Wong, Alan (BOS); WongStaff (BOS); Mahmood, Bilal (BOS); MahmoodStaff; Dorsey, Matt (BOS); DorseyStaff (BOS); Mandelman, Rafael (BOS); MandelmanStaff (BOS); Fielder, Jackie (BOS); FielderStaff; Walton, Shamann (BOS); Waltonstaff (BOS); Chen, Chyanne (BOS); ChenStaff; Melgar, Myrna (BOS); MelgarStaff (BOS)
Subject:	Support Smoke-Free Bar Patios Ordinance
Date:	Thursday, April 9, 2026 12:25:55 PM
Attachments:	image002.png

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

As a gay man who would spend more time in SOMA bars if they were smoke-free, I strongly support Supervisor Melgar's smoke-free bar patios ordinance.

When I was in law school and going through a child custody case I immediately joined the Board of a gay parenting rights organization as I came out of the closet. My fellow board members told me that I **"came out of the closet so fast, I almost broke a nail."** I'm not going to ever be convinced by a group of naive victims of the tobacco industry that tobacco use is inherent in gay culture when my winning custody of my daughter after her mother left us was already unusual for an openly gay man who never looked back. With primary custody I raised my daughter to be an amazing person and taught her that the reason so many people in our family died so young was because of tobacco addiction. She never got to meet her grandfather and I never got to know my grandmother because they each died at age 50. To me being gay is about being a contributing member of society who happens to partner or have an attraction to the same gender. It has nothing to do with the commercialization of sacred, traditional tobacco or any other drug, because being addicted to substances has nothing to do with our orientation. Of course the pressure of coming out and being a sexual minority leads to self-destructive behavior because of societal pressure, but that does NOT mean it defines any part of our identity. Many of us live very intentionally healthy lives and understand the actual history of **the tobacco industry that kills 8 million people a year needlessly**. YEARLY! Regardless of whether we do pursue the healthiest of lifestyles, we should have the right not to be targeted for being perceived as having less valuable lives than our cis and hetero counterparts.

All I ever needed to know about Big Tobacco and being a gay man is encapsulated in this video called, "How They Get Us to Screw Ourselves." I cannot, as a gay man, bring myself to remain in a bar with smoking patios and smoke wafting in and out, because I cannot support businesses that care nothing about **my lack of consent** to inhale toxic air. I cannot abide by their poisoning my siblings in the queer and ally community in those venues. If we want to uplift and avoid unnecessary death and addiction to **a product that kills when used as intended**, there is only one decision that can be made that is right for business and our brethren's optimal health **in a society that already does so much to shorten our life expectancy and hasten our deaths.** I'm old enough to remember **the AIDS crisis when the tobacco industry laughed all the way to the bank while trampling over an untold number**

of queer bodies. I hope my beloved San Francisco, as San Jose and Oakland have already done, does the right thing to become more of the magical place that it is, not only as a refuge for the diversity of human existence, but for the facilitation of living our best lives, especially for the youth, who **the poison-pushing tobacco industry** really has its eyes on.



Joseph Andrew Hayden, ***Juris Doctor***

joseph@haydennet.com | he/him/lui/el/il
[redacted]
San Francisco Bay Area, California

Haydennet.com - Personal Blog
JosephHayden.com - Sr. Technical Program Manager
Ursinet.com - Domain Hosting & Web Consulting

From:	jessea greenman
To:	Chan, Connie (BOS); ChanStaff (BOS); Sherrill, Stephen (BOS); SherrillStaff; Sauter, Danny (BOS); SauterStaff; Wong, Alan (BOS); WongStaff (BOS); Mahmood, Bilal (BOS); MahmoodStaff; Dorsey, Matt (BOS); DorseyStaff (BOS); Mandelman, Rafael (BOS); MandelmanStaff (BOS); Fielder, Jackie (BOS); FielderStaff; Walton, Shamann (BOS); Waltonstaff (BOS); Chen, Chyanne (BOS); ChenStaff; Melgar, Myrna (BOS); MelgarStaff (BOS)
Subject:	Support Smoke-Free Bar Patios, please!
Date:	Friday, April 10, 2026 1:53:01 PM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Supervisors:

Hi. I write to urge you to take strong action to improve the health of workers and the public by closing a dangerous public health loophole. Prohibiting smoking or vaping on bar patios and semi-enclosed rooms in bars would close a hazardous loophole that exposes San Franciscans and visitors to dangerous secondhand smoke. No one should have to choose between their health or a paycheck.

San Francisco law protects people from secondhand smoke nearly everywhere, including farmer's markets, sports arenas, movie lines, ATM lines, bus stops, parklets, restaurant patios, and indoor areas of bars, BUT NOT bar patios. Workers and patrons deserve the same protection at bar patios as they have at restaurant patios, bus stops and ATMs.
Despite leading in other areas, San Francisco has fallen far behind other cities and counties in the Bay Area when it comes to ensuring clean air for workers and patrons. More than 50 other Bay Area cities, including Oakland and San Jose, have closed this loophole.

While any business might be fearful of changes to how they operate, 25 years of data shows that smoke- free air laws do not have a negative impact on bar or restaurant employment. After the law designated indoor areas of California bars smoke-free in 1998, California's bars GAINED revenue.
Any discomfort with change is nothing compared to the well-established and proven health impact for those that must suffer the severe consequences of secondhand smoke. The Centers for Disease Control and Prevention (CDC) states there is "no safe level of exposure to secondhand smoke." Nonsmokers who are exposed to secondhand smoke, even for a short time, can suffer harmful health effects, including cancer, bronchitis, asthma, heart disease, stroke, and Type 2 diabetes.
Underrepresented groups, including LGBTQ+ adults in California, use tobacco at higher rates than their non-LGBTQ+ counterparts, and face higher levels of secondhand smoke and vape exposure.
For these reasons, and many more, I strongly urge you to require bar patios in San

Francisco to be smoke and vape-free.

Sincerely,
Jessea NR Greenman, Oakland CA

From:	Bernie Morrissey
To:	Chan, Connie (BOS); ChanStaff (BOS); Sherrill, Stephen (BOS); SherrillStaff; Sauter, Danny (BOS); SauterStaff; Wong, Alan (BOS); WongStaff (BOS); Mahmood, Bilal (BOS); MahmoodStaff; Dorsey, Matt (BOS); DorseyStaff (BOS); Mandelman, Rafael (BOS); MandelmanStaff (BOS); Fielder, Jackie (BOS); FielderStaff; Walton, Shamann (BOS); Waltonstaff (BOS); Chen, Chyanne (BOS); ChenStaff; Melgar, Myrna (BOS); MelgarStaff (BOS)
Subject:	Support Smoke-Free Bar Patios
Date:	Monday, April 20, 2026 4:40:57 PM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Supervisors:

I am writing to urge you to take strong action to improve the health of workers and the public by closing a dangerous public health loophole. Prohibiting smoking or vaping on bar patios and semi-enclosed rooms in bars would close a hazardous loophole that exposes San Franciscans and visitors to dangerous secondhand smoke. No one should have to choose between their health or a paycheck.

San Francisco law protects people from secondhand smoke nearly everywhere, including farmer's markets, sports arenas, movie lines, ATM lines, bus stops, parklets, restaurant patios, and indoor areas of bars, BUT NOT bar patios. Workers and patrons deserve the same protection at bar patios as they have at restaurant patios, bus stops and ATMs.
Despite leading in other areas, San Francisco has fallen far behind other cities and counties in the Bay Area when it comes to ensuring clean air for workers and patrons. More than 50 other Bay Area cities, including Oakland and San Jose, have closed this loophole.

While any business might be fearful of changes to how they operate, 25 years of data shows that smoke- free air laws do not have a negative impact on bar or restaurant employment. After the law designated indoor areas of California bars smoke-free in 1998, California's bars GAINED revenue.
Any discomfort with change is nothing compared to the well-established and proven health impact for those that must suffer the severe consequences of secondhand smoke. The Centers for Disease Control and Prevention (CDC) states there is "no safe level of exposure to secondhand smoke." Nonsmokers who are exposed to secondhand smoke, even for a short time, can suffer harmful health effects, including cancer, bronchitis, asthma, heart disease, stroke, and Type 2 diabetes. Underrepresented groups, including LGBTQ+ adults in California, use tobacco at higher rates than their non-LGBTQ+ counterparts, and face higher levels of secondhand smoke and vape exposure.

For these reasons, and many more, I strongly urge you to require bar patios in San Francisco to be smoke and vape-free.

Thank you,

Bernard Morrissey

305 Santa Rosa Ave, #1

San Francisco, CA 94112

From:	Alexander (Alex) Merenkov
To:	Chan, Connie (BOS); ChanStaff (BOS); Sherrill, Stephen (BOS); SherrillStaff; Sauter, Danny (BOS); SauterStaff; Wong, Alan (BOS); WongStaff (BOS); Mahmood, Bilal (BOS); MahmoodStaff; Dorsey, Matt (BOS); DorseyStaff (BOS); Mandelman, Rafael (BOS); MandelmanStaff (BOS); Fielder, Jackie (BOS); FielderStaff; Walton, Shamann (BOS); Waltonstaff (BOS); Chen, Chyanne (BOS); ChenStaff; Melgar, Myrna (BOS); MelgarStaff (BOS)
Subject:	Support for Ordinance 260361 – Smoke-Free Bar Patios
Date:	Thursday, April 16, 2026 12:59:23 PM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Supervisors,

I am writing to urge your strong support for Ordinance 260361, introduced by Supervisor Myrna Melgar, to protect workers and the public by closing a longstanding gap in San Francisco's smoke-free laws.

Currently, San Francisco protects people from secondhand smoke in nearly all public settings—including restaurant patios, bus stops, and indoor bar spaces—but not on bar patios. This creates an inconsistent and harmful loophole that leaves workers and patrons exposed to toxic air. No one should have to choose between their health and their livelihood.

As someone with asthma who regularly spends almost half my time in neighborhoods like the Castro and Noe Valley, this issue directly affects my daily life. Exposure to smoke on bar patios and nearby outdoor areas can trigger symptoms quickly, forcing me to leave social spaces or avoid them altogether. It has made it difficult at times to participate in everyday activities—whether walking through commercial corridors or spending time with my boyfriend and friends—because I cannot reliably avoid exposure.

There is no safe level of secondhand smoke exposure. Even brief exposure can increase the risk of serious health conditions, including asthma attacks, heart disease, and cancer. Workers on bar patios are especially vulnerable, as they face repeated exposure over long periods of time.

San Francisco has historically been a leader in public health, yet more than 100 California cities—including Oakland and San Jose—have already enacted smoke-free bar patio policies. This ordinance would bring San Francisco back into alignment with regional standards and reaffirm its leadership.

Concerns about negative business impacts are not supported by evidence. Decades of data show that smoke-free laws do not harm bar or restaurant revenues. In many cases, businesses benefit from cleaner, more welcoming environments that attract a broader range of patrons.

Bar patios are important community spaces, particularly within LGBTQ+ communities. Ensuring these spaces are accessible, inclusive, and safe for everyone—including people with asthma, compromised immune systems, or those trying to quit smoking—is a necessary and overdue step.

For these reasons, I respectfully urge you to support Ordinance 260361.

Thank you for your time and consideration.

Sincerely,
Alexander Merenkov
2020 Kittredge St
Berkeley, CA
Frequent guest of Noe Valley and The Castro

--

AM

Alex Merenkov
Design, Marketing & Business
[redacted]
EMAIL alexmerenkov@gmail.com

From: bbellasf@gmail.com
To: Melgar, Myrna (BOS)
Cc: MelgarStaff (BOS)
Subject: Support for Smoke-Free Patio Legislation
Date: Tuesday, April 28, 2026 8:39:07 AM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Hello Supervisor Melgar,

I am writing to express my strong support for the Smoke-Free Patio legislation and thank you for introducing this important legislation. Workers and non-smokers should not be subjected to this health risk. Full stop.

While I have heard that some (not all) small business owners are worried about a loss of business from their smoking customers, might not there be a counterbalancing increase from non-smokers who would finally be able to enjoy these spaces?

Thank you.
Barbara Bella

From:	David Wingate
To:	MahmoodStaff; Chan, Connie (BOS); ChanStaff (BOS); Sherrill, Stephen (BOS); SherrillStaff; Sauter, Danny (BOS); SauterStaff; Wong, Alan (BOS); WongStaff (BOS); Mahmood, Bilal (BOS); Dorsey, Matt (BOS); DorseyStaff (BOS); Mandelman, Rafael (BOS); MandelmanStaff (BOS); Fielder, Jackie (BOS); FielderStaff; Walton, Shamann (BOS); Waltonstaff (BOS); Chen, Chyanne (BOS); ChenStaff; Melgar, Myrna (BOS); MelgarStaff (BOS)
Subject:	Support: smoke-free bar patio legislation
Date:	Monday, April 13, 2026 4:15:21 PM

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Hello,

My name is David Wingate, and I'm asking you to **please support the legislation for Smoke Free Patios (Melgar)** currently assigned to the Land Use Committee.

As a longtime member of San Francisco's leather/kink community, I want to refute what you may be hearing from a small but vocal segment of our community:

Smoking is a sexual fetish for some. Cigar smoking, in particular, is a subculture within the kink community. Organized meetups at SOMA bars are held on a regular basis. Some of these folks are framing the Smoke Free Patios legislation as a direct attack on their personal sexuality.

I strongly disagree for several reasons:

- While respecting an individual's sexual identity is a matter of dignity and human rights, it is reasonable to limit certain conduct in public, especially when it endangers the health of others or infringes on their rights to inhabit shared spaces.

- Restrictions on smoking in shared spaces apply to everyone. They don't discriminate against any class or subculture.

- Smoke free patios are not an attack on smokers. This is a common sense public health policy to protect workers and patrons from serious illness or death caused by second hand smoke.

I have worked for years as an advocate for public health policy, most recently as a volunteer for LGBTQ Minus Tobacco. I know my colleagues are providing you with a lot of research based information in support of Smoke Free Patios, and I won't try to summarize all of that in my email. But please give that information the consideration it deserves. The public is counting on you to do the right thing!

Sincerely,

David Wingate

From:	David Wingate
To:	Chan, Connie (BOS); ChanStaff (BOS); Sherrill, Stephen (BOS); SherrillStaff; Sauter, Danny (BOS); SauterStaff; Wong, Alan (BOS); WongStaff (BOS); Mahmood, Bilal (BOS); MahmoodStaff; Dorsey, Matt (BOS); DorseyStaff (BOS); Mandelman, Rafael (BOS); MandelmanStaff (BOS); Fielder, Jackie (BOS); FielderStaff; Walton, Shamann (BOS); Waltonstaff (BOS); Chen, Chyanne (BOS); ChenStaff; Melgar, Myrna (BOS); MelgarStaff (BOS)
Subject:	Support: smoke-free bar patio legislation
Date:	Friday, May 8, 2026 4:24:51 PM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Hello,

My name is David Wingate, and I'm asking you to **please support Supervisor Melgar's smoke-free bar patios ordinance 260361.**

Research shows:

- Second-hand smoke causes life-threatening diseases
- Prohibiting smoking in bars and restaurants does not hurt those businesses

I understand this legislation is opposed by a vocal group of smokers and a few bars catering to them. These "special interest groups" should not dictate public health policy.

Please put the public interest above special interests!

Sincerely,

David Wingate
[redacted]

From: Christina Wang
To: MelgarStaff (BOS)
Subject: Thank you!
Date: Friday, April 24, 2026 9:59:20 AM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Supervisor Melgar
City Hall
1 Dr. Carlton B Goodlett Place
San Francisco, CA 94102

Re: Ordinance 260361 (Melgar)
Position: Support

Dear Supervisor Melgar:

I am a physician who lives in your district.

I thank you for our leadership in your smoke-free bar patios ordinance to improve the health of workers and the public by closing a dangerous public health loophole. As you know the ordinance would close a hazardous loophole that exposes San Franciscans and visitors to dangerous secondhand smoke. No one should have to choose between their health or a paycheck.

San Francisco law protects people from secondhand smoke nearly everywhere, including farmer's markets, sports arenas, movie lines, ATM lines, bus stops, parklets, restaurant patios, and indoor areas of bars, BUT NOT bar patios. Workers and patrons deserve the same protection at bar patios as they have at restaurant patios, bus stops and ATMs.

Despite leading in other areas, San Francisco has fallen far behind other cities and counties in the Bay Area when it comes to ensuring clean air for workers and patrons. More than 50 other Bay Area cities including Oakland and San Jose have closed this loophole. Your legislation helps catch San Francisco up to the rest of the Bay.

While any business might be fearful of changes to how they operate, 25 years of data shows that smoke-free air laws do not have a negative impact on bar or restaurant employment. After the law designated indoor areas of California bars smoke-free in 1998, California's bars GAINED revenue.

Any discomfort with change is nothing compared to the well-established and proven health impact for those that must suffer the severe consequences of secondhand smoke. The Centers for Disease Control and Prevention (CDC) states there is "no safe level of exposure to secondhand smoke." Nonsmokers who are exposed to secondhand smoke, even for a short time, can suffer harmful health effects, including cancer, bronchitis, asthma, heart disease, stroke, and Type 2 diabetes. Underrepresented groups, including LGBTQ+ adults in California, use tobacco at higher rates than their non-LGBTQ+ counterparts, and face higher levels of secondhand smoke and vape exposure.

For these reasons, and many more, I thank you for your leadership with this important ordinance. I

am also a part of the San Francisco & Marin Medical Society and we also urge your support for this ordinance.

Thank you,

Christina Wang
Physician Specialist
San Francisco Department of Public Health

From: Lisa Buchanan
To: MelgarStaff (BOS)
Subject: support for your ordinance to prohibit smoking on outdoor patios at bars
Date: Friday, April 17, 2026 8:21:14 AM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Supervisor Myrna Melgar,

Just a quick note of thanks for your ordinance to prohibit smoking in outdoor patios of bars.

Per the CDC research quoted in the Mission Local piece, there is no safe level of exposure to second-hand smoke.

Respectfully submitted,

Lisa Buchanan D7
1275 10th Ave. SF

From:	SF Carl
To:	Chan, Connie (BOS); ChanStaff (BOS); Sherrill, Stephen (BOS); SherrillStaff; Sauter, Danny (BOS); SauterStaff; Wong, Alan (BOS); WongStaff (BOS); Mahmood, Bilal (BOS); MahmoodStaff; Dorsey, Matt (BOS); DorseyStaff (BOS); Mandelman, Rafael (BOS); MandelmanStaff (BOS); Fielder, Jackie (BOS); FielderStaff; Walton, Shamann (BOS); Waltonstaff (BOS); Chen, Chyanne (BOS); ChenStaff; Melgar, Myrna (BOS); MelgarStaff (BOS)
Subject:	Ordinance 260361 (Melgar) Position: Support
Date:	Tuesday, April 21, 2026 11:47:59 PM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Supervisors:

As a San Franciscan and a Physician Assistant, I am writing to urge your strong Support for Supervisor Melgar's ordinance to improve the health of workers and the public by closing a dangerous public health loophole. The ordinance would prohibit smoking or vaping on bar patios and semi-enclosed rooms in bars, closing a hazardous loophole that exposes San Franciscans and visitors to dangerous secondhand smoke. No one should have to choose between their health or a paycheck.

San Francisco law protects people from secondhand smoke nearly everywhere, including farmer's markets, sports arenas, movie lines, ATM lines, bus stops, parklets, restaurant patios, and indoor areas of bars, BUT NOT bar patios. Workers and patrons deserve the same protection at bar patios as they have at restaurant patios, bus stops and ATMs.

Despite leading in other areas, San Francisco has fallen far behind other cities and counties in the Bay Area when it comes to ensuring clean air for workers and patrons. More than 50 other Bay Area cities including Oakland and San Jose have closed this loophole.

While any business might be fearful of changes to how they operate, 25 years of data show that smoke- free air laws do not have a negative impact on bar or restaurant employment. After the law designated indoor areas of California bars smoke-free in 1998, California's bars GAINED revenue.

Any discomfort with change is nothing compared to the well-established and proven health impact for those that must suffer the severe consequences of secondhand smoke. The Centers for Disease Control and Prevention (CDC) states there is "no safe level of exposure to secondhand smoke." Nonsmokers who are exposed to secondhand smoke, even for a short time, can suffer harmful health effects, including cancer, bronchitis, asthma, heart disease, stroke, and Type 2 diabetes. Underrepresented groups, including LGBTQ+ adults in California, use tobacco at higher rates than their non-LGBTQ+ counterparts, and face higher levels of secondhand smoke and vape exposure.

For these reasons, and many more, I urge your support for this important ordinance. Please give priority to health.

Thank you,

Carl Stein

From: Raven Twilling
To: Chan, Connie (BOS); ChanStaff (BOS); Sherrill, Stephen (BOS); SherrillStaff; Sauter, Danny (BOS); SauterStaff; Wong, Alan (BOS); WongStaff (BOS); Mahmood, Bilal (BOS); MahmoodStaff; Dorsey, Matt (BOS); DorseyStaff (BOS); Mandelman, Rafael (BOS); MandelmanStaff (BOS); Fielder, Jackie (BOS); FielderStaff; Walton, Shamann (BOS); Waltonstaff (BOS); Chen, Chyanne (BOS); ChenStaff; Melgar, Myrna (BOS); MelgarStaff (BOS)
Cc: mrbdavis@hotmail.com
Subject: Support Ordinance 260361 -- Smoke-Free Bar Patios
Date: Monday, April 20, 2026 5:11:30 PM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Supervisors,

I am writing to urge your strong support for **Supervisor Melgar's Ordinance No. 260361** to protect the health of workers and the public by closing a longstanding and dangerous public health loophole. This ordinance will prohibit smoking and vaping on bar patios and in semi-enclosed bar spaces, where employees and patrons are still regularly exposed to harmful secondhand smoke.

My family has lived in San Francisco for over four generations. We care deeply about this city and want to see local leadership prioritize the health and wellbeing of everyone who lives, works, and visits here.

Secondhand smoke exposure is not evenly distributed. It is an issue of equity. Involuntary exposure disproportionately impacts low-income communities, communities of color, and residents of multi-unit housing. **Due to uneven smokefree protections**, socioeconomic factors, and targeted tobacco industry marketing, these groups face significantly higher exposure risks.

Why should residents with greater financial means be better protected simply because they can afford to live farther from bars or in single-family homes? **And why are residents in more than 50 neighboring jurisdictions already protected by comprehensive smokefree bar patio laws, while San Francisco lags behind?**

We can and should do better. It's 2026. Smoking on domestic flights in the US was banned over 25 years ago. **The expectation of clean air in shared spaces is not new—it is long overdue in these remaining settings.**

For these reasons, I strongly urge your support for this important ordinance.

Thank you for your leadership,

Raven Twilling
1448 9th Ave.
San Francisco, CA

From:	Bernie Morrissey
To:	Chan, Connie (BOS); ChanStaff (BOS); Sherrill, Stephen (BOS); SherrillStaff; Sauter, Danny (BOS); SauterStaff; Wong, Alan (BOS); WongStaff (BOS); Mahmood, Bilal (BOS); MahmoodStaff; Dorsey, Matt (BOS); DorseyStaff (BOS); Mandelman, Rafael (BOS); MandelmanStaff (BOS); Fielder, Jackie (BOS); FielderStaff; Walton, Shamann (BOS); Waltonstaff (BOS); Chen, Chyanne (BOS); ChenStaff; Melgar, Myrna (BOS); MelgarStaff (BOS)
Subject:	Support Smoke-Free Bar Patios
Date:	Monday, April 20, 2026 4:40:57 PM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Supervisors:

I am writing to urge you to take strong action to improve the health of workers and the public by closing a dangerous public health loophole. Prohibiting smoking or vaping on bar patios and semi-enclosed rooms in bars would close a hazardous loophole that exposes San Franciscans and visitors to dangerous secondhand smoke. No one should have to choose between their health or a paycheck.

San Francisco law protects people from secondhand smoke nearly everywhere, including farmer's markets, sports arenas, movie lines, ATM lines, bus stops, parklets, restaurant patios, and indoor areas of bars, BUT NOT bar patios. Workers and patrons deserve the same protection at bar patios as they have at restaurant patios, bus stops and ATMs.
Despite leading in other areas, San Francisco has fallen far behind other cities and counties in the Bay Area when it comes to ensuring clean air for workers and patrons. More than 50 other Bay Area cities, including Oakland and San Jose, have closed this loophole.

While any business might be fearful of changes to how they operate, 25 years of data shows that smoke- free air laws do not have a negative impact on bar or restaurant employment. After the law designated indoor areas of California bars smoke-free in 1998, California's bars GAINED revenue.
Any discomfort with change is nothing compared to the well-established and proven health impact for those that must suffer the severe consequences of secondhand smoke. The Centers for Disease Control and Prevention (CDC) states there is "no safe level of exposure to secondhand smoke." Nonsmokers who are exposed to secondhand smoke, even for a short time, can suffer harmful health effects, including cancer, bronchitis, asthma, heart disease, stroke, and Type 2 diabetes. Underrepresented groups, including LGBTQ+ adults in California, use tobacco at higher rates than their non-LGBTQ+ counterparts, and face higher levels of secondhand smoke and vape exposure.

For these reasons, and many more, I strongly urge you to require bar patios in San Francisco to be smoke and vape-free.

Thank you,

Bernard Morrissey

305 Santa Rosa Ave, #1

San Francisco, CA 94112

From: Lisa Buchanan
To: MelgarStaff (BOS)
Subject: support for your ordinance to prohibit smoking on outdoor patios at bars
Date: Friday, April 17, 2026 8:21:14 AM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Supervisor Myrna Melgar,

Just a quick note of thanks for your ordinance to prohibit smoking in outdoor patios of bars.

Per the CDC research quoted in the Mission Local piece, there is no safe level of exposure to second-hand smoke.

Respectfully submitted,

Lisa Buchanan D7
1275 10th Ave. SF

From:	Alexander (Alex) Merenkov
To:	Chan, Connie (BOS); ChanStaff (BOS); Sherrill, Stephen (BOS); SherrillStaff; Sauter, Danny (BOS); SauterStaff; Wong, Alan (BOS); WongStaff (BOS); Mahmood, Bilal (BOS); MahmoodStaff; Dorsey, Matt (BOS); DorseyStaff (BOS); Mandelman, Rafael (BOS); MandelmanStaff (BOS); Fielder, Jackie (BOS); FielderStaff; Walton, Shamann (BOS); Waltonstaff (BOS); Chen, Chyanne (BOS); ChenStaff; Melgar, Myrna (BOS); MelgarStaff (BOS)
Subject:	Support for Ordinance 260361 – Smoke-Free Bar Patios
Date:	Thursday, April 16, 2026 12:59:23 PM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Supervisors,

I am writing to urge your strong support for Ordinance 260361, introduced by Supervisor Myrna Melgar, to protect workers and the public by closing a longstanding gap in San Francisco's smoke-free laws.

Currently, San Francisco protects people from secondhand smoke in nearly all public settings—including restaurant patios, bus stops, and indoor bar spaces—but not on bar patios. This creates an inconsistent and harmful loophole that leaves workers and patrons exposed to toxic air. No one should have to choose between their health and their livelihood.

As someone with asthma who regularly spends almost half my time in neighborhoods like the Castro and Noe Valley, this issue directly affects my daily life. Exposure to smoke on bar patios and nearby outdoor areas can trigger symptoms quickly, forcing me to leave social spaces or avoid them altogether. It has made it difficult at times to participate in everyday activities—whether walking through commercial corridors or spending time with my boyfriend and friends—because I cannot reliably avoid exposure.

There is no safe level of secondhand smoke exposure. Even brief exposure can increase the risk of serious health conditions, including asthma attacks, heart disease, and cancer. Workers on bar patios are especially vulnerable, as they face repeated exposure over long periods of time.

San Francisco has historically been a leader in public health, yet more than 100 California cities—including Oakland and San Jose—have already enacted smoke-free bar patio policies. This ordinance would bring San Francisco back into alignment with regional standards and reaffirm its leadership.

Concerns about negative business impacts are not supported by evidence. Decades of data show that smoke-free laws do not harm bar or restaurant revenues. In many cases, businesses benefit from cleaner, more welcoming environments that attract a broader range of patrons.

Bar patios are important community spaces, particularly within LGBTQ+ communities. Ensuring these spaces are accessible, inclusive, and safe for everyone—including people with asthma, compromised immune systems, or those trying to quit smoking—is a necessary and overdue step.

For these reasons, I respectfully urge you to support Ordinance 260361.

Thank you for your time and consideration.

Sincerely,
Alexander Merenkov
2020 Kittredge St
Berkeley, CA
Frequent guest of Noe Valley and The Castro

--

AM

Alex Merenkov
Design, Marketing & Business
PHONE (925) 451-2639
EMAIL alexmerenkov@gmail.com

From: Jeffrey T. Senna
To: Chan, Connie (BOS); ChanStaff (BOS); Sherrill, Stephen (BOS); SherrillStaff; Sauter, Danny (BOS); SauterStaff; Wong, Alan (BOS); WongStaff (BOS); Mahmood, Bilal (BOS); MahmoodStaff; Dorsey, Matt (BOS); DorseyStaff (BOS); Mandelman, Rafael (BOS); MandelmanStaff (BOS); Fielder, Jackie (BOS); FielderStaff; Walton, Shamann (BOS); Waltonstaff (BOS); Chen, Chyanne (BOS); ChenStaff; Melgar, Myrna (BOS); MelgarStaff (BOS)
Subject: Smoke-Free Bar Patios Letter
Date: Wednesday, April 15, 2026 7:07:49 PM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Supervisors:

I am writing to urge your strong Support for Supervisor Melgar's ordinance to improve the health of workers and the public by closing a dangerous public health loophole. The ordinance would prohibit smoking or vaping on bar patios and semi-enclosed rooms in bars, closing a hazardous loophole that exposes San Franciscans and visitors to dangerous secondhand smoke. No one should have to choose between their health or a paycheck.

San Francisco law protects people from secondhand smoke nearly everywhere, including farmer's markets, sports arenas, movie lines, ATM lines, bus stops, parklets, restaurant patios, and indoor areas of bars, BUT NOT bar patios. Workers and patrons deserve the same protection at bar patios as they have at restaurant patios, bus stops and ATMs.

Despite leading in other areas, San Francisco has fallen far behind other cities and counties in the Bay Area when it comes to ensuring clean air for workers and patrons. More than 50 other Bay Area cities including Oakland and San Jose have closed this loophole.

While any business might be fearful of changes to how they operate, 25 years of data shows that smoke- free air laws do not have a negative impact on bar or restaurant employment. After the law designated indoor areas of California bars smoke-free in 1998, California's bars GAINED revenue.

Any discomfort with change is nothing compared to the well-established and proven health impact for those that must suffer the severe consequences of secondhand smoke. The Centers for Disease Control and Prevention (CDC) states there is "no safe level of exposure to secondhand smoke." Nonsmokers who are exposed to secondhand smoke, even for a short time, can suffer harmful health effects, including cancer, bronchitis, asthma, heart disease, stroke, and Type 2 diabetes. Underrepresented groups, including LGBTQ+ adults in California, use tobacco at higher rates than their non-LGBTQ+ counterparts, and face higher levels of secondhand smoke and vape exposure.

For these reasons, and many more, I urge your support for this important ordinance.

Thank you,
Jeffrey Senna

67 Manchester St. , SF

From:	David Wingate
To:	MahmoodStaff; Chan, Connie (BOS); ChanStaff (BOS); Sherrill, Stephen (BOS); SherrillStaff; Sauter, Danny (BOS); SauterStaff; Wong, Alan (BOS); WongStaff (BOS); Mahmood, Bilal (BOS); Dorsey, Matt (BOS); DorseyStaff (BOS); Mandelman, Rafael (BOS); MandelmanStaff (BOS); Fielder, Jackie (BOS); FielderStaff; Walton, Shamann (BOS); Waltonstaff (BOS); Chen, Chyanne (BOS); ChenStaff; Melgar, Myrna (BOS); MelgarStaff (BOS)
Subject:	Support: smoke-free bar patio legislation
Date:	Monday, April 13, 2026 4:15:21 PM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Hello,

My name is David Wingate, and I'm asking you to **please support the legislation for Smoke Free Patios (Melgar)** currently assigned to the Land Use Committee.

As a longtime member of San Francisco's leather/kink community, I want to refute what you may be hearing from a small but vocal segment of our community:

Smoking is a sexual fetish for some. Cigar smoking, in particular, is a subculture within the kink community. Organized meetups at SOMA bars are held on a regular basis. Some of these folks are framing the Smoke Free Patios legislation as a direct attack on their personal sexuality.

I strongly disagree for several reasons:

- While respecting an individual's sexual identity is a matter of dignity and human rights, it is reasonable to limit certain conduct in public, especially when it endangers the health of others or infringes on their rights to inhabit shared spaces.

- Restrictions on smoking in shared spaces apply to everyone. They don't discriminate against any class or subculture.

- Smoke free patios are not an attack on smokers. This is a common sense public health policy to protect workers and patrons from serious illness or death caused by second hand smoke.

I have worked for years as an advocate for public health policy, most recently as a volunteer for LGBTQ Minus Tobacco. I know my colleagues are providing you with a lot of research based information in support of Smoke Free Patios, and I won't try to summarize all of that in my email. But please give that information the consideration it deserves. The public is counting on you to do the right thing!

Sincerely,

David Wingate

From:	Erik Greenfrost
To:	Chan, Connie (BOS); ChanStaff (BOS); Sherrill, Stephen (BOS); SherrillStaff; Sauter, Danny (BOS); SauterStaff; Wong, Alan (BOS); WongStaff (BOS); Mahmood, Bilal (BOS); MahmoodStaff; Dorsey, Matt (BOS); DorseyStaff (BOS); Mandelman, Rafael (BOS); MandelmanStaff (BOS); Fielder, Jackie (BOS); FielderStaff; Walton, Shamann (BOS); Waltonstaff (BOS); Chen, Chyanne (BOS); ChenStaff; Melgar, Myrna (BOS); MelgarStaff (BOS)
Subject:	SUPPORT: Smoke Free Patios Legislation (Melgar)
Date:	Monday, April 13, 2026 8:01:51 AM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

My name is Erik Greenfrost, and I'm writing to ask you to please **SUPPORT** the legislation for Smoke Free Patios (Melgar) currently assigned to the Land Use Committee.

I am a gendqueer, gay person living in the Bay Area for nearly two decades and am currently a resident of D10. I am also an event producer, including the annual Bearrison Street Fair, which brings 5,000+ people to the historic Leather & LGBTQ+ Cultural Distrcit every October. I also have asthma, and am very sensitive to smoke; I develop cold- and flu-like symptoms when around smoke for any extended amount of time, indoor or outdoor, and so any place that allows smoking is inhospitable, inaccessible, and an unwelcome place for me.

I am particularly concerned about the effects of smoking on the gay community. LGBTQ Californians are 60% more likely to use tobacco, largely due to stress from discrimination, and 25% more likely to be exposed to secondhand smoke than non-LGBTQ Californians. Marketing strategies from tobacco companies like Project SCUM have deliberately targeted my communities, so much so that some folks actually consider smoking part of "gay culture" - a true indicator of the success of these evil tactics.

Passing a city-wide ban on smoking in all public areas - including patios - is needed to protect our patrons, our workers, and our community. Some of the many arguments for this include:

* San Francisco law protects workers from secondhand smoke and vaping nearly everywhere: farmer's markets, sports arenas, bus stops, ATM lines, parklets, restaurant patios, and indoor areas of bars. Bar workers deserve the same protections on their workplace patio as restaurant workers do on theirs.

* Some establishments with extensive food service claim to be bars to skirt smoke-free protection. Food prep and food service workers in San Francisco and Alameda counties are over 5 times as likely as people with desk jobs to report secondhand smoke exposure in the workplace. These workers are disproportionately young, low income, and Latine.

* A survey of over 1,000 LGBTQ Californians with a current or former history of tobacco use found 65% agreed with the statement that smoke-free outdoor spaces, like bars, help or would have helped them to quit. Trans people and former smokers were more likely to say having these spaces smoke-free would be helpful.

* San Francisco would join the 115+ CA Municipalities that ban smoking in outdoor bar areas. Many cities actually go further, banning smoking in all public areas including sidewalks and streets.

* Bar revenue has not collapsed in those municipalities, and in fact, research suggests revenue would increase. After indoor areas of California bars went smoke-free in 1998, bar revenues continued to climb. LGBTQ Minus Tobacco surveyed 379 people who could name a San Francisco bar with a patio that they go to and found that nearly half would visit those bars more often if city law made the patios smoke-free. 46% would go to those bars more often, 47% would go the same, and only 7% would go less.

There is honestly no legitimate argument against this legislation. Please, for the sake of my health, the health of our dedicated bar workers, and the health of my communities, vote **in favor** of this legislation in the Land Use Committee and when it comes to a vote of the full Board.

Thanks,

--
~Erik Greenfrost
An individual has not started living until they can rise above the narrow confines of their individualistic concerns to the broader concerns of all humanity. (MLK Jr., paraphrased)

From:	Todd McGregor
To:	Chan, Connie (BOS); ChanStaff (BOS); Sherrill, Stephen (BOS); SherrillStaff; Sauter, Danny (BOS); SauterStaff; Wong, Alan (BOS); WongStaff (BOS); Mahmood, Bilal (BOS); MahmoodStaff; Dorsey, Matt (BOS); DorseyStaff (BOS); Mandelman, Rafael (BOS); MandelmanStaff (BOS); Fielder, Jackie (BOS); FielderStaff; Walton, Shamann (BOS); Waltonstaff (BOS); Chen, Chyanne (BOS); ChenStaff; Melgar, Myrna (BOS); MelgarStaff (BOS)
Subject:	Stop Smoke on Bar Parios
Date:	Friday, April 10, 2026 2:13:29 PM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Supervisors:

Prohibiting smoking or vaping on bar patios (and semi-enclosed rooms in bars) would close a hazardous loophole that exposes San Franciscans to dangerous secondhand smoke.

San Francisco law protects people from secondhand smoke nearly everywhere, including farmer's markets, sports arenas, movie lines, ATM lines, bus stops, parklets, restaurant patios, and indoor areas of bars, BUT NOT bar patios. Workers and patrons deserve the same protection at bar patios as they have at restaurant patios, bus stops and ATMs.

San Francisco has fallen far behind other cities and counties in the Bay Area when it comes to ensuring clean air for workers and patrons. More than 50 other Bay Area cities, including Oakland and San Jose, have closed this loophole.

25 years of data shows that smoke- free air laws do not have a negative impact on bar or restaurant employment. After the law designated indoor areas of California bars smoke-free in 1998, California's bars GAINED revenue.

Nonsmokers like myself who are exposed to secondhand smoke, even for a short time, can suffer harmful health effects.

I strongly urge you to require bar patios in San Francisco to be smoke and vape-free.

Thank you,

Todd McGregor
4300B 17th Street
San Francisco, CA 94114

From:	jessea greenman
To:	Chan, Connie (BOS); ChanStaff (BOS); Sherrill, Stephen (BOS); SherrillStaff; Sauter, Danny (BOS); SauterStaff; Wong, Alan (BOS); WongStaff (BOS); Mahmood, Bilal (BOS); MahmoodStaff; Dorsey, Matt (BOS); DorseyStaff (BOS); Mandelman, Rafael (BOS); MandelmanStaff (BOS); Fielder, Jackie (BOS); FielderStaff; Walton, Shamann (BOS); Waltonstaff (BOS); Chen, Chyanne (BOS); ChenStaff; Melgar, Myrna (BOS); MelgarStaff (BOS)
Subject:	Support Smoke-Free Bar Patios, please!
Date:	Friday, April 10, 2026 1:53:01 PM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Supervisors:

Hi. I write to urge you to take strong action to improve the health of workers and the public by closing a dangerous public health loophole. Prohibiting smoking or vaping on bar patios and semi-enclosed rooms in bars would close a hazardous loophole that exposes San Franciscans and visitors to dangerous secondhand smoke. No one should have to choose between their health or a paycheck.

San Francisco law protects people from secondhand smoke nearly everywhere, including farmer's markets, sports arenas, movie lines, ATM lines, bus stops, parklets, restaurant patios, and indoor areas of bars, BUT NOT bar patios. Workers and patrons deserve the same protection at bar patios as they have at restaurant patios, bus stops and ATMs.
Despite leading in other areas, San Francisco has fallen far behind other cities and counties in the Bay Area when it comes to ensuring clean air for workers and patrons. More than 50 other Bay Area cities, including Oakland and San Jose, have closed this loophole.

While any business might be fearful of changes to how they operate, 25 years of data shows that smoke- free air laws do not have a negative impact on bar or restaurant employment. After the law designated indoor areas of California bars smoke-free in 1998, California's bars GAINED revenue.
Any discomfort with change is nothing compared to the well-established and proven health impact for those that must suffer the severe consequences of secondhand smoke. The Centers for Disease Control and Prevention (CDC) states there is "no safe level of exposure to secondhand smoke." Nonsmokers who are exposed to secondhand smoke, even for a short time, can suffer harmful health effects, including cancer, bronchitis, asthma, heart disease, stroke, and Type 2 diabetes.
Underrepresented groups, including LGBTQ+ adults in California, use tobacco at higher rates than their non-LGBTQ+ counterparts, and face higher levels of secondhand smoke and vape exposure.
For these reasons, and many more, I strongly urge you to require bar patios in San

Francisco to be smoke and vape-free.

Sincerely,
Jessea NR Greenman, Oakland CA

From:	Jeff Patterson
To:	Chan, Connie (BOS); ChanStaff (BOS); Sherrill, Stephen (BOS); SherrillStaff; Sauter, Danny (BOS); SauterStaff; Wong, Alan (BOS); WongStaff (BOS); Mahmood, Bilal (BOS); MahmoodStaff; Dorsey, Matt (BOS); DorseyStaff (BOS); Mandelman, Rafael (BOS); MandelmanStaff (BOS); Fielder, Jackie (BOS); FielderStaff; Walton, Shamann (BOS); Waltonstaff (BOS); Chen, Chyanne (BOS); ChenStaff; Melgar, Myrna (BOS); MelgarStaff (BOS)
Subject:	Please Support Smoke-Free Bar Patios
Date:	Friday, April 10, 2026 12:48:49 PM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Supervisors:

Please take strong action to improve the health of workers and the public by prohibiting smoking or vaping on bar patios and semi-enclosed rooms in bars. No one deserves the known harms of exposure to secondhand smoke.

San Francisco law protects people from secondhand smoke nearly everywhere, including farmer's markets, sports arenas, movie lines, ATM lines, bus stops, parklets, restaurant patios, and indoor areas of bars, BUT NOT bar patios. Workers and patrons deserve the same protection at bar patios as they have at restaurant patios, bus stops and ATMs. Despite leading in other areas, San Francisco has fallen far behind other cities and counties in the Bay Area when it comes to ensuring clean air for workers and patrons. More than 50 other Bay Area cities, including Oakland and San Jose, have closed this loophole.

I strongly urge you to require bar patios in San Francisco to be smoke and vape-free.

Thank you,

Jeff Patterson
2236 15th St
San Francisco, CA 94114
28-year resident

From:	Russell Long
To:	Chan, Connie (BOS); ChanStaff (BOS); Sauter, Danny (BOS); SauterStaff; Wong, Alan (BOS); WongStaff (BOS); Mahmood, Bilal (BOS); MahmoodStaff; Dorsey, Matt (BOS); DorseyStaff (BOS); Mandelman, Rafael (BOS); MandelmanStaff (BOS); Fielder, Jackie (BOS); FielderStaff; Walton, Shamann (BOS); Waltonstaff (BOS); Chen, Chyanne (BOS); ChenStaff; Melgar, Myrna (BOS); MelgarStaff (BOS)
Subject:	Support Ordinance 260361 -- Smoke-Free Bar Patios
Date:	Friday, April 10, 2026 8:09:27 AM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Supervisors,

I am writing to urge your strong support for Supervisor Melgar's ordinance number 260361 to improve the health of workers and the public by closing a dangerous public health loophole. The ordinance would prohibit smoking or vaping on bar patios and semi-enclosed rooms in bars, closing a hazardous loophole that exposes San Franciscans and visitors to dangerous secondhand smoke. No one should have to choose between their health or a paycheck.

San Francisco law protects people from secondhand smoke nearly everywhere, including farmer's markets, sports arenas, movie lines, ATM lines, bus stops, parklets, restaurant patios, and indoor areas of bars, BUT NOT bar patios. Workers and patrons deserve the same protection at bar patios as they have at restaurant patios, bus stops and ATMs.
Despite leading in other areas, San Francisco has fallen far behind other cities and counties in the Bay Area when it comes to ensuring clean air for workers and patrons. More than 50 other Bay Area cities including Oakland and San Jose have closed this loophole.

While any business might be fearful of changes to how they operate, 25 years of data shows that smoke- free air laws do not have a negative impact on bar or restaurant employment. After the law designated indoor areas of California bars smoke-free in 1998, California's bars GAINED revenue.

Any discomfort with change is nothing compared to the well-established and proven health impact for those that must suffer the severe consequences of secondhand smoke. The Centers for Disease Control and Prevention (CDC) states there is "no safe level of exposure to secondhand smoke." Nonsmokers who are exposed to secondhand smoke, even for a short time, can suffer harmful health

effects, including cancer, bronchitis, asthma, heart disease, stroke, and Type 2 diabetes. Underrepresented groups, including LGBTQ+ adults in California, use tobacco at higher rates than their non-LGBTQ+ counterparts, and face higher levels of secondhand smoke and vape exposure.

For these reasons, and many more, I urge your support for this important ordinance.

Thank you,

Russell Long
29 Toledo Way
SF, CA 94123

From:	David Landis
To:	Chan, Connie (BOS); ChanStaff (BOS); Sauter, Danny (BOS); SauterStaff; Wong, Alan (BOS); WongStaff (BOS); Mahmood, Bilal (BOS); MahmoodStaff; Dorsey, Matt (BOS); DorseyStaff (BOS); Mandelman, Rafael (BOS); MandelmanStaff (BOS); Fielder, Jackie (BOS); FielderStaff; Walton, Shamann (BOS); Waltonstaff (BOS); Chen, Chyanne (BOS); ChenStaff; Melgar, Myrna (BOS); MelgarStaff (BOS)
Subject:	Please vote to ban smoking on restaurant/bar patios in SF
Date:	Thursday, April 23, 2026 2:14:12 PM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Supervisors:

I am writing to urge your strong Support for Supervisor Melgar's ordinance to improve the health of workers and the public by closing a dangerous public health loophole. The ordinance would prohibit smoking or vaping on bar patios and semi-enclosed rooms in bars, closing a hazardous loophole that exposes San Franciscans and visitors to dangerous secondhand smoke. No one should have to choose between their health or a paycheck.

San Francisco law protects people from secondhand smoke nearly everywhere, including farmer's markets, sports arenas, movie lines, ATM lines, bus stops, parklets, restaurant patios, and indoor areas of bars, BUT NOT bar patios. Workers and patrons deserve the same protection at bar patios as they have at restaurant patios, bus stops and ATMs.

Despite leading in other areas, San Francisco has fallen far behind other cities and counties in the Bay Area when it comes to ensuring clean air for workers and patrons. More than 50 other Bay Area cities including Oakland and San Jose have closed this loophole.

While any business might be fearful of changes to how they operate, 25 years of data shows that smoke- free air laws do not have a negative impact on bar or restaurant employment. After the law designated indoor areas of California bars smoke-free in 1998, California's bars GAINED revenue.

Any discomfort with change is nothing compared to the well-established and proven health impact for those that must suffer the severe consequences of secondhand smoke. The Centers for Disease Control and Prevention (CDC) states there is "no safe level of exposure to secondhand smoke." Nonsmokers who are exposed to secondhand smoke, even for a short time, can suffer harmful health effects, including cancer, bronchitis, asthma, heart disease, stroke, and Type 2 diabetes. Underrepresented groups, including LGBTQ+ adults in California, use tobacco at higher rates than their non-LGBTQ+ counterparts, and face higher levels of secondhand smoke and vape exposure.

For these reasons, and many more, I urge your support for this important ordinance.

Thank you.

Cheers,
David Landis
Pronouns: He/Him

The Gay Gourmet, San Francisco Bay Times
www.gaygourmetsf.com
www.sfbaytimes.com
415-517-9887
davidlandissf@gmail.com
2032 Scott St., San Francisco, CA 94115
I'm on LinkedIn, but no other social platforms

From:	David Strachan
To:	Chan, Connie (BOS); ChanStaff (BOS); Sherrill, Stephen (BOS); SherrillStaff; Sauter, Danny (BOS); SauterStaff; Wong, Alan (BOS); WongStaff (BOS); Mahmood, Bilal (BOS); MahmoodStaff; Dorsey, Matt (BOS); DorseyStaff (BOS); Mandelman, Rafael (BOS); MandelmanStaff (BOS); Fielder, Jackie (BOS); FielderStaff; Walton, Shamann (BOS); Waltonstaff (BOS); Chen, Chyanne (BOS); ChenStaff; Melgar, Myrna (BOS); MelgarStaff (BOS)
Cc:	mrbdavis@hotmail.com
Subject:	Support for Supervisor Melgar's smoke-free bar patios ordinance 260361
Date:	Saturday, May 9, 2026 10:47:40 AM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Supervisors,

I am a San Francisco resident living in District 8 and I support Supervisor Melgar's smoke-free bar patios proposed ordinance 260361. As someone who is almost 79 years old, I often go to my neighborhood bar to socialize and visit with friends and neighbors. While this has been quite pleasurable and beneficial to my mental health, sitting on its outdoor patio and being exposed to secondhand smoke has not been beneficial to my physical health as I am immuno-compromised and get bronchitis easily. If the smoking folks who I want to socialize with are on the patio, I have to endure the smoke in order to connect with them.

I support this proposed ordinance for the following main reasons:

- All levels of secondhand smoke exposure are unhealthy and expose workers and patrons to harm long after the smokers leave.
- Local ordinances protect workers from secondhand in many places. Bar workers and patrons deserve the same protection.
- San Francisco restaurant patios are already smoke-free and bar patios should be too.

Thank you for your consideration of this important health-related matter.

David C. Strachan

April 13, 2026

Dear Supervisor Melgar,

We are writing to express our strong support for the proposed smoke-free bar and tavern patios ordinance (No. 260361), you introduced on April 7, 2026.

We do so not only in our individual capacities as San Francisco residents, longtime LGBTIQ+ advocates, and a former plaintiff couple in the landmark lawsuit that San Francisco and same-sex couples brought that established marriage equality in California in 2008, but on behalf of the educational nonprofit we co-founded Marriage Equality.

Promoting the public health of the LGBTIQ+ community has been a central component in our over four decades of advocacy regarding HIV/AIDS, marriage equality, transgender rights, and ending conversion therapy. Our support for smoke-free public spaces is another element of advocacy for the public health of LGBTIQ+ people and society in general.

We have personally experienced the harms of being exposed to second-hand smoke daily, having been surrounded by it in the Haight Ashbury apartment building where we lived for 25 years. And having moved, we know what a difference it makes to be free from it at home as well as nearly everywhere in San Francisco because of the city's pathbreaking leadership on the issue.

As you know, the LGBTIQ+ community has significantly higher rates of smoking than the general population, and with it, increased exposure of community members to the well-documented harms of second-hand smoke. As a matter of public health, it's time for San Francisco to close the current exception to its comprehensive smoke-free public spaces laws for bar and tavern patios.

In reading your proposed ordinance, we were particularly struck by a 2022 UCSF study of second-hand smoke levels at bar patios that found that "one patio, where several patrons were smoking cigars, registered in the 'hazardous' range," and two-thirds of them had "unhealthy" or worse air quality.

Marriage Equality, Inc., 241 Harvard Street, San Francisco, CA 94134

It's unfathomable to us how San Francisco permits bars and taverns to subject their patrons to demonstrably *hazardous* air quality, when the city's own SF Gov Air Quality website advises its residents in cases of air quality emergencies to protect themselves and "**stay indoors as much as possible** with windows and doors closed" (bold in the original).

Significantly, the city's website advises: "If keeping indoor air clean is not possible, **consider visiting a public building** with better air filtration, such as a library or mall." A foundational reason that residents can count on clean air in a **"public"** building is the fact that San Francisco through legislation has ensured that such buildings are *free of cigarette smoke*. We guess that the website doesn't make an explicit reference to that guarantee because it is now so accepted and understood that public spaces in San Francisco are free from secondhand smoke that it need not be stated. Bar and tavern patios should be no exception to this standard that applies everywhere else.

Further, the website advises: "People who must be outdoors for long periods of time, in areas with heavy smoke, or where ash is disturbed, may want to *wear a NIOSH-certified N95 respirator mask. Those with existing respiratory, lung or heart conditions should limit their exposure by staying indoors*" (Italics added). Would the city advise that residents who want to stay healthy as they enjoy a bar or tavern patio with cigar smoking to wear an N95 mask? Are people with "respiratory, lung or heart conditions" simply excluded?

Doing so belies the entire purpose of San Francisco's decades-long legislative commitment to ensuring its residents smoke-free access to public spaces throughout the city. We also wonder whether the exclusion of people with respiratory, lung, or heart conditions violates the federal Americans with Disabilities Act and other state and local measures protecting people with disabilities from access to public spaces.

Thank you very much for introducing Ordinance No. 260361 and advocating for its passage.

Please do not hesitate to contact us if you have any questions for us or if there are any other ways we could further support the ordinance.

John Lewis & Stuart Gaffney
Marriage Equality
marriageequality.me@gmail.com

Letter in Support of Smoke and Vape-Free Bar Patios in San Francisco, CA

April 9, 2026

Dear President Mandelman and members of the San Francisco Board of Supervisors:

The Campaign for Tobacco-Free Kids urges your strong Support for Supervisor Melgar's ordinance to improve the health of workers and the public by closing a dangerous public health loophole. The ordinance would prohibit smoking or vaping on bar patios and semi-enclosed rooms in bars, closing a hazardous loophole that exposes San Franciscans and visitors to dangerous secondhand smoke. No one should have to choose between their health or a paycheck.

Smoke-free laws have proven to be the ***only*** effective way of eliminating secondhand smoke exposure, a public health hazard[1] responsible for the deaths of more than 41,200 adult non-smokers each year.[2] Deemed entirely preventable by the 2006 Surgeon General's Report, secondhand smoke has been linked with cancer, heart disease, and respiratory illness in non-smokers,[3] and is considered to be a leading cause of indoor air pollution.[4] Indeed, as affirmed in the World Health Organization's 2023 report on the global tobacco epidemic, smoke-free laws work not only to protect the public from these toxins in the air and improve the overall health of non-smokers, they encourage smokers to quit and prevent kids from starting to smoke.[5] They are also easily implemented, with high levels of compliance[6] in cities and states throughout the country.

---

[1] U.S. Department of Health and Human Services (HHS), The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General, HHS, U.S. Centers for Disease Control and Prevention (CDC), National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2006.

[2] U.S. Department of Health and Human Services. The Health Consequences of Smoking: 50 Years of Progress. A Report of the Surgeon General. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2014: 666, http://www.surgeongeneral.gov/library/reports/50-years-of-progress/index.html

[3] HHS, The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General, HHS, CDC, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2006.

[4] Fichtenberg, CM & Glantz, SA, "Effect of smoke-free workplaces on smoking behavior: systematic review," British Medical Journal 325(7357):188, 2002.

[5] WHO report on the global tobacco epidemic, 2023: protect people from tobacco smoke. Geneva: World Health Organization; 2023. Licence: CC BY-NC-SA 3.0 IGO. See also U.S.National Cancer Institute and World Health Organization, The Economics of Tobacco and Tobacco Control.National Cancer Institute Tobacco Control Monograph 21. NIH Publication No. 16-CA-8029A. Bethesda, MD: U.S.Department of Health and Human Services, National Institutes of Health, National Cancer Institute; and Geneva, CH: World Health Organization; 2016

[6] U.S.National Cancer Institute and World Health Organization, The Economics of Tobacco and Tobacco Control.National Cancer Institute Tobacco Control Monograph 21. NIH Publication No. 16-CA-8029A. Bethesda, MD: U.S.Department of Health and Human Services, National Institutes of Health, National Cancer Institute; and Geneva, CH: World Health Organization; 2016

San Francisco law protects people from secondhand smoke nearly everywhere, including farmer's markets, sports arenas, movie lines, ATM lines, bus stops, parklets, restaurant patios, and indoor areas of bars, BUT NOT bar patios. Workers and patrons deserve the same protection at bar patios as they have at restaurant patios, bus stops and ATMs.

Despite leading in other areas, San Francisco has fallen far behind other cities and counties in the Bay Area when it comes to ensuring clean air for workers and patrons. More than 50 other Bay Area cities including Oakland and San Jose have closed this loophole.

While any business might be fearful of changes to how they operate, 25 years of data shows that smoke-free air laws do not have a negative impact on bar or restaurant employment. After the law designated indoor areas of California bars smoke-free in 1998, California's bars GAINED revenue.

Any discomfort with change is nothing compared to the well-established and proven health impact for those that must suffer the severe consequences of secondhand smoke. The Centers for Disease Control and Prevention (CDC) states there is "no safe level of exposure to secondhand smoke."

We hope San Francisco will join its neighbors, Oakland, San Jose, and dozens of other Bay Area cities, in protecting the health of workers and patrons.

For these reasons, we urge your support for this important ordinance.

Sincerely,



Alexandria Felton
Regional Advocacy Director, Southwest
Campaign for Tobacco-Free Kids

April 9, 2026

Members of the San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102

Dear Esteemed Members of the San Francisco County Board of Supervisors:

The American Cancer Society Cancer Action Network's (ACS CAN) mission is to end suffering and death from cancer, and we are committed to continuing that mission in San Francisco. San Francisco residents deserve to breathe clean air in all indoor and outdoor spaces, including outdoor patios of bars and taverns. Currently, San Francisco prohibits smoking anywhere food is served in indoor and outdoor dining areas of restaurants, cafes and coffee shops. However, the law does not include outdoor patios of bars and taverns. This is concerning as secondhand smoke can linger in semi-enclosed and outdoor areas of businesses, which can increase exposure levels for employees and customers alike. This exemption not only puts patrons and employees at risk of secondhand smoke exposure, but also residents of nearby homes and apartments (including children, seniors, and people who are at increased risk of respiratory illnesses and decreased lung function).

Evidence has consistently shown that smoke-free air laws do not result in the loss of revenues or business for establishments that adopt these policies. A 2005 study of California's statewide smoke-free restaurant and bar law (which went into effect in 1995 and 1998 respectively) found that the 1995 smoke-free restaurant law was associated with an increase in restaurant revenues, while the 1998 smoke-free bar law was associated with an increase in bar revenues (Cowling DW, Bond P, 2005). Additional studies have found similar results in other states.

ACS CAN strongly supports the adoption of this smoke-free outdoor bar patios ordinance in San Francisco. We recommend that the Board of Supervisors amend the definition of "smoking" to include the use of electronic smoking devices. ACS CAN also recommends updates to existing code, including removing exemptions for "Tourist lodging facilities" to be consistent with state law and to amend the definition of "Private homes" to ensure that homes that are used as child or adult care facilities are not exempt from the smoking prohibitions in Article 19F.

Thank you for considering a policy to prohibit smoking on outdoor bar patios to work towards a healthier community.

Sincerely,

Liz Hendrix

Liz Hendrix
Government Relations Director, Northern California
American Cancer Society Cancer Action Network

Breathe California of the Bay Area, Golden Gate, and Central Coast

1469 Park Avenue
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A member of the
Breathe America ™
Alliance

April 8, 2026

1 Dr. Carlton B. Goodlett Place,
City Hall, Room 244
San Francisco, CA 94102-4689

Re: Support for the ordinance on Smokefree Bar Patios

Dear Members of the Board of Supervisors,

I am writing to express my strong support for the proposed ordinance to prohibit smoking and vaping in all outdoor dining bar patios across San Francisco. It is time for our city to reclaim its position as a public health leader and ensure that all workers—regardless of the type of liquor license their employer holds—are protected from the known hazards of secondhand smoke (SHS).

Breathe California is your community-rooted nonprofit organization, dedicated for over a century to the fight against lung disease in all its forms and committed to fostering lung health within our communities. Tobacco use remains the leading cause of preventable death in the United States, claiming more than 480,000 lives each year (Centers for Disease Control and Prevention, 2024).

Unfortunately, When you force a bystander to breathe SHS on a bar patio, they are effectively smoking along with the person next to them. This isn't just a nuisance; it’s a direct hit to their lung health that they didn't consent to.

San Francisco law currently protects workers from SHS in almost every conceivable environment: farmers’ markets, sports arenas, bus stops, ATM lines, parklets, and restaurant patios. However, a glaring loophole remains. Bar workers deserve the same protections on their workplace patio as restaurant workers do on theirs. It is a matter of workplace equity; an employee's health should not be compromised simply because they serve cocktails instead of entrées.

While San Francisco has historically been at the forefront of tobacco control, we are currently falling behind. Neighboring cities, including Oakland, have already successfully implemented similar bans. If our neighbors can prioritize the respiratory health of their residents and workforce, so can San Francisco. This transition is a long time coming and aligns with the values of a city that prioritizes science and wellness. As San Francisco continues to successfully boost its local economy, creating a smoke-free environment will only enhance the city's appeal. For residents, it provides a cleaner, more inclusive atmosphere for everyone to enjoy the city’s vibrant nightlife. For visitors, it reinforces SF’s image as a world-class, health-conscious destination. For businesses, it reduces maintenance costs associated with tobacco litter and minimizes liability related to employee health.

The tobacco industry has long relied on predatory advertising and promotions to maintain a foothold in our social spaces. By passing this ordinance, you are taking a stand against these tactics and prioritizing the "Right to Breathe" for all San Franciscans. Breathe California stands ready to provide technical support and resources to ensure a smooth transition for businesses and the public. I urge the Board to act immediately to close this loophole and protect our frontline service workers.

Sincerely,



Tanya Payyappilly

LGBTQ MINUS Tobacco

April 10, 2026

RE: Smoke-free bar patios in San Francisco

Dear Mayor Lurie and San Francisco Board of Supervisors:

LGBTQ Minus Tobacco was funded to provide community education and technical assistance on a potential citywide smoke-free bar patio policy in San Francisco from 2020 to 2025. As part of that work, we collected public opinion data and took environmental measurements on bar patios. We would like to share those findings with you.

Public Opinion Data (Wave 1) - In 2022, we conducted public opinion polls of 221 people who affirmatively answered that they "enjoy San Francisco nightlife" at Carnaval and San Francisco Pride. 89% of respondents said they supported the city having a law requiring bar patios be smoke-free, while 11% opposed such a law. When asked how a citywide smoke-free bar patio policy would affect their attendance at bars in San Francisco, 58% said they would go more, 35% said they would go the same, and 7% said they would go less or not at all.

Public Opinion Data (Wave 2) - We conducted a second wave of polling in response to a critique that we did not adequately reach those who patronize venues with patios that would be affected by a smoke-free law. In 2023-24, we polled 379 people who said they had spent time at a San Francisco bar with a patio and could name the specific bar(s) they went to. Surveys were conducted across 2 years of events including San Francisco Pride, Oakland Pride, the Castro Street Fair, and the Bearrison Street Fair. We found that 46% would go more, 47% would go the same, 6% would go less, and 1% would not go at all if San Francisco adopted a smoke-free bar patio policy. There were minimal differences among patrons attending bars across various San Francisco neighborhoods, shown in the table below.

Anticipated behavior following passage of a smoke-free bar patio law

Bar location	*Would go more often*	*Would go the same*	*Would go less often*	*Would not go at all*
Castro (n=229)	50%	43%	6%	1%
Mission (n=113)	47%	50%	4%	0%
Polk (n=55)	49%	47%	4%	0%
SoMa (n=222)	47%	46%	6%	1%
Citywide (n=379)	**46%**	**47%**	**6%**	**1%**

Notes: Responses from participants who indicated patronizing bars in multiple neighborhoods are coded as 1 response in each neighborhood with a bar they attended. Percentages may not sum to 100 due to rounding.

Air Quality Measurements - In 2022, we collaborated with the Schick Lab at UCSF to take air quality measurements on 9 LGBTQ or LGBTQ-friendly bar patios in San Francisco. 6 of 9 had levels of PM2.5 that met or exceeded the EPA threshold for "unhealthy," including one well-attended bar patio where levels exceeded the threshold for "hazardous." Levels on 4 of 9 bar patios would have resulted in PM2.5 levels considered harmful according to WHO standards if staff were exposed to the average reading across an 8-hour shift.

Thirdhand Smoke Measurements – Thirdhand smoke refers to the chemical residue left behind when smoke in the air settles on and absorbs into surfaces including skin, hair, clothing, walls, and furniture. Also in 2022, with support from the Thirdhand Smoke Resource Center at SDSU, we measured this exposure by taking surface nicotine measurements from the hands of 4 non-smoking participants before and after they spent 2 hours on San Francisco bar patios. All 4 participants showed levels of nicotine residue resembling smokers after their night out. 5 of 6 samples taken from tables on San Francisco bar patios showed levels of nicotine like those found indoors in residences with smoking.

Conclusions - In our discussions with the community about bar patios, many take it for granted that these are places where smoking happens, but we want to underscore the severity of this exposure. Both secondhand exposure and the thirdhand exposure that continues after active tobacco use force workers to choose between their health and their livelihood and force patrons to choose between their health and their community. Neither choice is required at restaurants, which have been smoke-free under San Francisco law for many years.

In San Francisco, resistance to smoke-free bar laws has been examined in the scientific literature.[1] After California law designated all indoor bar areas smoke-free in 1998, San Francisco's Irish bars resisted implementation, fearing negative economic outcomes. However, once bars were consistently following the law, they retained the majority of their patronage while attracting new, non-smoking clientele who were previously repelled by the presence of smoking. Based on both waves of our public opinion data, we would not be surprised to see a similar outcome following a smoke-free bar patio law in the present day.

Thank you,

The staff of LGBTQ Minus Tobacco

[1]Satterlund, T. D., Antin, T. M., Lee, J. P., & Moore, R. S. (2009). Cultural factors related to smoking in San Francisco's Irish bars. *Journal of drug education*, *39*(2), 181–193. https://doi.org/10.2190/DE.39.2.e

From:	Russell Long
To:	Chan, Connie (BOS); ChanStaff (BOS); Sauter, Danny (BOS); SauterStaff; Wong, Alan (BOS); WongStaff (BOS); Mahmood, Bilal (BOS); MahmoodStaff; Dorsey, Matt (BOS); DorseyStaff (BOS); Mandelman, Rafael (BOS); MandelmanStaff (BOS); Fielder, Jackie (BOS); FielderStaff; Walton, Shamann (BOS); Waltonstaff (BOS); Chen, Chyanne (BOS); ChenStaff; Melgar, Myrna (BOS); MelgarStaff (BOS)
Subject:	Support Ordinance 260361 -- Smoke-Free Bar Patios
Date:	Friday, April 10, 2026 8:09:27 AM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Supervisors,

I am writing to urge your strong support for Supervisor Melgar's ordinance number 260361 to improve the health of workers and the public by closing a dangerous public health loophole. The ordinance would prohibit smoking or vaping on bar patios and semi-enclosed rooms in bars, closing a hazardous loophole that exposes San Franciscans and visitors to dangerous secondhand smoke. No one should have to choose between their health or a paycheck.

San Francisco law protects people from secondhand smoke nearly everywhere, including farmer's markets, sports arenas, movie lines, ATM lines, bus stops, parklets, restaurant patios, and indoor areas of bars, BUT NOT bar patios. Workers and patrons deserve the same protection at bar patios as they have at restaurant patios, bus stops and ATMs.
Despite leading in other areas, San Francisco has fallen far behind other cities and counties in the Bay Area when it comes to ensuring clean air for workers and patrons. More than 50 other Bay Area cities including Oakland and San Jose have closed this loophole.

While any business might be fearful of changes to how they operate, 25 years of data shows that smoke- free air laws do not have a negative impact on bar or restaurant employment. After the law designated indoor areas of California bars smoke-free in 1998, California's bars GAINED revenue.

Any discomfort with change is nothing compared to the well-established and proven health impact for those that must suffer the severe consequences of secondhand smoke. The Centers for Disease Control and Prevention (CDC) states there is "no safe level of exposure to secondhand smoke." Nonsmokers who are exposed to secondhand smoke, even for a short time, can suffer harmful health

effects, including cancer, bronchitis, asthma, heart disease, stroke, and Type 2 diabetes. Underrepresented groups, including LGBTQ+ adults in California, use tobacco at higher rates than their non-LGBTQ+ counterparts, and face higher levels of secondhand smoke and vape exposure.

For these reasons, and many more, I urge your support for this important ordinance.

Thank you,

Russell Long
29 Toledo Way
SF, CA 94123

YOUTH LEADERSHIP INSTITUTE
Use Your Voice

April 11, 2026

Supervisor Myrna Melgar
City Hall
1 Dr. Carlton B Goodlett Place
San Francisco, CA 94102

Re: Ordinance 260361 (Melgar)
Position: Support

Dear Supervisor Myrna Melgar:

Youth Leadership Institute urges your strong Support for Supervisor Melgar's ordinance to improve the health of workers and the public by closing a dangerous public health loophole. The ordinance would prohibit smoking or vaping on bar patios and semi-enclosed rooms in bars, closing a hazardous loophole that exposes San Franciscans and visitors to dangerous secondhand smoke. No one should have to choose between their health or a paycheck.

San Francisco law protects people from secondhand smoke nearly everywhere, including farmer's markets, sports arenas, movie lines, ATM lines, bus stops, parklets, restaurant patios, and indoor areas of bars, BUT NOT bar patios. Workers and patrons deserve the same protection at bar patios as they have at restaurant patios, bus stops and ATMs.

Despite leading in other areas, San Francisco has fallen far behind other cities and counties in the Bay Area when it comes to ensuring clean air for workers and patrons. More than 50 other Bay Area cities including Oakland and San Jose have closed this loophole.

While any business might be fearful of changes to how they operate, 25 years of data shows that smoke-free air laws do not have a negative impact on bar or restaurant employment. After the law designated indoor areas of California bars smoke-free in 1998, California's bars GAINED revenue.

Any discomfort with change is nothing compared to the well-established and proven health impact for those that must suffer the severe consequences of secondhand smoke. The Centers for Disease Control and Prevention (CDC) states there is "no safe level of exposure to secondhand smoke." Nonsmokers who are exposed to secondhand smoke, even for a short time, can suffer harmful health effects, including cancer, bronchitis, asthma, heart disease, stroke, and Type 2 diabetes. Underrepresented groups, including LGBTQ+ adults in

YOUTH LEADERSHIP INSTITUTE
Use Your Voice

California, use tobacco at higher rates than their non-LGBTQ+ counterparts, and face higher levels of secondhand smoke and vape exposure.

For these reasons, and many more, we urge your support for this important ordinance.

Thank you,



Patricia Barahona
Chief Executive Officer
Youth Leadership Institute

From:	Liz Williams
To:	BOS-Supervisors; BOS-Legislative Aides
Cc:	Carroll, John (BOS)
Subject:	Support for smokefree bar patios
Date:	Thursday, May 7, 2026 5:11:52 PM
Attachments:	ANR Letter to San Francisco_bar patios_05.07.26.pdf

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear President Mandelman and members of the Board of Supervisors,

Americans for Nonsmokers' Rights would like to submit the attached letter that reiterates our support for File #260361 to end smoking and vaping on bar patios.

This proposal will also clean up outdated language that no longer complies with state law, which was updated years ago to remove exemptions for owner-operated bars, semi-enclosed rooms at bars, and hotel/motel rooms. These spaces are already required by state law to be smokefree. Also, this ordinance would not change or prohibit cigar bars, which will still be allowed.

Sincerely,

Liz Williams (she/her)
Project & Policy Manager
Americans for Nonsmokers' Rights | nonsmokersrights.org
American Nonsmokers' Rights Foundation | no-smoke.org
2530 San Pablo Ave, Suite J | Berkeley, CA 94702
510-841-3032 x314 (office)

Due to the impact of federal budget cuts and program reduction, our offices are closed on Fridays. We will reply during our regular business hours Monday – Thursday.

AMERICANS FOR NONSMOKERS' RIGHTS

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President and CEO

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May 7, 2026

San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102-4689

Re: File #260361 – Health Code – Smokefree Bar Patios

Dear members of the San Francisco Board of Supervisors,

Americans for Nonsmokers' Rights is writing to **reiterate our support for the proposed ordinance to end smoking and vaping on bar patios**. We also support the proposal **cleaning up outdated language that no longer complies with state law**, which was updated years ago to remove exemptions for owner-operated bars, semi-enclosed rooms at bars, and hotel/motel rooms. These spaces are already required by state law to be smokefree. This ordinance would not change or prohibit cigar bars, which will still be allowed.

Our staff attended the Small Business Commission meeting on April 27 to provide public comment in support of the proposal, and the concerns we heard about bar patios going smokefree were the exact same things we heard in the 1990s when bars were going smokefree indoors.

We understand and respect that bar owners and employees have concerns about the change, but this is not a new or untested issue. **Smokefree bar patios are an established policy throughout California**, and these laws work well in practice. We know how bars and staff can be supported during the implementation process, and that Environmental Health can provide signage and education. The purpose of smokefree workplace laws is to educate, not to punish, which is exactly how the current law has worked for the last 30 years.

The fact is that San Francisco is behind the curve, with more than 120 communities around the state having already adopted these policies laws—including San Jose, Oakland, and more than 50 other cities and counties in the Bay Area. Smokefree laws are both good for health and good for business.

Expanding the city's smokefree air law to bar patios will close a longstanding loophole to ensure that bar workers have the same right to breathe smokefree air on the job as other workers in San Francisco.

Action needs to be taken on this issue because bar staff are some of the only workers in San Francisco who are still exposed to secondhand smoke on the job, and they deserve to breathe clean air just like other workers in the city and around the state. Workers shouldn't have to choose between their health and their paycheck.

Smoking and vaping on outdoor patios is not just a nuisance; exposure to secondhand smoke in these spaces is also a health hazard. The U.S. Surgeon General concluded that there is no safe level of exposure to secondhand smoke, and even small amounts of tobacco smoke over short periods of time can be harmful.[i]

Exposure to secondhand smoke and aerosol released by smoked and vaped products remains a significant health threat. Secondhand tobacco smoke contains fine particulate matter called PM2.5—and aerosol from electronic smoking devices contains even smaller ultrafine particulate matter. Fine and ultrafine particles can be breathed deeply into the lungs and can cause lung irritation, asthma attacks, and makes respiratory infections more likely.[ii] Fine and ultrafine particles also constrict arteries, which can trigger a heart attack.[iii]

Outdoor secondhand smoke levels in places where people gather—like bar patios—can be high enough to exceed safe air quality guidelines, which creates a particular risk for workers in these outdoor spaces.[iv]

Air quality measurements **gathered at nine San Francisco bar patios** in 2022 found that six bars had air quality ranges that peaked in the EPA Air Quality Index's "unhealthy" range or higher, with one venue reaching the "hazardous" range. Bar staff and patrons deserve protection from breathing toxic smoke.

An air quality study found that laws for smokefree indoor areas of bars do not provide workers with adequate protection from secondhand smoke if smoking is still allowed on adjacent patios, and that in order to protect worker health, smoking should be not allowed on bar patios.[v] Research also shows that smokefree policies for bar and restaurant patios result in decreased secondhand smoke exposure in these spaces.[vi]

Adopting the proposed ordinance will create a level playing field that provides equal health protections, and a simple, strong and fair law that applies equally to all bars and taverns makes it easier for bar owners, patrons, and enforcement agencies to understand, follow, and comply with the law.

San Francisco has a long history of leadership in tobacco prevention, and we encourage you to continue prioritizing the health of all San Franciscans by enacting this ordinance.

Thank you for your leadership and desire to make San Francisco the best place to live, work, and visit. Please feel free to contact me at 510-841-3045 or Liz Williams at liz.williams@no-smoke.org or 510-333-4559 if you have questions, comments, or feedback.

Sincerely,

Cynthia Hallett

Cynthia Hallett, MPH
President and CEO

Americans for Nonsmokers' Rights is a national, member-based, not-for-profit organization based in Berkeley, CA that is dedicated to helping nonsmokers breathe smokefree air since 1976.

---

[i] U.S. Department of Health and Human Services. "The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General," U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Office on Smoking and Health, 2006.

[ii] "Air and Health: Particulate Matter." National Environmental Public Health Tracking Network, U. S. Environmental Protection Agency.

[iii] American Nonsmokers' Rights Foundation, Electronic Smoking Devices and Secondhand Aerosol Fact Sheet; July 2025.

[iv] Licht, A.S.; Hyland, A.; Travers, M.J.; Chapman, S., "Secondhand smoke exposure levels in outdoor hospitality venues: a qualitative and quantitative review of the research literature," *Tobacco Control* 22(3): 172-179, May 2013.

[v] Zhang, B.; Bondy, S.; Ferrence, R., "Do indoor smoke-free laws provide bar workers with adequate protection from secondhand smoke?," *Preventive Medicine*, July 6, 2009.

[vi] Azagba, S., "Effect of smoke-free patio policy of restaurants and bars on exposure to second-hand smoke," *Preventive Medicine*, April 22, 2015.

Item 15

From:	Board of Supervisors (BOS)
To:	BOS-Supervisors; BOS-Legislative Aides
Cc:	Calvillo, Angela (BOS); Mchugh, Eileen (BOS); Ng, Wilson (BOS); Somera, Alisa (BOS); De Asis, Edward (BOS); BOS-Operations; Board of Supervisors (BOS); Carroll, John (BOS)
Subject:	File No. 260361 prohibit smoking in outdoor patios of bars and taverns - 2 letters
Date:	Thursday, May 7, 2026 11:50:03 AM
Attachments:	260361 2 letters.pdf

Dear Supervisors,

Please see attached from various organizations regarding:

> File No. 260361 - Ordinance amending the Health Code to prohibit smoking in outdoor patios of bars and taverns; eliminate exceptions allowing indoor smoking in bars with no employees, bars with historically compliant semi-enclosed smoking rooms, and hotel rooms, to conform to provisions of California law; and repeal suspended and superseded provisions regulating smoking in certain locations.

Regards,

Richard Lagunte
Office of the Clerk of the Board
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
Voice (415) 554-5184 | Fax (415) 554-5163
bos@sfgov.org | www.sf.gov/sfbos

Pronouns: he, him, his

Disclosures: *Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors' website or in other public documents that members of the public may inspect or copy.*

From:	Rod Lew
To:	Board of Supervisors (BOS); Carroll, John (BOS); Chan, Connie (BOS); ChanStaff (BOS); Sherrill, Stephen (BOS); SherrillStaff; Sauter, Danny (BOS); SauterStaff; Wong, Alan (BOS); WongStaff (BOS); Mahmood, Bilal (BOS); MahmoodStaff; Dorsey, Matt (BOS); DorseyStaff (BOS); Mandelman, Rafael (BOS); MandelmanStaff (BOS); Fielder, Jackie (BOS); FielderStaff; Walton, Shamann (BOS); Waltonstaff (BOS); Chen, Chyanne (BOS); ChenStaff; Melgar, Myrna (BOS); MelgarStaff (BOS)
Cc:	Adam Francis; Dr John Maa
Subject:	Letter of Support for Ordinance 260361 (Melgar)
Date:	Monday, May 4, 2026 5:54:32 PM
Attachments:	APPEAL SF Bar Patio LOS April 26.pdf

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Please find our letter of support for Ordinance 260361
Thank you,
Rod Lew

Rod Lew, MPH
Executive Director, **APPEAL**
Asian Pacific Partners for Empowerment, Advocacy and Leadership
2255 Morello Avenue, Suite 208
Pleasant Hill, CA 94523
cell 510-757-8668

M-F 10 am- 6 pm PT

www.appealforhealth.org



A P P E A L

ASIAN PACIFIC PARTNERS FOR EMPOWERMENT, ADVOCACY AND LEADERSHIP

April 25, 2026

Board of Supervisors
City Hall
1 Dr. Carlton B Goodlett Place
San Francisco, CA 94102

Re: Ordinance 260361 (Melgar)
Position: Support

Dear Board of Supervisors:

Asian Pacific Partners for Empowerment, Advocacy and Leadership (APPEAL) urges your strong Support for Supervisor Melgar's ordinance to improve the health of workers and the public by closing a dangerous public health loophole. The ordinance would prohibit smoking or vaping on bar patios and semi-enclosed rooms in bars, closing a hazardous loophole that exposes San Franciscans and visitors to dangerous secondhand smoke. No one should have to choose between their health or a paycheck.

As a national organization with nearly 30 years of experience, APPEAL has been working towards building and facilitating effective national networks on tobacco, chronic diseases, and health equity for Native Hawaiian and Pacific Islander (NHPI) and Asian American (AA) communities. Our mission is to achieve equity (including data equity) and empowerment for all marginalized communities by supporting and mobilizing community-led movements through advocacy and leadership development on critical public health issues.

San Francisco law protects people from secondhand smoke nearly everywhere, including farmer's markets, sports arenas, movie lines, ATM lines, bus stops, parklets, restaurant patios, and indoor areas of bars, BUT NOT bar patios. Workers and patrons deserve the same protection at bar patios as they have at restaurant patios, bus stops and ATMs.

Despite leading in other areas, San Francisco has fallen far behind other cities and counties in the Bay Area when it comes to ensuring clean air for workers and patrons. More than 50 other Bay Area cities including Oakland and San Jose have closed this loophole.

While any business might be fearful of changes to how they operate, 25 years of data shows that smoke-free air laws do not have a negative impact on bar or restaurant employment. After the law designated indoor areas of California bars smoke-free in 1998, California's bars GAINED revenue. Any discomfort with change is nothing compared to the well-established and proven health impact for those that must suffer the severe consequences of secondhand smoke. The Centers for Disease Control and Prevention (CDC) states there is "no safe level of exposure to secondhand smoke." Nonsmokers who are exposed to secondhand smoke, even for a short time, can suffer harmful health effects, including cancer, bronchitis, asthma, heart disease, stroke, and Type 2 diabetes. Underrepresented groups, including LGBTQ+ adults in California, use tobacco at higher rates than their non-LGBTQ+ counterparts, and face higher levels of secondhand smoke and vape exposure.

For these reasons, and many more, we urge your support for this important ordinance.

Thank you,
Sincerely,



Rod Lew, MPH
Executive Director, APPEAL
rodlew@appealforhealth.org 510-757-8668

From: Kevin Reed
To: Board of Supervisors (BOS); Chan, Connie (BOS); Sherrill, Stephen (BOS); Sauter, Danny (BOS); Wong, Alan (BOS); Mahmood, Bilal (BOS); Dorsey, Matt (BOS); Melgar, Myrna (BOS); Mandelman, Rafael (BOS); Fielder, Jackie (BOS); Walton, Shamann (BOS); Chen, Chyanne (BOS)
Cc: Lurie, Daniel (MYR); ChanStaff (BOS); SherrillStaff; SauterStaff; WongStaff (BOS); MahmoodStaff; DorseyStaff (BOS); MelgarStaff (BOS); MandelmanStaff (BOS); FielderStaff; Waltonstaff (BOS); ChenStaff; Office of Cannabis (ADM); SFOSB (ECN); Birnbach, Kerry (ECN); Employer Services (ECN); BusinessPermitHelp (ECN); DPH, EnvHealth (DPH); DPH-Harm Reduction Training Institute; CPC-Commissions Secretary; PIC, PLN (CPC); Commission, Entertainment (ADM); Liang, May (ADM); Rice, Dylan (ADM); info@sfchamber.com; Rodney Fong; ggra@ggra.org; amy@ggra.org; laurie@ggra.org; lori@sftravel.com; Dale Gieringer NORML; normelle
Subject: File No. 260361 — Cannabis Exemption Request & Opposition to False Consumption Solutions
Date: Thursday, May 7, 2026 7:16:53 AM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

To: Board of Supervisors + Key Legislative Staff
CC: Office of Cannabis, Office of Small Business, Small Business Commission, DPH Environmental Health, OEWD, Entertainment Commission, Planning Commission
BCC: Business Groups, Cannabis Advocates, Press, Allies

Dear President and Members of the San Francisco Board of Supervisors:

I write on behalf of The Green Cross, one of San Francisco's oldest licensed cannabis retailers, to respectfully urge policymakers across our City to confront a growing contradiction in cannabis policy: San Francisco welcomes cannabis commerce, taxes it heavily, and continues expanding cannabis licensing while steadily reducing practical, lawful ways for adults to responsibly consume it.

California legalized cannabis with the promise of freedom, safety, and sensible regulation. Yet, in practice, lawful adult use remains heavily restricted. Public consumption is broadly prohibited on sidewalks, in parks, in hotels, in many rental properties, and in countless other everyday spaces. For renters, apartment dwellers, working-class residents without private outdoor areas, and the millions of visitors who come to San Francisco each year, lawful consumption has become largely theoretical.

A freedom that cannot reasonably be exercised is not freedom at all.

When adults are left with almost no practical place to lawfully consume cannabis, use is not prevented—it is displaced into neighborhoods, onto sidewalks, and into public areas where families and children are present. That is not thoughtful regulation; it is a failure of policy design.

At the same time, the City continues issuing cannabis permits, collecting substantial tax revenue, processing new applications, and pursuing additional license categories that add fees and regulatory complexity without addressing the core issue. **Creating new enclosed consumption businesses is not a meaningful solution.** Many adults do not wish to consume cannabis in confined indoor environments, and expanding these models simply introduces more bureaucracy, greater market pressure, and further industry oversaturation while leaving the central problem unchanged:

Adults still lack reasonable, lawful, open-air spaces to consume responsibly.

If San Francisco is serious about cannabis policy, it must move beyond symbolic regulation and address real-world conditions. The solution is not more confined consumption models or additional costly license categories, but thoughtful policy that recognizes adult liberty, practical realities, and responsible outdoor accommodation.

Adults should not be pushed into impossible choices or displaced simply for using a legal product in a respectful and lawful manner.

San Francisco has long led by prioritizing common sense over stigma and harm reduction over political theater. The Board now has an opportunity to uphold that legacy by protecting freedom where it can actually be exercised, ensuring reasonable accommodation, and preserving the true intent of legalization.

Anything less risks creating a system where legalization exists in name, but prohibition persists in practice.

Respectfully submitted,

--

Kevin Reed
Founder & President
The Green Cross

415.846.7671
KevinReed@TheGreenCross.org
TheGreenCross.org



From:	Rod Lew
To:	Board of Supervisors (BOS); Carroll, John (BOS); Chan, Connie (BOS); ChanStaff (BOS); Sherrill, Stephen (BOS); SherrillStaff; Sauter, Danny (BOS); SauterStaff; Wong, Alan (BOS); WongStaff (BOS); Mahmood, Bilal (BOS); MahmoodStaff; Dorsey, Matt (BOS); DorseyStaff (BOS); Mandelman, Rafael (BOS); MandelmanStaff (BOS); Fielder, Jackie (BOS); FielderStaff; Walton, Shamann (BOS); Waltonstaff (BOS); Chen, Chyanne (BOS); ChenStaff; Melgar, Myrna (BOS); MelgarStaff (BOS)
Cc:	Adam Francis; Dr John Maa
Subject:	Letter of Support for Ordinance 260361 (Melgar)
Date:	Monday, May 4, 2026 5:54:31 PM
Attachments:	APPEAL SF Bar Patio LOS April 26.pdf

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Please find our letter of support for Ordinance 260361
Thank you,
Rod Lew

Rod Lew, MPH
Executive Director, **APPEAL**
Asian Pacific Partners for Empowerment, Advocacy and Leadership
2255 Morello Avenue, Suite 208
Pleasant Hill, CA 94523
cell 510-757-8668

M-F 10 am- 6 pm PT

www.appealforhealth.org



A P P E A L

ASIAN PACIFIC PARTNERS FOR EMPOWERMENT, ADVOCACY AND LEADERSHIP

April 25, 2026

Board of Supervisors
City Hall
1 Dr. Carlton B Goodlett Place
San Francisco, CA 94102

Re: Ordinance 260361 (Melgar)
Position: Support

Dear Board of Supervisors:

Asian Pacific Partners for Empowerment, Advocacy and Leadership (APPEAL) urges your strong Support for Supervisor Melgar's ordinance to improve the health of workers and the public by closing a dangerous public health loophole. The ordinance would prohibit smoking or vaping on bar patios and semi-enclosed rooms in bars, closing a hazardous loophole that exposes San Franciscans and visitors to dangerous secondhand smoke. No one should have to choose between their health or a paycheck.

As a national organization with nearly 30 years of experience, APPEAL has been working towards building and facilitating effective national networks on tobacco, chronic diseases, and health equity for Native Hawaiian and Pacific Islander (NHPI) and Asian American (AA) communities. Our mission is to achieve equity (including data equity) and empowerment for all marginalized communities by supporting and mobilizing community-led movements through advocacy and leadership development on critical public health issues.

San Francisco law protects people from secondhand smoke nearly everywhere, including farmer's markets, sports arenas, movie lines, ATM lines, bus stops, parklets, restaurant patios, and indoor areas of bars, BUT NOT bar patios. Workers and patrons deserve the same protection at bar patios as they have at restaurant patios, bus stops and ATMs.

Despite leading in other areas, San Francisco has fallen far behind other cities and counties in the Bay Area when it comes to ensuring clean air for workers and patrons. More than 50 other Bay Area cities including Oakland and San Jose have closed this loophole.

While any business might be fearful of changes to how they operate, 25 years of data shows that smoke-free air laws do not have a negative impact on bar or restaurant employment. After the law designated indoor areas of California bars smoke-free in 1998, California's bars GAINED revenue. Any discomfort with change is nothing compared to the well-established and proven health impact for those that must suffer the severe consequences of secondhand smoke. The Centers for Disease Control and Prevention (CDC) states there is "no safe level of exposure to secondhand smoke." Nonsmokers who are exposed to secondhand smoke, even for a short time, can suffer harmful health effects, including cancer, bronchitis, asthma, heart disease, stroke, and Type 2 diabetes. Underrepresented groups, including LGBTQ+ adults in California, use tobacco at higher rates than their non-LGBTQ+ counterparts, and face higher levels of secondhand smoke and vape exposure.

For these reasons, and many more, we urge your support for this important ordinance.

Thank you,
Sincerely,



Rod Lew, MPH
Executive Director, APPEAL
rodlew@appealforhealth.org 510-757-8668

From:	Board of Supervisors (BOS)
To:	BOS-Supervisors; BOS-Legislative Aides
Cc:	Calvillo, Angela (BOS); Mchugh, Eileen (BOS); De Asis, Edward (BOS); Somera, Alisa (BOS); Ng, Wilson (BOS); Carroll, John (BOS); BOS Legislation, (BOS); BOS-Operations
Subject:	File No. 260361 - Outdoor Smoking Patios - 2 Letters
Date:	Thursday, April 23, 2026 12:40:26 PM
Attachments:	PC 2 - 260361 Smoking - 2 Letters.pdf

Hello Supervisors,

Please see the attached 2 Letters from members of the public, regarding:

> **File No. 260361:** Ordinance amending the Health Code to prohibit smoking in outdoor patios of bars and taverns; and eliminating exceptions allowing indoor smoking in bars with no employees, bars with historically compliant semi-enclosed smoking rooms, and hotel rooms, to conform to provisions of California law.

Sincerely,

Justice Alcantar
Office of the Clerk of the Board
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
Phone: (415) 554-5184 | Fax: (415) 554-5163
board.of.supervisors@sfgov.org | sf.gov/bos

From: Paul Mogannam
To: Board of Supervisors (BOS)
Subject: Opposing the the ban
Date: Friday, April 17, 2026 7:42:28 AM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

As a local businessman I'm opposing the ban on cigarettes smoking on patios, and Parklet.

Thanks for the consideration.

Paul Mogannam
Sent from my iPhone

From:	Tim Omi
To:	Board of Supervisors (BOS)
Cc:	MelgarStaff (BOS); WongStaff (BOS); Sauter, Danny (BOS); Sherrill, Stephen (BOS); ChenStaff; ChanStaff (BOS); Dorsey, Matt (BOS); Mahmood, Bilal (BOS); Mandelman, Rafael (BOS); Fielder, Jackie (BOS); Walton, Shamann (BOS)
Subject:	Opposition - Closing the Loophole for Out Door Smoking
Date:	Friday, April 17, 2026 10:10:58 AM
Attachments:	Oppistion - Closing Loophole Smoking Outdoors Bars .pdf

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Supervisors,
Please find our formal opposition to the proposed legislation to close the loophole on bars that allow outdoor smoking.

Timothy Omi
tim@sfcdma.org
1-415-590-0930
President, San Francisco Council of District Merchants Associations
President, Fillmore Merchant Association

Dear Supervisors,

We are writing to express our serious concern regarding Supervisor Melgar's proposed legislation to close the loophole for smoking in outdoor areas and patios. While we understand the public health concerns surrounding secondhand smoke, we believe this proposal could have significant unintended consequences for San Francisco's small neighborhood-serving bars.

At a time when our local economy is still recovering, many establishments have adapted their business models to survive by making full use of their outdoor spaces and patios. These spaces are not incidental to their operations. For many businesses, they are an essential part of how they serve customers, remain competitive, and stay financially viable. Imposing new restrictions on these areas would disrupt operations for businesses that have already invested in leases, layouts, staffing, and customer experience based on the rules currently in place.

This legislation would also place an unfair burden on business owners by effectively forcing them to act as enforcement agents for the City. Expecting small business owners and their staff to police customer behavior under the threat of fines or penalties is unreasonable and would create yet another layer of regulatory pressure on establishments already struggling with high costs, labor challenges, and an overburdensome business climate.

Additionally, while the risks of secondhand smoke are well known, patrons already have a choice about whether or not to enter designated outdoor smoking areas, and owners have a choice about whether to allow smoking in those areas at all. A blanket restriction removes that flexibility and fails to recognize the practical realities of how many establishments operate.

There is also the concern that prohibiting smoking in these contained outdoor areas may simply push smokers onto sidewalks and public spaces, creating more exposure for passersby, including families and children, while also increasing litter and cigarette waste on our streets. In effect, this proposal may move the issue rather than solve it.

More broadly, it is difficult to justify imposing new restrictions on law-abiding businesses and their customers when the City continues to struggle to address far more serious and visible public health and safety issues on our streets. San Francisco should be focused on supporting small businesses, not adding new mandates that undermine their ability to operate.

We urge you to carefully consider the unintended economic and practical consequences of this legislation and to avoid placing yet another burden on neighborhood businesses that are doing their best to stay open, serve their communities, and contribute to our city's recovery.

President of the San Francisco Counsel of District Merchants Association,

Timothy Omi

From:	Carroll, John (BOS)
To:	"Zachary Ruta"; Melgar, Myrna (BOS); Low, Jen (BOS); Chen, Chyanne (BOS); Sciammas, Charlie (BOS); Mahmood, Bilal (BOS); Cooper, Raynell (BOS)
Subject:	RE: Proposed Tobacco Legislation. Occidental Cigar Club SF - BOS File No. 260361
Date:	Thursday, April 23, 2026 9:47:00 AM
Attachments:	image001.png

Thank you for your comment letter.

I am forwarding your comments to the members of the Land Use and Transportation committee, and I will include your comments in the file for this ordinance matter.

I invite you to review the entire matter on our Legislative Research Center by following the link below:

- Board of Supervisors File No. 260361

John Carroll
Assistant Clerk
Board of Supervisors
San Francisco City Hall, Room 244
San Francisco, CA 94102
(415)554-4445

Click here to complete a Board of Supervisors Customer Service Satisfaction form.

The Legislative Research Center provides 24-hour access to Board of Supervisors legislation and archived matters since August 1998.

Disclosures: *Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors website or in other public documents that members of the public may inspect or copy.*

From: Zachary Ruta <zjruta@gmail.com>
Sent: Thursday, April 23, 2026 8:07 AM
To: Carroll, John (BOS) <john.carroll@sfgov.org>
Subject: Proposed Tobacco Legislation. Occidental Cigar Club SF

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Mr Carroll, my name is Zachery Ruta and I am an owner of the Occidental cigar club located at 471 Pine St, in district three.

Supervisor, Melgar's proposed tobacco legislation would force us to close our longtime downtown business down

For 32 years, we have operated as a downtown destination small business.
This has been a substantial challenge through the years, with the financial crisis, the pandemic, and the current state of the downtown business environment.

We have worked through the years with supervisors Gonzales, Avalos, Maxwell, Marr, Chiu, and supervisor Peskin, maintaining the legality based on current legislation.

We recently signed a six year lease, which carries with it significant financial obligations. In addition, we still have a balance of over $100,000 on an SBA loan we took out during the pandemic.

The bulk of the proposed legislation seems to be limited to outdoor smoking at regular bars, but as usual, the smoke free coalition always adds our legal business into all smoking legislation that they sponsor. We only exist because we have worked with the city over the years. We are a legal business, we are owner operated, and always will be owner operated.

Thank you very much for taking the time to hear from me, and I would like to set up an appointment to meet at the earliest convenience.

Sincerely,
Zachery Ruta.
Occidental Cigar Club.
471 Pine Street, San Francisco
California. 94104.
(415)-685-114

From:	Carroll, John (BOS)
To:	"Zachary Ruta"; Melgar, Myrna (BOS); Low, Jen (BOS); Chen, Chyanne (BOS); Sciammas, Charlie (BOS); Mahmood, Bilal (BOS); Cooper, Raynell (BOS)
Subject:	RE: Proposed Tobacco Legislation. Occidental Cigar Club SF - BOS File No. 260361
Date:	Thursday, April 23, 2026 9:47:00 AM
Attachments:	image001.png

Thank you for your comment letter.

I am forwarding your comments to the members of the Land Use and Transportation committee, and I will include your comments in the file for this ordinance matter.

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-

Board of Supervisors File No. 260361

John Carroll
Assistant Clerk
Board of Supervisors
San Francisco City Hall, Room 244
San Francisco, CA 94102
(415)554-4445

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From: Zachary Ruta <zjruta@gmail.com>
Sent: Thursday, April 23, 2026 8:12 AM
To: Carroll, John (BOS) <john.carroll@sfgov.org>
Subject: Fwd: Proposed Tobacco Legislation. Occidental Cigar Club SF

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---------- Forwarded message ---------
From: **Zachary Ruta** <zjruta@gmail.com>
Date: Thu, Apr 23, 2026 at 8:06 AM
Subject: Proposed Tobacco Legislation. Occidental Cigar Club SF
To: <John.Carroll@sfgov.org>

Mr Carroll, my name is Zachery Ruta and I am an owner of the Occidental cigar club located at 471 Pine St, in district three.

Supervisor, Melgar's proposed tobacco legislation would force us to close our longtime downtown business down

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The bulk of the proposed legislation seems to be limited to outdoor smoking at regular bars, but as usual, the smoke free coalition always adds our legal business into all smoking legislation that they sponsor. We only exist because we have worked with the city over the years. We are a legal business, we are owner operated, and always will be owner operated.

Thank you very much for taking the time to hear from me, and I would like to set up an appointment to meet at the earliest convenience.

Sincerely,
Zachery Ruta.
Occidental Cigar Club.
471 Pine Street, San Francisco

California. 94104.
(415)-685-1143

From:	Board of Supervisors (BOS)
To:	BOS-Supervisors; BOS-Legislative Aides
Cc:	Calvillo, Angela (BOS); Mchugh, Eileen (BOS); De Asis, Edward (BOS); Somera, Alisa (BOS); Ng, Wilson (BOS); Carroll, John (BOS); BOS Legislation, (BOS); BOS-Operations
Subject:	FW: Comments for Smoking Ordinance # 260361
Date:	Thursday, April 16, 2026 3:04:25 PM

Hello Supervisors,

Please see the below communication from Julia Pérez, regarding:

> **File No. 260361:** Ordinance amending the Health Code to prohibit smoking in outdoor patios of bars and taverns; and eliminating exceptions allowing indoor smoking in bars with no employees, bars with historically compliant semi-enclosed smoking rooms, and hotel rooms, to conform to provisions of California law.

Sincerely,

Justice Alcantar
Office of the Clerk of the Board
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
Phone: (415) 554-5184 | Fax: (415) 554-5163
board.of.supervisors@sfgov.org | www.sfbos.org

From: Julia Pérez <juliaprz924@outlook.com>
Sent: Wednesday, April 15, 2026 4:38 PM
To: Lurie, Daniel (MYR) <daniel.lurie@sfgov.org>; Board of Supervisors (BOS) <board.of.supervisors@sfgov.org>
Subject: Comments for Smoking Ordinance # 260361

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Mayor and Board of Supervisors,

I recently heard about the new smoking ordinance being proposed and felt compelled to share my opinion which I know is shared by many of my neighbors as well. While I think it is a good idea to bring our local smoking ordinance into compliance with state smoking restrictions, I also think the ADDITIONAL prohibition on smoking on bar patios is very

misguided and should be REMOVED from the ordinance, even though I am sure it is well intentioned.

I've lived in San Francisco for over two decades now in busy commercial neighborhoods like the Mission and the Richmond. Things can often get rowdy outside of bars with people congregating on the sidewalk to smoke particularly at night and on the weekends. However, I've noticed that those few bars with their own smoking patios have been the BEST neighbors. The sidewalks stay clear, and excess noise and litter is reduced. I've sometimes wondered why MORE bars don't have smoking patios since it really does help keep our neighborhoods more tidy and orderly, and it's something we should be encouraging instead of discouraging.

I understand the intention is to keep second hand smoke away from people, and as a nonsmoker myself, I appreciate that. But bar patios reserved for adult patrons are a much better solution than telling smokers to smoke on the sidewalk where even more people are effected. And my understanding is that all indoor portions of bars are already smoke free, so this really is a matter of relocating outdoor smoking from patios to the sidewalk.

Please consider my suggestion and remove the bar patio smoking ban from the ordinance.

Thank You,
Julia Pérez

Introduction Form

(by a Member of the Board of Supervisors or the Mayor)

I hereby submit the following item for introduction (select only one):

- ☐ 1. For reference to Committee (Ordinance, Resolution, Motion or Charter Amendment)
- ☐ 2. Request for next printed agenda (For Adoption Without Committee Reference)
  (Routine, non-controversial and/or commendatory matters only)
- ☐ 3. Request for Hearing on a subject matter at Committee
- ☐ 4. Request for Letter beginning with "Supervisor _____ inquires…"
- ☐ 5. City Attorney Request
- ☐ 6. Call File No. _____ from Committee.
- ☐ 7. Budget and Legislative Analyst Request (attached written Motion)
- ■ 8. Substitute Legislation File No. 260361
- ☐ 9. Reactivate File No. _____
- ☐ 10. Topic submitted for Mayoral Appearance before the Board on _____

The proposed legislation should be forwarded to the following (please check all appropriate boxes):

☐ Small Business Commission ☐ Youth Commission ☐ Ethics Commission

☐ Planning Commission ☐ Building Inspection Commission ☐ Human Resources Department

General Plan Referral sent to the Planning Department (proposed legislation subject to Charter 4.105 & Admin 2A.53):

☐ Yes ☐ No

(Note: For Imperative Agenda items (a Resolution not on the printed agenda), use the Imperative Agenda Form.)

Sponsor(s):

Supervisors Melgar; Sauter

Subject:

Health Code - Smoke-free Places

Long Title or text listed:

Ordinance amending the Health Code to prohibit smoking in outdoor patios of bars and taverns; eliminate exceptions allowing indoor smoking in bars with no employees, bars with historically compliant semi-enclosed smoking rooms, and hotel rooms, to conform to provisions of California law; and repeal suspended and superseded provisions regulating smoking in certain locations.

Signature of Sponsoring Supervisor: /s/Myrna Melgar