Approved: March 31, 2011

MINUTES OF THE HEALTH AND HUMAN SERVICES COMMITTEE

The meeting was called to order by Chairperson Landwehr at 1:30 p.m. on March 16, 2011, in Room 784 of the Docking State Office Building.

All members were present except:

Representative Owen Donohoe – excused Representative Bob Bethell – excused

Committee staff present:

Norm Furse, Office of the Revisor of Statutes Katherine McBride, Office of the Revisor of Statutes Martha Dorsey, Kansas Legislative Research Department Dorothy Noblit, Kansas Legislative Research Department Jay Hall, Kansas Legislative Research Department Debbie Bartuccio, Committee Assistant

Conferees appearing before the Committee:

Bob Williams, Kansas Association of Osteopathic Medicine (No Attachment)

Philip Bradley, Kansas Licensed Beverage Association (Attachment 1)

Sheila Martin, Business Owner, Hutchinson, KS (Attachment 2)

Paul Weigand, Business Owner, Wichita, KS (No Attachment)

Dr. Jen Brull, President, Kansas Academy of Family Physicians (Attachment 3)

Tonia Carlson, Citizen, Paxico, Kansas (Attachment 4)

Dave Pomeroy, Citizen, Topeka, Kansas (Attachment 5)

Ann Garvin, AARP Kansas (Attachment 6)

Dani Weiter, Kansas University Senior (Attachment 7)

John Neuberger, DrPH, MPH, MBA, Kansas University School of Medicine (Attachment 8)

Karen Bailey, Director of Public Affairs for Penn National Gaming, Developers of

Hollywood Casino at Kansas Speedway (Attachment 9)

Jeff Boerger, President, Kansas Speedway Development Corp. (Attachment 10)

Elizabeth Tranchina, Vice President of Legal Affairs and Compliance Officer for

Peninsula Gaming, LLC, Parent Company of Kansas Star Casino, LLC (Attachment 11)

Sharon Stroburg, Corporate Marketing Director, Butler National Corporation, Co-Manager of Boot Hill Casino and Resort, Dodge City, Kansas (Attachment 12)

Edward Ellerbeck, MD, MPH, Chair, Department of Preventive Medicine and Public Health, University of Kansas School of Medicine and Program Director, Cancer Control and Population Health, Kansas University Cancer Center (Attachment 13)

Jessica Hembree, MPA, Health Care Foundation of Greater Kansas City (Attachment 14)

Others attending:

See attached list.

The Chair recognized Bob Williams, Kansas Association of Osteopathic Medicine, who discussed a "Know Your Doctor" wheel of information distributed by the American Medical Association. The wheel shows by doctor title the length of graduate-level education, the years of residency/fellowship training and the total patient care hours required through training.

HB 2340 – Smoking ban; allow smoking in the bars that sell lottery tickets.

HB 2039 - Smoking regulations; casino exemption deleted.

Chairperson Landwehr opened the hearings on **HB 2340** and on **HB 2039**.

Phillip Bradley, representing the Kansas Licensed Beverage Association, presented testimony in support of the <u>HB 2340</u>. The Kansas Licensed Beverage Assn., represents the men and women, in the hospitality industry, who own, manage and work in Kansas bars, breweries, clubs, caterers, hotels and restaurants where beverage alcohol is served. These are the over 3,000 places you frequent, enjoy and the tens of thousands of employees that are glad to serve you.

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We ask this committee to equalize the current ban if repeal is not possible. We ask that all clubs be allowed to have the same smoking exemption that is allowed to grandfathered clubs. There is a current injunction that is effectively allowing just that as a lawsuit that the State is guilty of unequal treatment is adjudicated.

To the crux of the matter, since local options are working and the options of local elections exist already, why would the State and this committee feel it necessary to act? We believe that the only reason is to create a statewide standard. It would seem that if there is to be an amended statute, it must be uniform and include uniform preemption in order to achieve the goal of an equal opportunity and level playing field. Without such, this is a just an action for appearances. You have heard from the proponents that an essential reason for this measure is to, pardon the paraphrase, prevent a "patchwork" which is unaceptable. A bill without preemption, allowing local elections and allowing local ordinances guarentees just such a patchwork. And you heard much about a "level playing field". That is an argument about economic impact. If there is no economic impact then there is no need for a "level playing field". It would not matter.

We oppose smoking ban proposals previously introduced, and efforts to limit the choices of adults and businesses about a legal product. Please consider these points.

If this is an air quality issue, why are we not addressing air quality? There are many more air contaminates than environmental smoke and if it is the desire of this body to protect all citizens from them then an air quality standard bill would be in order. This would set the desired "level playing field" and allow all businesses to meet this standard for all the air particulates and gasses. This is the fair and most effective way to address the issue and removes the emotional element. This would allow for the advancement of science and the creative capabilities of industry to work and continually improve lives and living conditions. If however the real goal is to get rid of all smoking, then the legislature should propose the prohibition of smoking and vote on that issue and the subsequent loss to the general fund revenue. Please do not make the hospitality establishments the unwitting victims in a battle between the anti-tobacco activists and the smoking public!

Second, this is an issue of the rights of private businesses to serve their customers. You allow smoking as a legal activity and the establishments that are targeted in this bill are private property with public access, places that all persons have a choice, whether or not they enter and frequent. All are very responsive to their customers. If their customers were to stop coming due to conditions at the venue, then owners would change their place to accommodate and re-win those customer. If not they would soon be out of business. There are a majority of non-smoking venue options.

Third, we ask for an exemption for businesses licensed for primarily on-premise liquor sales. Most local ordinances to expand smoking bans, already allow an exemption for smoke-shops, and cigar bars based upon the belief that those that work or frequent these smoke shops have a reasonable expectation of being exposed to environmental smoke and have made a choice. We believe that the same is true for licensed establishments with proper signage. Further, with that expectation and choice, that individuals are taking responsibility for their own actions and whatever risks that are present. Furthermore, the current crops of city ordinances are considering comprimises and exemptions. The highly touted Lawrence ban includes exemptions. And all other state bans include exemptions, including the proponent mentioned VA ban.

Fourth, if you still must include licensed establishments, we ask you to amend this bill to include a class of establishment that would be a "Smoking Establishment" similar to the "cigar bar" exemption. This exemption exists in most statewide bans including California. With a separate permit and requirements, such as adequate signage, time limitations and/or age restrictions to make sure all who approach and enter have the information to make a rational choice knowing that by entering or working here they have the

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expectation of being exposed to environmental smoke.

Fifth allow me to discuss the argument that this will save the state money. We have had smoking bans in this state in large population areas for many years. Some as many as 8 years, where is the savings in these communities? Where are the figures of real KANSAS savings? You were told that bans have this effect and yet are given no proof that that has been the case here in our state. Those should be available now and leads one to question why they are not cited. And if bans would mean return to Kansans of health care premiums, how much have premiums been reduced in those Kansan communities that have bans now? And how much have the premiums been reduced in Nebraska, and Iowa and the other states with bans?

Sixth, the penalty provisions are extremely high and appear to be complaint driven w/o due process allowed under most criminal law. They also apply to areas that the establishments are required to be responsible for w/o the authority to limit access or refuse entry. A "safe haven" clause is needed.

And finally, in review if there is to be an amended statute, we would ask that it be uniform, include exemptions, safe haven and include preemption in order to achieve the goal of an equal opportunity and level playing field. (Attachment 1)

Sheila Martin, business owner, Hutchinson, Kansas provided testimony in support of <u>HB 2340</u>. She spoke on behalf of small businesses which have been harmed by the smoking ban. (<u>Attachment 2</u>)

Paul Wiegands, business owner, Wichita, Kansas provided testimony in support of <u>HB 2340</u>. He owns a club in Wichita which will be negatively effected if a casino which allows smoking is located south of Wichita. He does not think it is right that the state-owned casinos are exempted but private businesses are not able to allow smoking in their establishment. He believes the local municipality should be able to determine the smoking regulations for their area. (No Attachment)

Dr. Jen Brull, President of the Kansas Academy of Family Physicians (KAFP), as well as a family physician in Plainville, provided testimony in opposition to <u>HB 2340</u> and provided support for <u>HB 2039</u>. KAFP represents over 1,500 practicing, resident and medical student members from across this great state of Kansas. The mission of the Kansas Academy of Family Physicians is to promote access to and excellence in health care for all Kansans through education and advocacy for family physicians and their patients. As family physicians, we see people of all ages, both men and women, and we work with almost every type of ailment and illness that afflicts our patients. We see the effects of smoking and of secondhand smoke in our practices every day.

HB 2039 would delete the current exemption for smoking on the floor of state-owned casinos. We support it, as it would strengthen the act. The bill would add an exemption for bars who sell lottery tickets to the Kansas Clean Indoor Air Act. We oppose HB 2340 as it would expand the number of Kansans not protected from the harms of secondhand smoke in the workplace. Secondhand smoke causes premature death and disease in children and in adults who do not smoke. Exposure of adults to secondhand smoke has immediate adverse effects on the cardiovascular system and causes coronary heart disease and lung cancer. Scientific evidence indicates that there is no risk-free level of exposure to secondhand smoke. Eliminating smoking in indoor spaces fully protects nonsmokers from exposure to secondhand smoke.

Glen Bolger of Public Opinion Strategies conducted a poll of 500 likely Kansas voters and released the results in February. The survey margin error was ±4.38%. It found 77% of Kansas voters support the state's indoor clean air law as it currently stands. This support cuts across party and across ideological lines. Even 54% of smokers themselves support the current law. The survey also shows that 84% of the members of the public view exposure to secondhand smoke as a health hazard.

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Scientific data clearly shows that secondhand smoke is a very real public health threat. The Fact Sheets provided show citations of several important studies. The health effects of tobacco use and secondhand smoke are well-documented. And I know you've heard statistics before. As a family physician, the very sickest people I see in my clinic, the ER and our hospital are those who have damaged their lungs, hearts and blood vessels by smoking or by being exposed to secondhand smoke.

In conclusion, we urge you to vote yes on <u>HB 2039</u> and vote no on <u>HB 2340</u>. Clean Indoor Air is strongly supported in Plainville, in communities across the state, and by 77% of the general public across Kansas. Secondhand smoke is a public health issue, not just a nuisance. Please oppose any bill that would weaken the current Clean Indoor Air Act.

I have provided fact sheets from the CDC for those of you who like to examine the studies and their factual basis. Here is the URL where many additional informative documents are accessible: http://www.cdc.gov/tobacco/. (Attachment 3)

Tonia Carlson, a high school and college biology teacher from Paxico, Kansas provided testimony in opposition of <u>HB 2340</u>. She stated supporting this legislation creates a massive loophole for businesses and seriously weakens the Clean Indoor Act already in place in Kansas. She commented she has seen the effects of secondhand smoke on people who have to work those jobs in businesses which allowed smoking and that weakening the current law puts people's health at risk. (Attachment 4)

Dave Pomeroy, citizen from Topeka, Kansas provided testimony in opposition of <u>HB 2340</u>. He stated if the bill passes there is no doubt in his mind that the health of many Kansans will suffer and someone will eventually die as a result. (<u>Attachment 5</u>)

Ann Garvin, volunteer training leader for AARP Kansas, provided testimony in opposition of HB 2340. AARP believes that states should take specific and effective steps to control all forms of pollution which threaten health, safety and quality of life and should enact legislation banning smoking in nonresidential public buildings, on public transportation and in restaurants. This bill will not meet the goals of enhancing the quality of health for Kansans. Her testimony included information discovered in a recent 2011 AARP Kansas survey "Voices of 50+ Kansans: Dreams and Challenges". Secondhand smoke is a serious public health issues. It costs lives and money, and the high percentage of survey and poll respondents expressing concern about secondhand smoke suggests it is an important issue for the majority AARP believes this bill will allow more businesses to basically purchase exemptions by participating in the lottery program and will also overturn the work done by Kansas communities to improve the health of their citizens. Kansas AARP believes a good clean air act, such as the one passed in 2010, with minimum exemptions, has and will continue to enhance the health of all Kansans and visitors to our state, protecting them from secondhand smoke in all public places. It has greatly improved the health of many Kansans already, reducing lost work hours and wages and lessening healthcare related They would submit that in many small communities, Kansans may not have the option of patronizing eating establishments that would remain smoke free. That lack of choice would subject them once again to the perils of secondhand smoke which is a serious health issue. (Attachment 6)

Dani Weiter, senior at Kansas University, provided testimony in opposition to <u>HB 2340</u>. She shared her experiences of health issues she incurred when working at establishments which allowed smoking. (<u>Attachment 7</u>)

John Neuberger, DrPH, MPH, MBA, provided testimony in opposition to <u>HB 2340</u> and a proponent of <u>HB 2039</u>. Passing this bill would indicate a lack of support for a very important public health measure

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for disease prevention and control. Ingredients in environmental tobacco smoke include benzene, carbon monoxide, formaldeheyde, arsenic, lead, hexavalent chromium, polonium 210, and tar. Health problems resulting from these exposures include lung cancer, heart disease, low birth-weight, bronchitis, and asthma. A strong clean indoor air law will help reduce both these exposures and the consequent related morbidity and mortality. Passing <u>HB 2039</u> would strengthen the current law by eliminating the exemption for casino gaming floors. (Attachment 8)

Karen Bailey, Director of Public Affairs for Penn National Gaming, on behalf of the developers of Northeast Gaming Zone Casino, Hollywood Casino at Kansas Speedway provided testimony in opposition to <u>HB 2039</u>.

Penn National Gaming is opposed to this bill aimed at banning smoking in Kansas' state-owned casinos. As members of the hospitality industry, we strive to accommodate BOTH our non-smoking and smoking customers. With construction well underway on our over \$300 million investment in Kansas City, Kansas, we have included in our design the latest ventilation technologies, along with high ceilings and separation, to provide a comfortable environment for all without the need for an outright smoking ban.. While we recognize, this is an emotional, highly contentious issue, as we've seen in every other jurisdiction that has instituted a smoking ban, there are very real consequences that must be considered in terms of the significant economic impact to our business and the State's projected revenues. Penn National Gaming is the owner of three riverboat casinos in the State of Illinois – all of which are located in border markets (Indiana and Missouri respectively). In 2007 the Illinois legislature approved a statewide smoking ban that took effect on January 1, 2008. The impact to gaming revenues was seen almost immediately. Since the implementation of the ban, statewide revenues have decreased by over thirty percent. While some of that decrease can be attributed to the bad economic times we all have experienced over the course of those same three years, it is important to note what Illinois' losses are compared to its neighboring states; specifically Indiana and Missouri. Between FY2007 and FY2010, Missouri's gaming revenues decreased by a rate of 3.1%. For purposes of this testimony the revenues generated by Lumiere Place and River City casinos were removed from the gross revenue figures because they were nonexistent or not in full operation in 2007.

Between FY2007 and FY2010, Indiana's gaming revenues decreased by a rate of 14%; also significantly lower than the losses experienced by the State of Illinois. Also for purposes of this testimony, two new racetrack casinos became operational after FY2007 and their revenue has been removed from the total revenue used to calculate this percentage. Some proponents of smoke free casinos in this state have tried to point to Illinois' Rock Island as a poster child for the success of smoke free facilities due to the increase in revenues generated by the facility between 2007 and 2008. It is important to set the record straight in the matter of the Rock Island Casino which is located on the Illinois/Iowa border. During that same time period the Rock Island Casino completed a major expansion project and relocation with better access to main traffic arteries. The facility that preceded today's facility was abysmal and it was the much needed improvements that drove its revenue growth, not the fact that it went smoke-free. In reviewing Illinois-Iowa revenues between 2007 and 2008, you will find a similar pattern as I described with Indiana and Missouri. You might also hear about the so-called successful experience in implementing a smoking ban in casinos in Delaware. What smoking ban advocates there fail to mention is that while business did indeed come back after the casinos suffered through nearly 25% losses, it was because the State was forced to take dramatic steps to mitigate the negative impact, including expanding the number of slot machines and hours of operation and adjusting the tax rate. Finally, it's important to note that in addition to our smoking customers voting with their feet and taking their business across the border or to Tribal casinos, there is the simple issue of our smoking customers spending less "time on device." An average visit to one of our facilities is around two hours in duration. If much of that time is spent in the parking lot, it's pretty easy to understand the economic consequences of continually inconveniencing a significant portion of our customer base. I urge you to oppose this bill. As an operator who will have to compete with four casinos across the river in Missouri and a Tribal casino in downtown Kansas City, Kansas – all who allow smoking - it will be difficult enough to recapture the State's gaming dollars that have been flooding across the border all these years, without the State tying one arm behind our back with a smoking ban. Through state-of-the-art ventilation, high ceilings and separation we can meet the needs of ALL of our customers and respectfully ask you to support accommodation, no prohibition. (Attachment 9)

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Jeff Boerger, President of Kansas Speedway Development Corporation (KSDC) presented testimony in opposition of <u>HB 2039</u>. KSDC is one of the partners representing Kansas Entertainment, LLC ("KE") – the joint venture partnership between International Speedway Corporation ("ISC") and Penn National Gaming ("PNG"). As background for the Committee, our development group was chosen by the State to develop the destination casino for the Northeast Kansas Gaming Zone.

In 2001 we opened Kansas Speedway to host major league racing including the premier NASCAR Sprint Cup Series. Kansas Speedway took a risk in western Wyandotte County and was the anchor business that launched what is today a vibrant retail and dining destination called Village West. Village West is home to Cabela's, Nebraska Furniture Mart, The Legends, four hotel groups and numerous dining and retail businesses.

And now we look forward to the creation of more than \$500 million in new investment in the Village West area with the addition of the Livestrong Sporting Stadium, Cerner's new office park and of course, the biggest new development for us is our destination gaming facility; Hollywood Casino at Kansas Speedway.

Each year Kansas Speedway attracts close to 500,000 visitors and generates \$242,000,000 in economic impact for the State of Kansas. Our guests fill Kansas hotels, restaurants and shops that generate millions of dollars of tax revenues back to the Kansas taxpayer. Kansas Speedway has been an outstanding corporate citizen and we have given millions of dollars to support numerous charitable organizations in Wyandotte County and the State. Kansas Speedway delivered on its commitments by securing a second NASCAR Sprint Cup event for June 5, 2011 and will soon start constructing a 2.5 mile road course that will host a Grand-AM event for 2012. In addition, the speedway has continued to re-invest millions of dollars in Kansas by installing lights that will be ready this April and upgrading its seating.

KE is building a first class destination casino for Kansas and the Kansas City market. The initial investment is over \$300 million, with an anticipated workforce of over 1,000 full time employees and approximately 1,700 construction jobs. Construction is well under way and we are scheduled to be open first half of 2012. We do not intend to exploit the smoking exemption at our facility. It only applies to the gaming floor, where we are investing approximately \$1.7 million in a state of the art air handling system that help will mitigate second hand smoke.

This exemption will help keep Hollywood Casino at Kansas Speedway at the same competitive level as the five Kansas tribal casinos that are not affected by a State smoking ban. More importantly, the Missouri casinos located just minutes from of our facility are also exempt from their locally-imposed smoking ban. Hollywood Casino's restaurants, bars, and planned hotel will be subject to the State smoking ban.

It is a fact that the Statewide smoking ban adopted in 2010 includes certain exemptions but not only for the state owned casinos. Compromise and deliberation is a part of any controversial piece of legislation and the Statewide smoking ban is no different in that regard. Because of Kansas Speedway's continued commitment and the steps Kansas Entertainment has taken to mitigate second hand smoke, I strongly urge you to oppose <u>HB 2039</u>. (Attachment 10)

In response to the Chair's question as to their position on <u>HB 2340</u>, he indicated they were neutral to the bill.

Elizabeth Tranchina, Vice President of Legal Affairs and Compliance Officer for Peninsular Gaming, LLC, parent company of Kansas Star Casino, LLC, provided testimony in opposition of <u>HB 2039</u>.

As you may be aware, Peninsula Gaming is the parent company of Kansas Star Casino, LLC, which has entered into a contract with the State of Kansas to construct, manage and operate the Lottery Gaming Facility for the South Central Gaming Zone. We are investing more than \$260 million in the development

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of the Kansas Star Casino, Hotel and Event Center in the next four years - a project that is expected to create more than 1,600 construction jobs and more than 1,400 permanent jobs. While we are admittedly concerned about our investment, we are equally concerned about the economic and practical impacts to the State of Kansas, including those Kansans who are non-smokers and those Kansans who have no interest in casino gaming. We want to ensure that the State of Kansas receives the full benefit of the economic development resulting from this very significant capital investment. We believe a casino smoking ban will undermine much of the expected benefit.

In short, a casino smoking ban will significantly reduce state tax revenues resulting in reduced budget funding for State programs, fewer jobs and jeopardizing future capital investment in the State.

Impact of Casino Smoking Bans on Gaming Revenue in other Jurisdictions

Objective studies done in other jurisdictions definitively demonstrate that gaming revenues typically decline between 15% and 30% during the first year of implementation of a casino smoking ban. We refer you to two such studies, printed copies of which were provided to the Committee along with written copies of our testimony. Those reports are *Iowa Smoking Ban Economic Impact*, by Norman E. Kjono and *The Final Report to the Iowa Gaming Association*, prepared by Personal Market Research. These reports demonstrate the relatively consistent impacts on gaming revenue during the first year of implementation of casino smoking bans in multiple jurisdictions. Here are a few findings from these studies:

Nevada experienced revenue declines of between 18 % and 25% for slot route operators (for example, slots in bars and convenience stores); We note that Nevada's smoking ban exempts destination casinos;

Delaware experienced an average reduction in gaming revenue of 22%; this reduction was significantly greater than 22% for those properties with competition from jurisdictions that permitted smoking;

Illinois experienced an average reduction in gaming revenue of approximately 20%, with measurable increases in revenue for Iowa and Indiana, competing jurisdictions; Colorado experienced an average reduction in gaming revenue of approximately 20%; and

Ontario, Canada experienced an initial reduction in gaming revenue of 25%, with a significant increase in revenue for Detroit, MI casinos, a competing jurisdiction.

Both reports also identify two key factors that amplify the negative impact of a casino smoking ban: One, competing jurisdictions that permit smoking; and two, tribal casinos located within the State that permit smoking. We note that both of these factors are expected to magnify the impact of a casino smoking ban in Kansas. Casinos in Missouri and Oklahoma permit smoking and are within the competitive markets of the Hollywood Casino in Kansas City Kansas and the Kansas Star, in Mulvane, Kansas. The five tribal casinos located in Kansas also permit smoking. As such, we believe the reduction in gaming revenue will be closer to the high end of the range, resulting in an anticipated loss in revenue of approximately 30%.

Negative Consequences for All Kansans from Casino Smoking Ban

This significant reduction in gaming revenue directly translates into a corresponding percentage reduction in tax revenue, thus reducing the State of Kansas General Fund. As such, a casino smoking ban will directly impact numerous state programs with far reaching effects for all Kansans, including increasing budget short-falls and reducing funding for education and infrastructure. Overall, the State of Kansas

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stands to lose approximately Five Hundred Million Dollars (\$500,000,000.00) in the next 15 years from the State's budget should HB 2039 become law.

Financial losses to the State are not the only negative consequences from banning smoking in casinos. A reduction in gaming revenue will require gaming operators to correspondingly reduce payroll expenses, leading to a reduction in jobs in the local community. These lost jobs will impact many Kansas families – not just the families of casino employees.

Further, lost gaming revenue directly reduces funds available for future capital investment in both gaming and non-gaming investments, and indirectly reduces spending by other local businesses that are impacted by significant reductions in employee payrolls.

Alternative Means of Addressing Smoking Health Consequences

Peninsula Gaming recognizes the serious health consequences of smoking and the importance of reducing the impact of smoking on non-smokers in our casinos. We have a proven record of addressing this issue in each of Peninsula Gaming's properties where state-of-the-art heating and air ventilation systems are installed to minimize the impact of second hand smoke. This will include a significant investment in a state-of-the-art heating and air ventilation system at the Kansas Star Casino, Hotel, and Event Center.

The gaming areas of the Kansas Star will be served by air handling units that introduce up to 100 percent outside air. This system utilizes a ventilation rate based on 30 cubic feet per minute per person. In other words, this system provides 30 cubic feet of outside air per minute per person. This is 300 percent of the American Society of Heating, Refrigeration, and Air Condition Engineers (ASHRAE) Standard 62.1, which requires 9 cubic feet of outside air per minute per person. The indoor air quality will be controlled by carbon dioxide space sensors that will measure carbon dioxide (as a measure of occupancy) and will adjust the amount outside air ventilation to ensure that 30 cubic feet of outside air per person is provided.

We have chosen a system design for the Kansas Star that exceeds applicable air quality standards. This system is comparable to the systems in our existing properties. We have made this choice in our existing properties and for the Kansas Star because it is good business and it is good for all of our customers and our employees. While every casino's system is designed differently, in general modern, properly designed ventilation systems are very effective. Air quality studies that have been performed on various casino properties have shown that casinos with modern, properly designed ventilation systems are capable of maintaining high air quality that meets Occupational Safety and Health Administration (OSHA) and American Conference of Industrial Hygienists (ACIH) standards for exposure to environmental tobacco smoke and respirable suspended particulate matter (ETS-RSP) during an eight hour period (the standard work day) and reducing carbon dioxide to recommended levels. The air quality in the casinos studied was normally at or near the quality of outdoor air, and typically comparable to the air quality of non-smoking businesses.

The State can protect non-smokers and employees from second hand smoke without the implementation of a casino smoking ban, through the implementation of properly designed ventilation systems in state-owned casinos. This avoids the extremely high cost of a casino smoking ban for Kansans, measured by the loss of State and local tax revenue, jobs, and investment and passes along the much lower cost of compliance to the private sector.

Peninsula Gaming believes that a significantly lower cost solution that obtains comparable results and is paid for by the private sector (and is justified for business reasons and voluntarily implemented) is a vastly superior solution to a casino smoking ban that will directly and indirectly hurt all Kansans. (Attachment 11)

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Sharon Stroburg, Corporate Marketing Director, Butler National Corporation, co-manager of Boot Hill Casino and Resort, Dodge City, Kansas, provided testimony in opposition to <u>HB 2039</u>. She indicated both Boot Hill Casino and Resort and ultimately the gaming revenue paid to the State of Kansas would be negatively impacted by the imposition of a smoking ban at state lottery gaming facilities.

Casinos are a competitive, customer service business catering to adults over the age of 21. Casino customers make a choice when deciding which casino to visit. All current evidence indicates patrons visit a casino with a ban on smoking less frequently and thus, the revenue to the state decreases.

Examples of this include the following: Canada experienced an overall 15% decrease the first 3 months following a smoking ban, with Casino Windsor at 33.8%, Niagara Falls at 8.2% and Casino Rama at 9.2%. Delaware reported a 10-19% decrease after a ban was imposed in 2002, according to a 2006 study by the University of Louisville and the University of Kentucky. New Jersey reported a 19.5% decrease in the 12 days the ban was imposed in Atlantic City casinos in October 2008, confirmed by the states Casino Control Commission. The 2009 Federal Reserve Bankof St. Loui study estimated that Illinois revenue decreased by 20% or \$400 million in the first year. Revenues from smoking areas with slots outperformed the non-smoking slot areas in a range from 60%-185% in 7 Pennsylvania casinos, according to the 2008 State of Pennsylvania study.

On March 9, 2011, the House Executive Committee of the Illinois legislature approved two bills that, if passed, would loosen the restrictions on smoking. The Illinois Casino Gaming Association attributes a majority of the 31% decline in casino revenues to the smoking ban enacted in 2008. During this time Indiana, Iowa, and Missouri (states without smoking bans) have seen revenue increases.

In most states, a smoking ban in casinos becomes even more devastating when surrounding states (Oklahoma, Missouri, Iowa) allow smoking in their casino's and when tribal casinos (Oklahoma, Kansas), under sovereign control, are able to offer smoking in their casinos.

If the smoking is banned, over the 14 years remaining on the contract with Boot Hill Casino & Resort, it is estimated the State of Kansas will see a reduction in revenue of over \$32 million. This does not include lost revenue from any other Kansas casinos. As the lost revenue also will impact the casinos, the state will also see an impact from lost jobs, reductions in sales tax, purchases with vendors, etc.

Dodge City has its own ban on smoking in public places, and specifically exempted Boot Hill Casino & Resort provided a proper air filtration system was installed. In the specification, design and construction of the Boot Hill Casino & Resort, an air handling system that pressurizes the gaming floor to move air and virtually remove the presence of smoke on the gaming floor was purchased. The specialized air handling system cost in excess of \$1.8 million. This purchase was made to allow for the comfort of both smokers and non-smokers on the gaming floor. Boot Hill believes this system adequately addresses the concerns regarding second-hand smoke for our patrons while allowing the State of Kansas to maintain competitiveness with other regional casinos that permit smoking. Additionally, Boot Hill believes the local government in Dodge City is in the best position to determine the appropriate level of regulation in its smoking regulations. (Attachment 12)

In response to the Chair's question as to their position on <u>HB 2340</u>, she indicated they were neutral to the bill.

Edward Ellerbeck, MD, MPH, Chair, Department of Preventive Medicine and Public Health, University

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of Kansas School of Medicine and Program Director, Cancer Control and Population Health, Kansas University Cancer Center, presented testimony in opposition to <u>HB 2340</u>. It is a bill that would expose thousands of Kansans every day to the hazards of second-hand smoke, a bill that would frustrate the efforts of thousands of Kansas smokers who are trying to quit, a bill that would move us backwards in our efforts to control cancer in the state of Kansas.

If I were to speak to you today from my perspective as a public health professional, I would tell you that the hazards of second-hand smoke are very real and that the people at greatest risk are adults -particularly elderly and middle-aged adults like myself who are at risk of heart disease. And that risk occurs as soon as I step into a smoky bar room. Tobacco combustion products trigger oxidative stress that promotes platelet adhesion and creates an immediate increase in my risk for a heart attack. Indeed, 90 percent of the 65,000 deaths each year that can be attributed to second-hand smoke are due to heart attacks.

If I were to speak to you today as a bar patron, I'd tell you that the clean indoor air bill has made my Monday evenings at our local bar much more enjoyable. The bar seems as crowded as ever, but my clothes no longer stink in the morning and my friends who smoke don't seem to mind stepping outside for a few minutes every once in a while. But facts and science aside, this legislation is about people. And today 1'd like to speak to you from my role as a doctor, a primary care physician who takes care of patients like Greg, a 53-year-old man who is highly addicted to cigarettes. He quit smoking two years ago, but prior to the passage of the Clean Indoor Air Act, Greg went to a local bar to enjoy a drink with his friends. That first beer sure tasted good, but it also lowered his resistance. Pretty soon the sights and smells of the other smokers in the bar were too much for him. He bummed a cigarette from another bar patron and the next day found he was back to smoking a pack per day. I'd like to tell you about patients like Kathleen, a lovely young woman in her mid-20s who loves her job working at a local bar. Prior to the passage of the Clean Indoor Air Act, Kathleen was suffering recurrent hospitalizations related to exacerbation of her lung disease --exacerbations most likely triggered or worsened by exposure to tobacco smoke. The Clean Indoor Air Act allowed Kathleen to keep her job without putting her life at risk every time she went to work. I'd like to tell you about Joe, a 64-year-old man who is recovering from a heart attack. At this point, I don't have any problems with Joe going to the bar to have a drink with his friends (although I'll recommend that he have the grilled chicken sandwich rather than the 113-pound cheeseburger with fries and onion rings on the side). But if the bars in Kansas return to their previous smoke-filled state, I'll need to advise Joe and the thousands of Kansans like him with heart disease to stay On behalf of all of my patients like Greg, Kathleen, and Joe, I ask you to let them enjoy the bars of Kansas without putting their health at risk. On behalf of the faculty of the Department of Preventive Medicine and Public Health and the members of the KU Cancer Center, we are opposed to this bill or any other efforts to weaken the protections from second hand smoke that now exist in Kansas. (Attachment 13)

Jessica Hembree, MPA, Program and Policy Officer, Health Care Foundation (HFC) of Greater Kansas City, presented testimony in opposition to **HB 2340** and in support of **HB 2039**. Foundation of Greater Kansas City was created in 2003 and seeks to provide leadership, advocacy and resources to eliminate barriers and promote quality health for uninsured and underserved. Our grant making focuses on safety net, mental health, and health lifestyles in six counties in the Kansas City-area, including Allen, Johnson, and Wyandotte in Kansas. They have been fortunate to support both local and statewide smokefree air efforts, including the work of Clean Air Kansas. Their support is based upon a large and established body of evidence that exposure to secondhand smoke is harmful to health. She referred to a report in which after reviewing data over a period of ten years, the researchers concluded that smokefree policies have no negative impact on economic activity in the hospitality sector. The research looked at the hospitality sector in the aggregate and concludes that there are not negative economic consequences that can be attributed to smokefree laws. It does not report on the impact on individual restaurant and bar businesses in the hospitality industry, a sector with a high turnover rate. The Health Care Foundation encourages the committee to oppose HB 2340 because it weakens protections from secondhand smoke in Kansas. The HCF supports HB 2039 as it is written and would oppose any efforts to weaken or repeal statewide public smoking restrictions. (Attachment 14)

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Diane Cline, former owner of The Shadow Bistro and Bar in Wichita, provided written testimony only in opposition to <u>HB 2340</u>. In May, 2004, she made the decision to go smoke-free in her establishment. That year was by far the best year she ever had at The Shadow and years to come exceeded all of the "smoking" years. She is committed to a clean air state and her experience is an example that a smoke-free policy will not affect business in a poor way and everyone will be healthier. <u>Attachment 15</u>)

Chad Austin, Kansas Hospital Association, provided written testimony only in opposition to <u>HB 2340</u>. Tobacco is the number one source of preventable disease worldwide and is responsible for an estimated 438,000 deaths, or nearly one of every five deaths, each year in the United States. Secondhand smoke, and most recently, "thirdhand smoke", has been proven hazardous to people's health. As health care providers, the Kansas Hospital Association feels it is necessary to take a stand to stop the use of tobacco. (<u>Attachment 16</u>)

James Dixon, Gardner, MD, President of the Board of Tobacco Free Kansas, Chairman of the Public Policy and Public Health Committee of the Kansas Chapter of the American College of Physicians, provided written testimony only in opposition to HB 2340. These organizations have supported the Kansas Indoor Clean Air Law because it limited smoking materials in those public places and work sites where second hand smoke would contaminate the breathing area and cause adverse health to those who choose not to smoke. We continue to support this concept and do not want to have the statewide smokefree law weakened. (Attachment 17)

Clean Air Manhattan, provided written testimony in opposition to <u>HB 2340</u>. The bill would allow smoking in a variety of places, undermine the current Kansas law, and would definitely be a giant step backwards for public health. The current law is a major health and economic benefit for the people of Kansas. (Attachment 18)

Roger L. Smith, Tobacco Free Wichita Board, provided written testimony only in opposition to <u>HB 2340</u>. The sole provision of the bill allows smoking in bars that sell Kansas lottery tickets. The sale of lottery tickets is not a valid criterion for exemption from the requirements of K.S.A. 21-4010. It does not share the same purpose of the exemption provided last year to state owned casinos, which were exempted to allow competition with tribal casinos that are not subject to Kansas law. In fact, this bill would treat lottery retailers differently, based solely on the possession of a liquor or cereal malt beverage license. The vast majority of Kansans, in excess of seventy percent, want clean indoor air in public places. This bill only serves the selfish interests of a limited number of individuals whose personal behavior harms others, and a few businesses which place a desire for perceived additional profits ahead of the health of their employees and customers. (Attachment 19)

Shirley Voran, Business Owner, Cimarron, Kansas, provided written testimony only in opposition to <u>HB</u> <u>2340</u>. This bill would create a giant loophole in the law by exempting business with both liquor licenses and lottery licenses. It would, in effect, repeal some of the strongest provisions in our statewide smoke free law. There is no need for additional exemptions to the Kansas Indoor Clean Air Act that would allow some business owners to buy their way out of providing protections from second hand smoke for their employees and patrons. (Attachment 20)

Marilyn Hattan, Citizen, Atchison, Kansas, provided written testimony only in opposition to <u>HB 2340</u>. She stated it is horrible to have to watch your loved ones die from something that may have been prevented had it not been for tobacco. If the law is changed to smoking where lottery tickets are sold, every business will be selling the tickets. She thinks the current smoke-free law is wonderful and does not want to see it changed. (<u>Attachment 21</u>)

Mary Jayne Hellebust, Executive Director, Tobacco Free Kansas Coalition, Inc., provided written

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testimony only in opposition to <u>HB 2340</u>. The more than 200 members, coalitions and network partners within Tobacco Free Kansas Coalition oppose the bill because it would undermine a law whose express purpose was to protect the most people possible from unwanted exposure to secondhand smoke, a known toxin. Offering smoking exemptions to businesses with both liquor and lottery licenses makes a mockery of the concept of a smokefree state law. The bill would negate the gains achieved from the 2010 Kansas Indoor Clean Air law and would allow many establishments, especially in small communities, to again allow tobacco smoke pollution which is a known cause of serious heart and lung diseases and premature death for both workers and customers.

A February 2011 poll of Kansas voters cites 77% of Kansas voters in support of the current Kansas Indoor Clean Air Act because they are free from exposure to secondhand smoke and their time in hospitality arenas is much more pleasant. Since the 1960's, scientific studies at private and governmental research centers have continued to show the dangers of exposure to secondhand smoke for children as well as adults. With Kansas facing severe budgetary crises, much of which is driven by health costs related to Medicaid, health policy decisions must be based on improving health for Kansans. The current law is what Kansans want: 79% of Kansas voters want to give the current law a chance to work before making any changes, and even 54% of non smokers are satisfied with the law. The testimony also included a copy of a report titled "Air Quality Effect of the Kansas Indoor Clean Air Law" from the Roswell Park Cancer Institute. (Attachment 22)

Jace Smith, Citizen, Kansas City, Kansas provided written testimony only in opposition to <u>HB 2340</u>. She shared her health problems with asthma when working in a smoking environment and requested the current smoke-free law be maintained. (<u>Attachment 23</u>)

Kevin Walker, Regional Vice President of Advocacy, American Heart Association (AHA), provided written testimony only in opposition to <u>HB 2340</u>. Cigarette smoking remains the leading cause of preventable morbidity and premature death in the United States. The American Heart Association has long advocated for strong public health measures that will reduce the use of tobacco products in the United States and limit exposure to secondhand smoke. The AHA maintains that smoke free laws should be comprehensive and should apply to all workplaces and public environments, that there should be no preemptions of local ordinances and no exemptions for hardship, opting out, or ventilation. There is no doubt the law enacted last year by the legislature was popular with Kansans and the level of support continues to grow. (Attachment 24)

Margi Grimwood, Emporia Clean Air Ordinance Committee, provided written testimony only in opposition to <u>HB 2340</u>. Since the passage of the Emporia and Kansas smoke free laws, the committee has heard from many Emporians how much they appreciate being able to go into a bar or restaurant and enjoy the smoke free atmosphere. Public health interests should always trump business owner's rights or personal preferences. (Attachment 25)

Mitzi McFatrick, Executive Director, Kansas Advocates for Better Care (KABC) provided written testimony only in opposition to <u>HB 2340</u>. KABC is a not-for-profit organization which works to improve the quality of long-term care available in Kansas. KABC opposes expanding smoking exemptions for businesses selling lottery tickets, either now or that would apply as a lottery sales site in the future. Such a step would reduce the quality of health for persons employed at those businesses and Kansans who do business in them. The bill would contribute to the rising tide of health care costs attributable to secondhand smoke and to the suffering that accompanies exposure to secondhand smoke. (Attachment 26)

Tracy Russell, American Lung Association, provided written testimony only in opposition to <u>HB 2340</u>. The American Lung Association sees this bill as a significant erosion of the clean indoor air law that was approved last year. The proposed legislation grants an exemption to the smoke-free policy for bars that

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have lottery licenses. This proposal is more than just a weakening of the law, it is a virtual repeal of the clean indoor air law. Bars, as defined in current law, are "any indoor area that is operated and licensed for the sale and service of alcoholic beverages, including alcoholic liquor...as defined for on-premises consumption." Allowing such a broad exemption also creates a patchwork of laws across the state. Under this broad definition, bars could be restaurants, bowling alleys, bingo parlors and any other venue with a liquor license. Such a sweeping exemption essentially nullifies existing law. Reverting back to local ordinances eliminates the uniformity of application that business owners favored. If adopted, the bill could result in one standard being applied in a city with a more restrictive ordinance and the county applying the law with this broad exemption. The American Lung Association joins a majority of Kansans in supporting the Kansas Clean Indoor Air Act as a public health initiative that protects Kansans from the impact of secondhand smoke. (Attachment 27)

Abby Brungardt, Citizen, Wichita, Kansas, provided written testimony only in opposition to <u>HB 2340</u>. She related her experiences with parents who smoked and a mother who died of lung cancer. She is committed to helping others to understand the importance of staying healthy and has dedicated herself to help raise money to fight lung disease. (<u>Attachment 28</u>)

Caressa Potter, Kansas Citizen, provided written testimony only in opposition to <u>HB 2340</u>. She related her family's experiences with asthma and how they have been able to go to many eating establishments and participate in more indoor activities without the worry of an asthmatic episode or a coughing episode leading into shortness of breath. No one needs to be exposed to secondhand smoke. (<u>Attachment 29</u>)

Chris Masoner, American Cancer Society, provided written testimony only in opposition to <u>HB 2340</u>. (Attachment 30) The American Cancer Society has long supported a strong statewide smoke-free law to protect Kansans from the dangers of secondhand smoke. After many years of discussion and debate, the enactment of the Kansas Indoor Clean Air Act during the 2010 Session was a major public health victory for our State. Since the Act took effect, Kansans across the State have enjoyed protection from the harmful effects of secondhand smoke in the vast majority of workplaces. This bill, by allowing smoking to return to bars, restaurants, bowling alleys, and other licensed drinking establishments, would be a tremendous step backwards for the health of our State, and would be contrary to the wishes of an overwhelming majority of Kansas voters. The key components of the Society's position are as follows:

- · Secondhand Smoke Is A Public Health Hazard
- Hospitality Workers Deserve Protection from Secondhand Smoke
- The Indoor Clean Air Act Is Working
- The Indoor Clean Air Act Enjoys Broad Support
- Clean Air Policies Do Not Harm the Hospitality Industry
- The So-Called "Casino Exemption" The American Cancer Society has never supported the casino exemption, or indeed any other exemption in the law, and welcomes genuine efforts to make the law stronger to provide greater protection for more workers.

Tonya Dorf Brunner, Executive Director, Oral Health Kansas, provided written testimony only in opposition to <u>HB 2340</u>. Oral Health Kansas is a statewide advocacy organization dedicated to promoting the importance of lifelong dental health by shaping policy and educating the public so Kansans know that all mouths matter. The link between tobacco use and periodontal disease is strong. According to the American Academy of Periodontology, smokers are more likely to have calculus (hard plaque), deep pockets between the teeth and gums, and loss of the bone and tissue that support the teeth. Untreated, periodontal disease can lead to tooth loss. The health benefits of the smoking ban extend to the oral health of thousands of Kansans, and these benefits translate into savings in the state's health care system. Oral Health Kansas stands in support of the current Kansas Clean Indoor Air Act. (Attachment <u>31</u>)

Louie Riederer, Johnny's Tavern, Overland Park, Kansas provided written testimony only in opposition to

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<u>HB 2340</u>. He has six locations in Kansas City, Johnson County and two locations in Lawrence. He did experience some dips in revenue at some of his locations after smoking restrictions were put into place, but after time, business transitioned, oftentimes even improving. The new law is working, his customers and staff like it. Give the current law a chance before trying to change it. (<u>Attachment 32</u>)

Anna Lambertson, Executive Director, Kansas Health Consumer Coalition (KHCC), provided written testimony only in opposition to <u>HB 2340</u>. KHCC is a statewide non-profit organization with the mission to advocate for affordable, accessible and quality health care in Kansas. The important benefits of the Kansas Clean Indoor Air Act are numerous and can have long-lasting positive efforts on our state as a whole. The proposed amendments in this bill could weaken the law overall and increase the number of public places that Kansans could be exposed to unhealthy cigarette smoke. (<u>Attachment 33</u>)

Meg Trumpp, MEd, RRTl, AE-C, President, Kansas Respiratory Care Society (KRCS), provided written testimony only in opposition to <u>HB 2340</u>. As respiratory therapists caring for the respiratory health of the citizens of Kansas, we are dedicated to preventing lung disease and promoting lung health. We see the impact of secondhand smoke on our patients with asthma, cystic fibrosis, lung cancer and COPD. The States with strong smoke-free laws have lower rates of smokers and fewer children that take up smoking. The KRCS opposes the bill because it provides additional exemptions and weakens the law considerably. An overwhelming 77% of Kansans support the law as written. Even a majority of smokers support the law. Kansans deserve the right to breath clean indoor air. (Attachment 34)

Dan Morin, Director of Government Affairs, Kansas Medical Society, provided written testimony only in opposition to <u>HB 2340</u> and in support of <u>HB 2039</u> as written. As an organization composed of members who see the results that tobacco use has on people's health every day, we recognize tobacco use is contrary to the mission of promoting and protecting health. It is well documented that tobacco use and health are incompatible and many patients are seen by Kansas physicians for illnesses caused or exacerbated by tobacco use. Smoking creates a health hazard for the surrounding public when someone chooses to do it; therefore we can, and should, stop people from doing it if they are posing a health threat to other people. The Kansas Medical Society has consistently supported a statewide and comprehensive smoking ban with no exceptions. We believe adding exceptions would soften the extensive protections passed just last session which already benefit a vast majority of Kansans. (Attachment 35)

Terri Roberts, J.D., R.N., Legislative Committee, Kansas State Nurses Association, provided written testimony only in opposition to <u>HB 2340</u>. The Kansas State Nurses Association remains committed to protecting citizens from secondhand smoke, and promoting public policies that are aimed at embracing healthier life-styles for all. Weakening the Kansas Clean Indoor Air law is not supported by the professional nursing community. (Attachment 36)

Don Yothers, Citizen, Manhattan, Kansas, provided written testimony only in opposition to <u>HB 2340</u>. He related he has COPD due to smoking and is now against allowing smoking in public places, including bars. (Attachment 37)

Duane Goossen, Vice President for Fiscal and Health Policy, Kansas Health Institute, provided written only testimony neutral to both bills. Their testimony included copies of the testimony submitted in 2010 to the Health and Human Services Committee and an issue brief describing the 2009 study that the Kansas Health Institute published on the economic impact of the Lawrence smoke-free ordinance on bars and restaurants. (Attachment 38)

Father H. Setter, pastor of All Saints Catholic Church in Wichita and Chaplain of the International Premium Cigar and Pipe Retailers Association, presented written only testimony requesting an exemption be made to allow his Annual Benefit Cigar Dinner. Father Setter is the Founder and Chairman of the

The minutes of the Health and Human Services Committee at 1:30 p.m. on March 16, 2011, in Room 784 of the Docking State Office Building.

Setter Foundation, a 501(c)(3) established to raise monies for local charities. To date, he has been able to give about \$200,000 to local charities that has been raised at these annual dinners. (Attachment 39)

Jim Cochran, business owner in Wichita, presented written only testimony requesting an exemption to include facilities that are licensed to operate a bingo game that also sell State lottery tickets. He stated as a direct result of the current smoking ban, he had to close a bingo facility and force Kansas non-profit organizations to raise their funds in a different manner. (Attachment 40)

The next meeting is scheduled for March 17, 2011.

The meeting was adjourned at 3:15 p.m.

HOUSE HEALTH & HUMAN SERVICES COMMITTEE DATE: 3-16-11

NAME	REPRESENTING
Dodie Wellthear	KAFP
Jen Brull	KAFP
Carolyn Fayghan	KAFP
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Jake Lover	Clean Air Kansas
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Ken DAVis	KU Medical Center
John Neuberger	11 7,
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HOUSE HEALTH & HUMAN SERVICES COMMITTEE DATE: 3-16-11

NAME	REPRESENTING
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Kansas $\it Licensed$ Beverage Association

CEO Philip Bradley

P.O. Box 442066 Lawrence, KS 66044

V: 785.766.7492 F: 785.331.4282 www.klba.org info@klba.org

March 15, 2011 Testimony on Ban Equalization House Health and Welfare Committee

Chair Landwehr, and Representatives of the Committee,

I am Philip Bradley representing the Kansas Licensed Beverage Assn., the men and women, in the hospitality industry, who own, manage and work in Kansas bars, breweries, clubs, caterers, hotels and restaurants where beverage alcohol is served. These are the over 3000 places you frequent, enjoy and the tens of thousands of employees that are glad to serve you. Thank you for the opportunity to speak today.

WE ask this committee to equalize the current ban if repeal is not possible. We ask that all clubs be allowed to have the same smoking exemption that is allowed to grandfathered clubs. There is a current injunction that is effectively allowing just that as a lawsuit that the State is guilty of unequal treatment is adjudicated.

To the crux of the matter, since local options are working and the options of local elections exist already, why would the State and this committee feel it necessary to act? We believe that the only reason is to create a statewide standard. It would seem that if there is to be an amended statute, it must be uniform and include uniform preemption in order to achieve the goal of an equal opportunity and level playing field. Without such, this is a just an action for appearances. You have heard from the proponents that an essential reason for this measure is to, pardon the paraphrase, prevent a "patchwork" which is unaceptable. A bill without premption, allowing local elections and allowing local ordinances guarentees just such a patchwork. And you heard much about a "level playing field". That is an argument about economic impact. If there is no economic impact then there is no need for a "level playing field". It would not matter.

We oppose smoking ban proposals previously introduced, and efforts to limit the choices of adults and businesses about a legal product. Please consider these points.

If this is an air quality issue, why are we not addressing air quality? There are many more air contaminates than environmental smoke and if it is the desire of this body to protect all citizens from them then an air quality standard bill would be in order. This would set the desired" level playing field" and allow all businesses to meet this standard for all the air particulates and gasses. This is the fair and most effective way to address the issue and removes the emotional element. This would allow for the advancement of science and the creative capabilities of industry to work and continually improve lives and living conditions. If however the real goal is to get rid of all smoking then the legislature should propose the prohibition of smoking and vote on that issue and the subsequent loss to the general fund revenue. Please do not make the hospitality establishments the unwitting victims in a battle between the anti-tobacco activists and the smoking public!

Second, this is an issue of the rights of private businesses to serve their customers. You allow smoking as a legal activity and the establishments that are targeted in this bill are private property with public access, places that all persons have a choice, whether or not they enter and frequent. All are very responsive to their customers. If their customers were to stop coming due to conditions at the venue, then owners would change their place to accommodate and re-win those customer. If not they would soon be out of business. There are a majority of non-smoking venue options.





Third, we ask for an exemption for businesses licensed for primarily on-premise liquor sales. Most local ordinances to expand smoking bans, already allow an exemption for smoke-shops, and cigar bars based upon the belief that those that work or frequent these smoke shops have a reasonable expectation of being exposed to environmental smoke and have made a choice. We believe that the same is true for licensed establishments with proper signage. Further, with that expectation and choice, that individuals are taking responsibility for their own actions and whatever risks that are present. Furthermore, the current crops of city ordinances are considering comprimises and exemptions. The highly touted Lawrence ban includes exemptions. And all other state bans include exemptions, including the proponent mentioned VA ban.

Fourth, if you still must include licensed establishments, we ask you to amend this bill to include a class of establishment that would be a "Smoking Establishment" similar to the "cigar bar" exemption. *This exemption exists in most statewide bans including California*. With a separate permit and requirements, such as adequate signage, time limitations and/or age restrictions to make sure all who approach and enter have the information to make a rational choice knowing that by entering or working here they have the expectation of being exposed to environmental smoke.

Fifth allow me to discuss the argument that this will save the state money. We have had smoking bans in this state in large population areas for many years. Some as many as 8 years, where is the savings in these communities? Where are the figures of real KANSAS savings? You were told that bans have this effect and yet are given no proof that that has been the case here in our state. Those should be available now and leads one to question why they are not cited. And if bans would mean return to Kansans of health care premiums, how much have premiums been reduced in those Kansan communities that have bans now? And how much have the premiums been reduced in Nebraska, and Iowa and the other states with bans?

Sixth the penalty provisions are extremely high and appear to be complaint driven w/o due process allowed under most criminal law. They also apply to areas that the establishments are required to be responsible for w/o the authority to limit access or refuse entry. A "safe haven" clause is needed.

And finally in review if there is to be an amended statute, we would ask that it be uniform, include exemptions, safe haven **and include preemption** in order to achieve the goal of an equal opportunity and level playing field.

I am available for your questions. Thank you for your time.

Philip B. Bradley

The difficulty in life is the choice

. The Bending of the Bough. Act iv.

Philip Bradley, Ph.D. CEO, Kansas Licensed Beverage Association phil@klba.org 785-766-7492





Attachments

Word document containing;

Economic fears are snuffing out smoking bans

The Associated Press updated 4:42 p.m. CT, Wed., Feb. 4, 2009

Newsflash, Heart attacks increase in Scotland.

Article excerpt By Phil Williams

Physician, Freedom Lover, says Second-Hand Smoke Science is Junk By John Dale Dunn MD JD

Clearing the Haze? New Evidence on the Economic Impact of Smoking Bans By Michael R. Pakko Attached.

Separate

Attached separately as a PDF file;

Smoking Bans Negative Impact on Bar Revenues Proven for Two States.

Article Published: 27/07/2007

Opposition to Smoking Bans Heats Up V

By Norman E. Kjono, February 27, 2007 By Link

Running the Gauntlet Once Again: Secondhand Fat

Article Published: 27/07/2007

ETS Environmental Tobacco Smoke in Perspective: New ASHRAE 62.1Standard—2007

Article Published: 30/05/2007

A monologue on AIR

Elio F. Gagliano, MD Article Published: 22/08/2007

The Case Against Smoking Bans by Thomas A. Lambert

University of Missouri-Columbia School of Law





Economic fears are snuffing out smoking bans

In recession, lawmakers seemingly more willing to take side of business **The Associated Press** updated 4:42 p.m. CT, Wed., Feb. 4, 2009

DENVER - In this economy, lawmakers are more willing to let people smoke 'em if they got 'em.

As recently as last year, many states and major cities seemed ready to adopt complete indoor smoking bans. But the movement to kick all smokers outdoors has stalled as the recession worsens and lawmakers fear hurting business at bars, restaurants and casinos.

"This economy, it creates a little more sympathy for the business person. So when we say this is going to put us out of business, believe me, they're listening," said Mike Moser, executive director of the Wyoming State Liquor Association.

Twenty-three states, as well as Washington, D.C., and Puerto Rico, have indoor smoking bans covering bars and restaurants. No one else has adopted a ban in the early weeks of this year's legislative sessions.

In Colorado, lawmakers are considering easing the rules after they banned smoking in most bars, restaurants and casinos.

New Jersey put off a smoking ban for Atlantic City casinos after five of 11 casinos warned they could file for bankruptcy by year's end. In Virginia, a proposed statewide ban stalled this year after lawmakers expressed concern about the economy.

Moser's group opposes an indoor smoking ban that has been offered in Wyoming. After businesses raised objections, state lawmakers last month exempted bars from the legislation.

In cities that have banned smoking in bars, "it's just killing them," said Mike Reid, owner of a wine bar in Casper. Reid voluntarily banned smoking in his bar, but opposes the forced ban as president of the liquor association.

"When someone builds a business with a clientele that smokes, they should be able to go in there and smoke," Reid said.

Health advocates are citing the economy to argue their side, too. With state budgets burdened by rising health care costs, banning smoking saves the government money in the long run, they say.

In Kansas, which has no statewide ban, advocates are circulating a new state health report predicting Kansas would save \$20 million in health care costs the first year smoking is banned in bars and restaurants.





"This whole economic argument is hogwash, scientifically, but that doesn't mean it's not politically useful," said Dr. Stanton Glantz, director of the Center for Tobacco Control Research and Education at the University of California, San Francisco.

Glantz says reputable studies show indoor smoking bans do not hurt businesses, and he urged politicians to ignore complaints from bar owners that smoking bans will ruin them.

"There's a growing realization that tobacco control is good for business — all businesses except for the tobacco companies," Glantz said.

Health advocates also say the existing patchwork of tobacco regulations puts nonsmoking restaurants at an economic disadvantage in states such as South Carolina and Wyoming.

South Carolina Rep. Todd Rutherford, a Democrat who has proposed a statewide ban, said if lawmakers don't want to hurt any businesses, they "need to make this uniform."

But Virginia Delegate Tom Gear, a Republican, said other lawmakers oppose new smoking bans for the same reason.

"Why should government tell a business how to do business?" Gear said.

Virginia lawmakers also rejected two tobacco tax increases this year, in part because of hesitancy to raise taxes in a recession.

In Colorado, a bill expected to be introduced this session would make it easier for taverns and casinos to seek exemptions to the ban by being classified as cigar-tobacco bars.

The bill would undo a requirement that a business must have been in place since 2005 to get an exemption.

That change would mean all bars, bowling alleys and casinos in Colorado could set aside 25 percent of their space as smoking areas as long as they derive 5 percent of their annual income or \$50,000 a year from tobacco sales. Patrons would have to buy tobacco products in-house before smoking.

Anti-smoking activists thought their years long effort to pass Colorado's ban was over.

"We thought we had moved on," said Stephanie Steinberg, chairwoman of a suburban Denver group called Smoke-Free Gaming. "Why are we going back in time and talking about reversing what we we're done to protect the health of so many people?"

Her group had planned to focus its lobbying efforts on Las Vegas this year but instead redeployed to Colorado, which banned smoking in bars and restaurants in 2007 and in casinos last year.





In Atlantic City, N.J., city officials banned smoking on casino floors for a single month last year, but they repealed the rule after casinos complained. A telephone poll released this week indicated public support for banning smoking at casinos dropped as the economy worsened.

"To say that people want to roll back smoking laws because of the economy, it's absurd," said Karen Blumenfeld, who runs the New Jersey Group Against Smoking Pollution. "We might as well roll back health codes because the economy's bad. Or repeal child-labor laws to make factories more profitable. It makes no sense."

Opponents of indoor bans insist they are not just blowing smoke about the economy.

In a recession, people tend to cut back on discretionary spending, "and the hospitality industry, whether it's a bar or a restaurant, is one of the first things to get pruned," Moser said.

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Watch: Newsflash, Heart attacks increase in Scotland.

When it looked as though heart attack rates were dropping in Scotland, the government were quick to claim that this was caused by the smoking ban, but now that we discover that heart attacks are actually increasing, the government and the biased media prefer to sweep this inconvenient truth under the carpet. By Phil Williams, United Kingdom Regional Director, Citizens Freedom Alliance, Inc., The Smoker's Club.

<u>Scotland:</u> Large rise in Acute Coronary Syndrome since the smoking ban. The Scottish smoker ban is responsible for many, many deaths. The ban can be said to have CAUSED hundreds of heart attacks.





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Physician, Freedom Lover, says Second-Hand Smoke Science is Junk

I can say with confidence that second hand smoke may irritate some, but it does not kill. Those claiming thousands of deaths from second hand smoke to the Dallas City Council and the public are deceitful for a political goal.

I have been a Texan for 22 years, and a physician specializing in emergency medicine for 36 years. I am familiar with the public health science on second hand smoke.

Public health studies cited by the American Cancer Society and the Surgeon General claim thousands of deaths result from second-hand smoke. These are weak, cherry-picked studies. Their supporters compound the deceit by ignoring studies by the World Health Organization (Buffetta 1998 in the Journal of the National Cancer Institute), Stranges, 2006 in Archives of Internal Medicine, and Enstrom 2003 in The British Medical Journal – all of which show no effect from second-hand smoke.

In science, one study that disproves a scientific theory is more important than a pile of studies that are slightly positive. Anti-smoking advocates and fanatics ignore that basic rule and ignore any study they don't like.

They are propagandists, not scientists.

The crusaders are willing to do and say anything about second hand smoke, including making public statements about thousands of deaths from second hand smoke. Those claims are diverse and duplicitous—they are lies. Second hand smoking, even for the spouse of a smoker is one cigarette or less per day—which has no effect. The second hand smoke scare is a phantom menace conjured up by the High Holy Church of Smoke Haters to support the anti-smoking crusade.

Smoking Bans violate the Texas tradition of minding your own business. If the elected body thinks it has a role in telling people how to live, they should get a Divinity Degree and find a congregation. Folks can easily avoid second hand smoke, and employment in a bar or restaurant is voluntary. Smoking is legal. Avoiding smoke is easy.

John Dale Dunn, MD JD

Policy Advisor American Council on Science and Health, NYC, and the Heartland Institute, Chicago.





Clearing the Haze? New Evidence on the Economic Impact of Smoking Bans

By Michael R. Pakko

When making decisions about adopting smoke-free laws, advocates often give policymakers a Pollyannaish outlook in which communities can achieve public health benefits with no economic consequences. In particular, the lack of statistically significant economic effects is interpreted as indicating an absence of economic costs. Recent economic research indicates that this is a far too simplistic view of the issue.

A previous article in *The Regional Economist* ("Peering Through the Haze," July 2005) described some early evidence on the economic impact of smoke-free laws and suggested that the findings were far from conclusive. 1

As more communities have adopted smoke-free laws and more data have been gathered, economists have discovered new, significant findings. As an earlier article suggested, economic costs often focus on specific business categories—those that smokers tend to frequent.

Gambling and Smoking

Several papers have examined the cost of smoke-free laws on the gambling business, using data from slot machine revenue at Delaware racetracks ("racinos"). 2 Recent economic research finds conclusive evidence of revenue declines at the racinos after the Delaware Clean Indoor Air Law took effect in December 2002.

In my recent research on the topic, I find statistically significant losses at all three Delaware racinos—ranging from 8.9 percent to 17.8 percent. 3 Overall, the statewide revenue decline was 14.9 percent. Using slightly different methods that estimate demand for casino gambling, economists Richard Thalheimer and Mukhtar Ali estimate the total revenue loss at 15.9 percent.

These revenue estimates may significantly understate profit losses. For example, the racino that suffered the smallest loss in revenues—Dover Downs—also was the only one with a luxury hotel on site. Dover Downs management responded to initial revenue losses by offering more discounts on hotel rooms. 4 Efforts to prop up revenue may have been partly successful, but at a cost to the bottom line.

Evidence on the effect of smoking bans on gaming revenue shows that when analysis can be narrowly focused on data from specific businesses, statistically significant findings emerge. Another approach is to use very large data sets. As smoking bans have spread across the country, the variety and timing of adopting smoke-free laws have generated data that can help identify effects.

Bar and Restaurant Employment

Two papers, one by Ryan Phelps and the other by Scott Adams and Chad Cotti, have used data available from the Bureau of Labor Statistics to examine the employment effects





of smoking bans. Using nationwide county-level data, these two studies examine the changes in employment at bars and restaurants after communities adopt smoking bans. Neither study finds significant employment changes at restaurants, on average, but both find statistically significant employment declines at bars, with loss estimates ranging from 4 percent to 16 percent.

Adams and Cotti also examine some additional factors. For communities in states with a higher ratio of smokers to nonsmokers than the national average, employment losses at bars were significantly larger, and the employment changes at restaurants went from a small positive effect to a small negative effect (in neither case, statistically significant). Climate also affected restaurant employment. Engloyments in warm climates fared better than those in cooler climates. The authors suggest that the reason for this might be that restaurants in warmer climates can more easily provide outdoor seating where smoking is not prohibited. (See also the sidebar on Columbia, Mo.) Restaurants that suffered the dual curse of being in regions with colder climates and a high prevalence of smokers suffered statistically significant employment losses, on average.

California Dreamin'

Another recent economic study examines taxable sales receipts of bars and restaurants in California, the home of the smoke-free movement. Because California communities passed some of the nation's first smoke-free laws, much of the early evidence on the subject was based on these data on California taxable sales receipts; as time has passed, those data have accumulated. The experience of California also provides a case in which a statewide smoking ban was superimposed on a patchwork of local smoke-free laws, providing useful variation in the coverage and jurisdiction of smoking bans that can be exploited in empirical analysis.

Economists Robert Fleck and Andrew Hanssen analyzed quarterly restaurant sales data for 267 California cities over 25 years. They find that the measured impact of smoking bans differs between local bans and the statewide ban. In what the authors call their "naïve" specification that treats all smoke-free laws the same, they find a statistically significant 4 percent decline in revenues associated with smoking bans.

When they estimate the effects of the statewide ban and local bans independently, they find that the measured decline in restaurant sales is attributable to the statewide ban on cities without local bans. The measured effect of the statewide ban is nearly 4 percent, and it is statistically significant. The independent effect of local smoking ordinances is estimated to be very small and is not significant. These findings are consistent with the interpretation that locally originated smoking bans have little effect, but smoking bans that are imposed on a community by a higher jurisdiction can have a detrimental economic impact.

Fleck and Hanssen go on to uncover an important specification problem: They find that cities that adopted smoke-free laws were systematically different from those that did not. The authors find that sales growth tends to be a predictor of smoking bans, rather than the other way around. This "reverse causality" calls into question many earlier findings, and it





poses problems for using data from California in drawing inferences about the economic impact of smoking bans elsewhere.

The Role of Economic Research

Economic effects of smoke-free laws may be difficult to identify and interpret, but analysis suggests that at least some businesses do suffer costs. When they consider passing smoking bans, policymakers should study evidence both from public health professionals and from economists.

Sidebar

District Focus: Smoking Ban Singes Columbia, Mo.

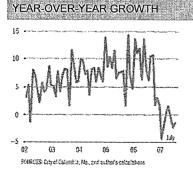
Since January 2007, all bars and restaurants in Columbia, Mo., have been required to be smoke-free. Only some sections of outdoor patios are exempt from the requirement.

Some local businesses have continued to oppose the Columbia Clean Air Ordinance, circulating petitions to repeal the law by ballot initiative. According to local press reports, owners of at least four establishments have cited the smoking ban as a factor in their decision to close their doors in 2007.

Recent data from the city of Columbia show a distinct decline in sales tax receipts at bars and restaurants. After rising at an average rate of 6.8 percent from 2002 through 2006, tax revenue declined at an annual rate of 1.3 percent over the first seven months of 2007. (See graph.) Although the data are still preliminary, initial analysis suggests a 5 percent decline in overall sales revenue at Columbia dining establishments since the implementation of the smoking ban. This estimate takes into account past trends, seasonal fluctuations in the data and an overall slowdown in sales tax revenue in Columbia. 6

One interesting feature of the Columbia story is the response of restaurant owners to the patio exemption. According to an article in the Columbia Missourian, owners of at least two bars are building or planning outdoor patio expansions. One owner was quoted as saying, "You have to have a patio to survive." The expenses associated with these renovations may help buffer the sales revenue of these establishments, but they also represent profit losses that are above and beyond the measured sales declines.

Columbia, Mo., Dining Tax Revenue







Michael R. Pakko is an economist at the Federal Reserve Bank of St. Louis. To see more of Pakko's work, go to http://research.stlouisfed.org/econ/pakko/index.html.

This article is based on a presentation at the Sixth Annual ERIE Conference on Local Government and Economics, Erie Pa., Aug.14, 2007.

Endnotes

- 1. Scollo et al. (2003) provide a review of previous literature, much of which has been published in medical and public health journals.
- 2. Previous studies of the Delaware racino case study have been published—and disputed—in the public health journal *Tobacco Control*.
- 3. See Pakko (forthcoming).
- 4. See Dover Downs (2004).
- 5. Bar employment was not significantly affected by climate differences.
- 6. See Pakko (2007).
- 7. See Solberg (2007).

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Sheila Martin Hutchinson, KS 67502

Wednesday March 15, 2011

Testimony for House Committee

Madam Chair and members of the Committee,

It's been 8 months since the former House voted in the smoking ban. The former Governor shouted from the rooftops what a wonderful thing it would be for businesses.

We begged Legislators not to vote for it. We told them that the story, that it would not hurt businesses, was not true. We showed them data from other States, including Ohio, Minnesota, and others, that proved that. We sent members sworn testimony and studies by real economists saying that bans were bad for small businesses. We even showed you data from towns in Kansas that proved it was bad.

It has been a catastrophe for many of us. We are firing our employees, we are cutting hours, and many have closed already.

We, in small businesses do not have lobbyists, we can't afford them. That's why we elect you to protect and defend the rights of property owners. You are elected to protect small business owners and the common man. The big companies and the wealthy are perfectly able to protect their own interests without government mandates.

A Hutchinson News reporter, John Green, actually looked into what was really happening due to the ban. What he reported was that what we told the House and Senate and former Governor last year was true. Restaurants are recovering from a weak economy. Taverns and bingo halls are NOT. Those who were FORCED to be free tobacco control officers in their businesses are barely hanging on. We are trusting in the new government of Kansas to restore common sense and truth. TV news stations have been reporting losses in small businesses.

It has been interesting watching how the grant funds flowed into Kansas to get the smoking ban. The Kansas Health Institute got almost \$50,000 in 09. The Tobacco Free Kansas group got \$1,200,000. Kansas State got a chunk, and they announced that our kittens and puppies are dying from second hand smoke. KU got their share, and reported the amazing heart attack drop of 17% due to smoking bans. Turns out that the people who told you that, in THIS COMMITTEE room, last year, knew that the study had been reduced to 8% three months BEFORE the testimony, which is equal to communities without smoking bans. Yet, they are STILL using the inflated figure for propaganda. The Kansas Health Policy Authority got a grant for \$448,000. The KHPA Steering Committee, made up of Kansas Senators, went on a junket to Chicago funded by the grantor. The American Cancer Society and the Heart and Lung Associations received \$99,000,000 between them. The Kansas Health Foundation got a grant..

Newspapers got full page pro ban ads week after week, and 99% of the time their editorial policy supported the ban. Even the Kansas Department of Health and Environment got grants. County Health Department employees were given grants to set up local groups, which were supposed to look grassroots, but it was County employees out lobbying on tax payer time!

These Foundations and "charities" pay no state taxes. WE DO! We pay 8% on everything we buy, to the State, and 10% of everything we sell! On what's left we make our house payments, our car payments, our health insurance payments. We pay plumbers, electricians, refrigeration companies, our local property taxes, building insurance. And all from the small businesses that we were once so proud of. To many people, the American Dream is to own a small business. Just one of the little places along Main Street, Kansas. We put our heart, soul and sweat into them. We care about our customers, to most of us they ARE our family. It is gut wrenching to watch our veterans being forced to stand out in the cold in order to have the freedom to smoke.

The ONE common denominator in all this is WHERE that grant money came from.

Do you THINK that a multi-national pharmaceutical company needs your help to sell their nicotine replacement products? Is that your job? If you feel that smoking is so dangerous and you have convinced yourself that second hand smoke is too, then WHY, in heaven's name, are you not banning the State from licensing businesses to sell it? You can buy tobacco products on every corner, in every grocery store and convenience store. This State gets close to \$400,000,000 every year in taxes, including the Master Settlement Funds, from tobacco sales and licensing.

Yet, NO ONE has called them names or forced them to throw their customers out.

And now some are saying that we should get rid of the casino exemption because it is not fair. I can tell you that small business owners do not agree with that. We want the state to make money, and reduce taxes. We want fun places to go. We want to compete with them honestly. If people don't want to go into a venue that allows smoking, it will close. THAT'S the American way. Buying legislation is not! The free market is perfectly able to separate the wheat from the chaff.

Let Johnson and Johnson sell their nicotine replacement the old fashioned way. If it works, people will buy it. And since I guess it doesn't work, they will get people to buy it repeatedly. That is, as long as we have laws forcing small business owners to demonize and ostracize adult Americans who are simply using a product which is entirely legal on property in which the OWNER allows it.

We don't sell tobacco. We make nothing from it. We simply allow our adult customers to use it with our permission. It makes them happy and the STATE makes money from it.

Let adults decide where to spend their recreation dollars.

It is not casino smoking that is hypocritical. It is a smoking ban in small adult businesses that is.

To those businesses that benefitted from the ban, stay non-smoking. That is called choice. That is what adults do, make choices.

If you would like to ban the licensing of the selling of all tobacco products in Kansas , I would see that as the ONLY level playing field.

Smokers are being treated like lepers and pariahs. Bar owners are forced to be free tobacco control officers, when Kansas HAS a Tobacco Control Program in the KDHE. They are well paid and well staffed. What do they do?

Illinois has two Bills in the House right now to amend the statewide smoking ban because their casinos lost \$400,000,000 in the first year of their ban. In their Bill they will allow casinos to decide, and provide a license for small businesses who choose to allow their adult customers to smoke.

In Las Vegas , a couple of years back, one casino opened just for non smokers. It closed very shortly after it opened.

South Dakota lost \$2.3 million in the first three weeks of their ban.

In Ohio, over 400 small businesses closed in the first year of their ban. They are hoping Kasich, who says he wants a business "friendly" Ohio, will restore their right to choose.

The non-smokers who were promised, never arrived, and the smokers stayed home. They are angry with our government, just as we small business owners are. We registered voters last year who never cared about what the government was up to before. And they voted. They voted against many people who supported the ban.

Every Representative in the House and the Senate was given a copy of our Booklet, which was funded with nickels and dimes and a few dollars from small business people. We had NO grant money, NO non taxed foundation money, and for darned sure, NO pharmaceutical money! We even paid the State sales tax at Office Max!

We hope that some of you have read some of it.

All we ask is that you allow us to decide whom we serve in our businesses. If someone does not like the atmosphere, or the music, or our prices, or us personally, they can leave, and they do. If

we fail to survive it will be because WE made the wrong choices, and we will suffer the consequences.

No one will ever be forced into our businesses, not as a customer OR an employee. No employee has ever applied for a job with any of us who did not know that smoking was allowed. EVER.

When you take away property rights, and say it is based on science, it should be on the soundest science, with sworn testimony. I was here last year, and I can name three people who testified, to this Committee, who lied. If that testimony had been under oath....well it wouldn't have happened. None of those pseudo science experts would have risked going to jail. Not even for the grant handouts!

If Tobacco Control would do THEIR job, then we would NOT be being forced to throw our smoking customers, who make up more than 80% of most of our clientele, out into the cold! What we sell, in our businesses, is camaraderie. These people are our friends and our neighbors. If YOU don't want them to smoke, then YOU take the product away from them. Then WE can still be friends and family with our customers.

We are from the small towns in Kansas; Herrington, Pratt, Derby, Hutch, Hayes, Wellington, Marquette, Wilson. Maybe the big city people are all piled up on top of each other and can't breathe, which deprives them of decision making capacity. Out here, we don't have that problem, just a lot of common sense. And we KNOW bull when we hear it.

You have a chance to save many businesses. Yes, we are small, but we are many. And we are hard working tax payers, not non tax-paying Foundations, and special interests. We own taverns, pool halls, bingo parlors, and diners. You won't see us at the Country Club, or at soirees where the elite meet. We will be at work. Paying teachers, firemen, policemen, and yes, even our elected Officials.

Sincerely,

Sheila Martin 12 Countryside Drive Hutchinson, KS 67502 anono1955@yahoo.com Legislation Would Exempt Casinos and Bars From Smoking Ban

3/11/11 @ 10:43:17 am

(Springfield, IL) -- Casinos and bars may soon be exempt from the statewide smoking ban. Two bills are making their way through the legislature, if passed; one will allow smoking on river boat casinos. The other will give local liquor commissioners the authority to issue smoking licenses to area businesses. Smoking in public establishments in Illinois has been illegal for over three years."

How many have to close until we get here?

hutchnews.com

Smoking ban overkill

By John D. Montgomery - Hutchinson News Editorial Board

Eight months since it took effect, the local jury is in on Kansas' statewide smoking law. It has hurt sales at some drinking establishments -- no doubt, in turn, hurting state and local sales tax receipts -- and it was doubtful that it stopped anyone from smoking or saved many from exposure to secondhand smoke.

In a story in the Sunday, Feb. 27, editions, The Hutchinson News found that sales are off significantly for Hutchinson and Reno County bars since the law took effect July 1. Some of it can be blamed on the economy. Business for bars already was down. But since July 1, business remained down for Reno County bars -- down 13 percent from the year before -- while restaurants have enjoyed 6-percent revenue growth.

Restaurants already were smoke-free by ordinance in Hutchinson. It worked well, protecting nonsmokers when they wanted to dine out while allowing some bars to cater to smokers. The statewide law, however, extended the smoking ban to bars.

Reno County bar owners report that with the new smoking ban they simply lost much of their clientele. They believe that smoking customers are staying home more or socializing at friends' homes.

The smoking ban may prove good for Hutchinson's lone bowling alley, though the owner doesn't think he has attracted anti-smokers to the lanes yet. Meanwhile, for bars that catered solely to a smoking clientele, they are struggling to re-establish themselves as venues for nonsmokers. This isn't to say that the smoking ban law wasn't a noble effort. But it was heavy-handed to do as a blanket policy statewide. Especially when local governments, such as Hutchinson's, seemed to be doing just fine fashioning their own local ordinances.

Any statewide law should have established a lower threshold -- such as limiting the ban to eating establishments -- and let locals decide whether to go further. One outspoken club owner in Hutchinson proposes another alternative -- allow bars that want to be smoking establishments to purchase an additional license for that.

Such approaches balance rights of nonsmokers with free enterprise, creating an environment where people can choose whether to patronize or work in a bar that allows smoking. That is the way it was working in Hutchinson, where smokers and nonsmokers had a choice and where the more-far-reaching state law wasn't necessary.

Illinois Lawmakers Mull Smoking in Casinos, Bars

Springfield, Illinois March 4, 2011 — Two current bills under consideration by the Illinois General Assembly are expected to generate increased revenues for the state. They would allow smoking in gaming facilities and eligible businesses that have liquor licenses. The International Premium Cigar & Pipe Retailers Association favors both proposals and today urged their passage.

House Bill 171 allows smoking in designated segregated ventilated smoking rooms in licensed gaming facilities. House Bill 1310 provides that local liquor control commissions have the power to issue smoking licenses to bars and other adult-oriented establishments that have revenues with no more than 10 percent from food sales.

"The so-called Smoke Free Illinois Act prohibited smoking in all indoor workplaces and public places including bars/taverns, restaurants, private clubs and casinos beginning January 1, 2008. These bills back off at least somewhat from that draconian, irrational position by allowing, under certain circumstances, smoking in casinos and cigar bars and other adult places. As we see it, this would be a return to reason and we support their passage," said Chris McCalla, legislative director of the IPCPR.

McCalla noted that the Illinois Gaming Board has confirmed that passage of HB 171 "could have a positive impact on revenues" and it is generally acknowledged that recreation of cigar bars also will generate increased revenues for the state as well as local authorities through licensing, taxes, jobs and sales taxes.

"It's the smart thing to do," said McCalla. "It's good for business, good for jobs and good for the state. "

The Federal Reserve Bank of St. Louis has declared that the current statewide smoking ban was the primary reason that its nine casinos lost \$400 million in revenues in its first year. The study showed that the smoking ban was chiefly responsible for a 22 percent decline in revenues compared to recent years. It was also responsible for the improved or more stable performance of casinos in nearby states during the same period. In addition, local communities also lost over \$12 million in casino tax revenues.

For those concerned about secondhand smoke, don't be, McCalla advised. He cited the safe levels of secondhand smoke established by the U.S. Department of Labor's Occupational Safety and Health Administration.

"There is a falsely placed prejudice regarding secondhand smoke that never should have been allowed to fester in the first place. Even OSHA has established safe levels of secondhand smoke and those levels are literally thousands of times higher than normally found in bars and restaurants that allow smoking."

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hutchnews.com

State smoking ban

By John D. Montgomery - Hutchinson News editorial board

Hutchinson is why the newly passed statewide smoking ban is a bad bill.

Hutchinson has had a citywide smoking ban in some public places that seemingly has worked flawlessly. Now, a ban that would cover the whole state would pre-empt Hutchinson's ordinance.

Hutchinson exemplifies why the statewide measure is too far-reaching. And like 35 other cities and three counties in Kansas, Hutchinson shows how this issue already was being handled just fine on a local level. If Kansas needed a statewide ban, it would have been better to do so on a more limited basis and continue to let communities have their own ordinances, more strict only if they so choose.

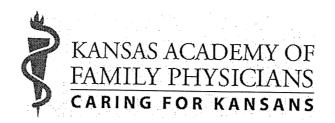
But after several years of debate, the Kansas Legislature last month passed a bill banning smoking in most public places. It will go into effect July 1 pending Gov. Mark Parkinson's expected signature.

All restaurants, bars and workplaces will be covered by the prohibition. Exemptions will include tobacco shops, private clubs such as Veterans of Foreign Wars posts, a limited number of designated smoking rooms in hotels and the gambling floors of state-owned casinos.

The measure has been criticized both by those who think it too restrictive and those who think it not restrictive enough. The bill also has been fairly criticized for being hypocritical in allowing smoking in state-owned casinos. That is a place that does seem a reasonable exemption, but it puts the state in an awkward position when the state owns the casino and is enacting a prohibition on most other businesses but not itself.

From Hutchinson's perspective, this bill goes too far. That is because Hutchinson's ordinance, enacted in 2004, basically is just a restaurant smoking ban. The new state law will extinguish smoking in bars, too.

Hutchinson's ordinance has worked well. Restaurants always have been the chief concern, and with provisions for bars to allow smoking, the city has struck a good balance between people who like to dine out in a smoke-free atmosphere and bar owners who say that much of their clientele smokes. Basically, people in Hutchinson can choose between smoke-free and smoking-permitted establishments. The state seems late to the party with a law at this stage - and with a law that seems especially unwanted in cities like Hutchinson where locals had the foresight to debate this issue years ago and the self-confidence and local knowledge to legislate an effective prohibition locally.



Testimony: House Bill 2039 and House Bill 2340
House Health & Human Services Committee
March 16, 2011
By: Jen Brull, MD, President

Chairman Landwehr and members of the committee:

Thank you for the opportunity to testify on House Bill 2039 and House Bill 2340. My name is Dr. Jen Brull, and I am a family physician in Plainville. I am also serving as the President of the Kansas Academy of Family Physicians this year. KAFP represents over 1,500 practicing, resident and medical student members from across this great state of Kansas. The mission of the Kansas Academy of Family Physicians is to promote access to and excellence in health care for all Kansans through education and advocacy for family physicians and their patients. As family physicians, we see people of all ages, both men and women, and we work with almost every type of ailment and illness that affilicts our patients. We see the effects of smoking and of secondhand smoke in our practices every day.

HB 2039 would delete the current exemption for smoking on the floor of state-owned casinos. We support it, as it would strengthen the act. HB 2340 would add an exemption for bars who sell lottery tickets to the Kansas Clean Indoor Air Act. We oppose House Bill 2340 as it would expand the number of Kansans not protected from the harms of secondhand smoke in the workplace. Secondhand smoke causes premature death and disease in children and in adults who do not smoke. Exposure of adults to secondhand smoke has immediate adverse effects on the cardiovascular system and causes coronary heart disease and lung cancer. Scientific evidence indicates that there is no risk-free level of exposure to secondhand smoke. Eliminating smoking in indoor spaces fully protects nonsmokers from exposure to secondhand smoke.

Glen Bolger of Public Opinion Strategies conducted a poll of 500 likely Kansas voters and released the results in February. The survey margin error was ±4.38%. It found 77% of Kansas voters support the state's indoor clean air law as it currently stands. This support cuts across party and across ideological lines. Even 54% of smokers themselves support the current law. The survey also shows that 84% of the members of the public view exposure to secondhand smoke as a health hazard.

Scientific data clearly shows that secondhand smoke is a very real public health threat. The Fact Sheets provided show citations of several important studies. The health effects of tobacco use and secondhand smoke are well-documented. And I know you've heard statistics before. As a family physician, the very sickest people I see in my clinic, the ER and our hospital are those who have damaged their lungs, hearts and blood vessels by smoking

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Health & Human Services

Date: 3-16-11Attachment: 3



or by being exposed to secondhand smoke.

In conclusion, we urge you to vote yes on HB 2039 and vote no on HB 2340. Clean Indoor Air is strongly supported in Plainville, in communities across the state, and by 77% of the general public across Kansas. **Secondhand smoke is a public health issue, not just a nuisance.** Please oppose any bill that would weaken the current Clean Indoor Air Act.

I have provided fact sheets from the CDC for those of you who like to examine the studies and their factual basis. Here is the URL where many additional informative documents are accessible: http://www.cdc.gov/tobacco/.

Thank you again for the opportunity to appear before you today. I'd be happy to answer questions.

www.kafponline.org

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Tobacco Use in Kansas

http://www.cdc.gov/tobacco/data_statistics/state_data/state_highlights/2010/pdfs/highlights2010.pdf

Overview

Tobacco use is the leading preventable cause of death in Kansas. 17.9% of the state's adult population (ages 18+) – over 376,000 individuals – are current cigarette smokers. Across all states, the prevalence of cigarette smoking among adults ranges from 9.3% to 26.5%. Kansas ranks 23rd among the states.¹

Among youth ages 12-17, 11.9% smoke in Kansas. The range across all states is 6.5% to 15.9%. Kansas ranks 39^{th} among the states.¹

Secondhand smoke is the third leading cause of preventable death in this country. Among adults ages 35+, over 3,900 died as a result of tobacco use per year, on average, during 2000-2004. This represents a smoking-attributable mortality rate of 262.7/100,000. Kansas's smoking-attributable mortality rate ranks 24th among the states. ^{1,2,3,4} Secondhand smoke kills 290 – 520 Kansans each year. ⁷

Tobacco use and secondhand smoke costs the state millions each year, and are the leading preventable health care costs in Kansas.

- \$927 million in health care costs in Kansas each year are directly caused by tobacco use. 5,6,7
- \$38.9 million in health care costs in Kansas each year are directly caused by exposure to secondhand smoke. 5,6,7
- \$196 million each year of the Kansas Medicaid program's total health expenditures are caused by tobacco use. 5,6,7

Every year, thousands of nonsmokers die from heart disease and lung cancer across the United States, and hundreds of thousands of children suffer from respiratory infections because of exposure to secondhand smoke. There is no risk-free level of exposure to tobacco smoke, and there is no safe tobacco product. ⁸

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Health Effects of Secondhand Smoke

http://www.cdc.gov/tobacco/data statistics/fact sheets/secondhand smoke/health effects/index.htm

Overview

Secondhand smoke is the combination of smoke from the burning end of a cigarette and the smoke breathed out by smokers. Secondhand smoke contains more than 7000 toxic chemicals./Hundreds are toxic and about 70 can cause cancer.²

There is no risk-free level of exposure to secondhand smoke. Secondhand smoke causes numerous health problems in infants and children, including severe asthma attacks, respiratory infections, ear infections, and sudden infant death syndrome (SIDS). Some of the health conditions caused by secondhand smoke in adults include heart disease and lung cancer.

Secondhand Smoke Causes Heart Disease

Exposure to secondhand smoke has immediate adverse effects on the cardiovascular system and can cause coronary heart disease.^{1,2,3}

- Secondhand smoke causes an estimated 46,000 premature deaths from heart disease each year in the United States among nonsmokers.4
- Nonsmokers who are exposed to secondhand smoke at home or at work increase their risk of developing heart disease by 25–30%.

Breathing secondhand smoke can have immediate adverse effects on your blood and blood vessels, increasing the risk of having a heart attack.^{1,2}

- Breathing secondhand smoke interferes with the normal functioning of the heart, blood, and vascular systems in ways that increase the risk of having a heart attack.
- Even brief secondhand smoke exposure can damage the lining of blood vessels and cause your blood platelets to become stickier. These changes can cause a deadly heart attack.

People who already have heart disease are at especially high risk of suffering adverse effects from breathing secondhand smoke and should take special precautions to avoid even brief exposures.¹

Secondhand Smoke Causes Lung Cancer

Secondhand smoke causes lung cancer in adults who themselves have never smoked.

- Nonsmokers who are exposed to secondhand smoke at home or at work increase their risk of developing lung cancer by 20–30%.
- Secondhand smoke causes an estimated 3,400 lung cancer deaths among U.S. nonsmokers each year.^{4,5}

Nonsmokers who are exposed to secondhand smoke are inhaling many of the same cancer-causing substances and poisons as smokers.^{1,2}

- Secondhand smoke contains about 70 cancer-causing chemicals.
- Even brief secondhand smoke exposure can damage cells in ways that set the cancer process in motion.
- As with active smoking, the longer the duration and the higher the level of exposure to secondhand smoke, the greater the risk of developing lung cancer.

Secondhand Smoke Causes SIDS

SIDS is the sudden, unexplained, unexpected death of an infant in the first year of life. SIDS is the leading cause of death in otherwise healthy infants.⁶ Secondhand smoke increases the risk for SIDS.¹

- Smoking by women during pregnancy increases the risk for SIDS.7
- Infants who are exposed to secondhand smoke after birth are also at greater risk for SIDS.¹
- Chemicals in secondhand smoke appear to affect the brain in ways that interfere with its regulation of infants' breathing.¹
- Infants who die from SIDS have higher concentrations of nicotine in their lungs and higher levels of cotinine (a biological marker for secondhand smoke exposure) than infants who die from other causes.¹

Parents can help protect their babies from SIDS by taking the following three actions:8

- Do not smoke when pregnant.
- Do not smoke in the home or around the baby.
- Put the baby down to sleep on its back.

Secondhand Smoke and Children

Secondhand smoke can cause serious health problems in children.9

- Studies show that older children whose parents smoke get sick more often. Their lungs grow less than children who do not breathe secondhand smoke, and they get more bronchitis and pneumonia.
- Wheezing and coughing are more common in children who breathe secondhand smoke.

Secondhand smoke can trigger an asthma attack in a child. Children with asthma
who are around secondhand smoke have more severe and frequent asthma
attacks. A severe asthma attack can put a child's life in danger.

 Children whose parents smoke around them get more ear infections. They also have fluid in their ears more often and have more operations to put in ear tubes for drainage.

Parents can help protect their children from secondhand smoke by taking the following actions:9

- Do not allow anyone to smoke near your child.
- Do not smoke or allow others to smoke in your home or car. Opening a window does not protect your children from smoke.
- Use a smoke-free day care center.
- Do not take your child to restaurants or other indoor public places that allow smoking.
- Teach children to stay away from secondhand smoke.

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Smoke-Free Policies Improve Health

http://www.cdc.gov/tobacco/data_statistics/fact_sheets/secondhand_smoke/protection/improve_health/index.htm#info

Overview

Studies have shown that smoke-free laws that ban smoking in public places like bars and restaurants help improve the health of workers. $^{1-4}$

Studies in:	Found that:	Was associated with:
Scotland (2006) ¹	Implementing a comprehensive national smoke-free law (banning smoking in enclosed public spaces)	 Rapid (within 2 months) improvements in a number of health outcomes in nonsmoking bar workers, including— reductions in respiratory symptoms like coughing, wheezing, and shortness of breath; reductions in sensory symptoms like eye and throat irritations and runny nose; improvements in lung function; reductions in inflammation or swelling of airways; and improved quality of life among bar employees with asthma.
Ireland (2007) ²	Implementing a comprehensive national smoke-free law (banning smoking in all workplaces)	 Improvements in the respiratory health of nonsmoking bar workers, including— improvements in lung function, reductions in coughing and phlegm production, and reductions in sensory symptoms like eye and throat irritations.
100000000000000000000000000000000000000		
California (1998)³	Implementing a state law making bars smoke-free	 Improvements in the respiratory health of bartenders, including— decreases in the proportion of bartenders reporting respiratory symptoms like coughing, wheezing, and shortness of breath; decreases in the proportion of bartenders reporting sensory symptoms like red or teary eyes, runny nose, sneezing, or sore

Studies in:	Found that:	Was associated with:
		throat; and
		improvements in bartenders' lung
	·	function.

Additional Studies:

Additional studies conducted in several communities, states, regions, and countries have found that implementing smoke-free laws is associated with rapid and substantial reductions in hospital heart attack admissions. These reductions appear to be more pronounced among nonsmokers than smokers.⁴

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Testimony to Kansas House and Human Services Committee on House Bill 2340 by Tonia Carlson

Wednesday, March 16, 2011

Representative Brenda Landwehr Chair, House Health & Human Service Committee

Dear Madam Chair and Members of the Committee,

I respectfully request that you choose NOT to support HB 2340. Supporting this legislation creates a massive loophole for businesses and seriously weakens the Clean Indoor Air Act already in place in Kansas.

My name is Tonia Carlson. I am a high school and college biology teacher, and a long time volunteer and advocate for the American Cancer Society. I am a mother of two beautiful children and a caregiver for a survivor of multiple bouts of cancer. I am also a smoker. Obviously, I know the risks and dangers of smoking, and work hard to discourage others from taking up this highly addictive habit. I have seen my aunt die of lung cancer directly related to long-term tobacco use, and yet, I haven't been able to stop smoking.

What I have been able to do is make the choice to be a conscientious smoker. I smoke outside at my own home to reduce the exposure of my children and pets to second hand smoke. And I make the same choices when I am out in public. It is my right to smoke, but that right is not more important than the rights of those who choose NOT to smoke. They deserve to have access to clean water, safe food, and clean air when they are in a public bar, restaurant, or other venue.

The public locations I choose to frequent are those that are smoke-free, with a smoking area provided outside. My children enjoy public outings, and we make sure they enjoy those outings without being exposed to harmful second-hand smoke. Living in a small town, we only have one eating establishment, which also happens to be a tavern. As a family, we have gone there much more often for dinner than we have in the past because I don't have to worry about exposing my kids to tobacco smoke. When I go out for an adult-only evening, I hold the same regard for the other patrons and workers that I hold for my children. It is not

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always convenient, nor it is always comfortable to go outside, but my convenience does not outweigh the health of the other patrons or wait staff of the establishment. My favorite bars to frequent are those that have covered and heated areas outside where I can enjoy my beverage and a cigarette.

As a college instructor, many of my students must have a job to support their education. In these tight economic times, they don't have the luxury of being picky about the job they take. They often cannot afford to go to the doctor to deal with the respiratory ailments that frequently occur from working in smoke-filled bars and restaurants. Missed class time and days off work make it very hard to do well in college and in life and my right to smoke should not cause difficulty for them in attaining their education or their paycheck. Through casual observation, I have noticed that fewer students are missing from my college level classes due to lung issues since the implementation of the Clean Indoor Air Act last July.

Weakening the Clean Indoor Air Act already in place in Kansas puts peoples health at risk. And those smokers who put their right to a bad habit above the rights of those around them to a safe and healthy environment are selfish beyond measure. Please maintain the strength and integrity of the law already on the books, and stop this attempt to undermine it with HB 2340.

Sincerely,

Tonia Carlson Paxico, Kansas

CC:

Rep. Owen Donohoe Rep. Peggy Mast Rep. Geraldine Flaharty Rep. Kelly Meigs Rep. Steve Alford Rep. Susan Mosier Rep. Bob Bethell Rep. Bill Otto Rep. Barbara Bollier Rep. Brian Weber Rep. Terry Calloway Rep. Jim Ward Rep. Dave Crum Rep. Ed Trimmer Rep. Jim Denning Rep. Valdenia Winn Rep. Phil Hermanson Rep. Ann Mah

Debbie Bartuccio

From:

Dave Pomeroy [davepomeroy@sbcglobal.net]

Sent:

Tuesday, March 15, 2011 4:12 PM

To:

Debbie Bartuccio

Subject:

Kansas House Bill #2340

There is no doubt that secondhand tobacco smoke makes many Kansans ill and results in the death of some. Last year the Kansas Legislature passed a law that protects Kansans from tobacco smoke in public places. That's a good thing and it is now possible to go anywhere in the state and be able to enjoy a meal or a beer. I was reminded of how it used to be on a recent trip to South America. There were places where I was protected from tobacco smoke, but many locations are still smoky. At times it was difficult to find a smoke free place for a meal just as it was in some Kansas communities before the current law was passed.

Laws that prohibit smoking in indoor public places are done to protect the health of non-smokers. When I look at House Bill #2340 I wonder why it was even written. If passed there is no doubt that the health of many Kansans will suffer and someone will eventually die as a result.

This change to the Kansas law should not be enacted.

Dave Pomeroy Topeka, Kansas

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AARP Kansas 555 S. Kansas Avenue Suite 201 Topeka, KS 66603 T 1-866-448-3619 F 785-232-8259 TTY 1-877-434-7598 www.aarp.org/ks

March 16, 2010

The Honorable Brenda Landwehr, Chair House Health and Human Services Committee

HB 2340 - Health and Human Services Committee Smoking Ban

Good afternoon Madam Chairperson and members of the House Health and Human Services Committee. My name is Ann Garvin. I currently serve as volunteer training leader for AARP Kansas and previously served on the AARP Kansas Executive Council. AARP has more than more than 340,000 members in Kansas. I am here today, on behalf of AARP Kansas, to provide testimony in *opposition to HB 2340*.

AARP believes that states should take specific and effective steps to control all forms of pollution which threaten health, safety and quality of life and should enact legislation banning smoking in nonresidential public buildings, on public transportation and in restaurants. In 2010 the Kansas Legislature took a giant step in improving the health of all Kansans by passing a statewide Clean Indoor Air Act. We thank you for those efforts. However, we are here today debating HB 2340, proposed legislation which, if passed, would exempt bars and establishments that now and in the future could sell lottery tickets and therefore become exempt from the smoking ban. HB 2340 will not meet the goals of enhancing the quality of health for Kansans. This is an important issue not only to AARP members but to Kansans across the state.

A recent 2011 AARP Kansas survey "Voices of 50+ Kansans: Dreams & Challenges" found that more than 9 out of 10 or (96%) of adults 50+stated that staying healthy and mentally sharp was of extreme importance to them. The survey demographics (n-400) represented an equal distribution across party affiliation (Democrats-30%, Republicans-34% & Independents 22%), political views (liberals-17%, moderate-31% and conservatives-38%) and finally, AARP membership (members-39% versus non-members 60%). A similar poll commissioned by a coalition of public health groups, including the

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American Cancer Society, found that 77% of Kansans support the Clean Indoor Air Act. As with the AARP survey, the coalition poll cut across party lines and political ideology.

Secondhand smoke is a serious public health issue. It costs lives and money, and the high percentage of survey and poll respondents expressing concern about secondhand smoke suggests it is an important issue for the majority of Kansans. Each year hundreds of Kansans die, suffer heart attacks, or are diagnosed with one of the many types of cancers caused by secondhand smoke. It is linked to dementia in elders, and women who inhale secondhand smoke may be at risk of experiencing preterm labor and delivering a low birth-weight baby. Older Americans and children who have health conditions or functional impairments may be even more susceptible to unhealthy environmental conditions attributed to by secondhand smoke. Secondhand smoke-related illnesses cost Kansas millions of dollars each year in health care costs.

We believe that HB 2340, if passed, will allow more businesses to basically purchase exemptions by participating in the lottery program and will also overturn the work done by Kansas communities to improve the health of those in their citizens. HB 2340 would preempt decisions made in those existing cities and counties that passed smoke free ordinances prior to the statewide ban going into effect. This is not a good bill for those who have worked hard in their communities to create a healthier atmosphere.

It's time we took the need for a clean indoor act seriously. It is a matter of needs versus wants. Kansans needs a good clean indoor air. We believe a *good* clean indoor air act, such as the one passed in 2010, with minimum exemptions, has and will continue to enhance the health of all Kansans and visitors to our state, protecting them from secondhand smoke in all public places. It has greatly improved the health of many Kansans already, reducing lost work hours and wages and lessening healthcare related costs. With all we know about the harmful effects of secondhand smoke, it makes sense to continue the indoor ban on smoking in public places on a statewide basis. Some would argue that one may choose not to patronize an establishment that would allow smoking under this legislation. In many communities that might be true. I would submit that in

many small communities, Kansans may not have the option of patronizing eating establishments that would remain smoke free. That lack of choice would subject them once again to the perils of secondhand smoke.

Therefore AARP Kansas <u>opposes HB 2340</u>, and any bills that will allow exemptions to the Clean Indoor Air Act, which truly protects the health and lives of Kansans.

Testimony to Kansas House and Human Services Committee on House Bill 2340 by Dani Weiter 3427 Harvard Road, Apartment A Lawrence Kansas, 66049

Wednesday, March 16, 2011

Representative Brenda Landwehr Chair, House Health & Human Service Committee Kansas State Capitol 300 SW 10th, Room 151-S Topeka, Kansas 66612

Dear Madam Chairperson, Ladies and Gentlemen of the Committee,

My name is Dani Weiter, I was born and raised in Topeka and I am a senior at the University of Kansas in Lawrence. In 2005, I was 19 years old and I was working at a local child care center, but I wanted to take on a second job so I could start saving money for my college education. I chose the restaurant industry because it allowed the flexibility I needed to juggle two jobs, go to school, and save money. Within a month, I noticed that I was getting sick on a regular basis and it eventually led to chronic sinus infections, which triggered my asthma. The end result was surgery to repair my sinuses which caused me to be out of work for a total of two weeks. Once I returned, the issue improved but I was still getting sick with colds a couple times a month. After several more visits to the doctors, their conclusion was that I was getting sick because I was being exposed to second hand smoke at work.

As frustrating as it was to be constantly exposed to second hand smoke, quitting my job was not an option because I did not have the time or money to quit

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and look for another job. Luckily, the establishment I was working for soon made a company wide decision to ban smoking from their business. Once the company policy was enacted, I noticed a drastic improvement in my health and in the health of my co-workers. In 2007, I moved to Lawrence and began working at On The Border. Because of the Lawrence non-smoking ordinance, I was glad to be able to keep working in a non-smoking establishment. It was also much more appealing to go to other restaurants that had clean air as well. One time, I was asked to cover a few shifts at the Topeka store in which I worked as a bartender. I only worked at that location for two days and by the end of my first night, I noticed I was having problems breathing and I had to quickly use my inhaler before an asthma attack came on. By the end of the two days, I ended up getting sick yet again. Once I returned to Lawrence, I was so happy that I was able to breathe clean air at work. I graduate in December and I plan on continuing my education by pursuing a master's degree therefore I will be working in the service industry for at least two more years and I would be so grateful if I could keep breathing clean air. My experience is not unique. It's the same for employees in restaurants and bars all over Kansas. I am not just asking that clean air be only for me but for those others that work in the service industry as well.

I respectfully request that you choose NOT to support HB 2340.

Sincerely,

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Rep. Owen Donohoe Rep. Peggy Mast Rep. Geraldine Flaharty Rep. Kelly Meigs Rep. Steve Alford Rep. Susan Mosier Rep. Bob Bethell Rep. Bill Otto Rep. Barbara Bollier Rep. Brian Weber Rep. Terry Calloway Rep. Jim Ward Rep. Dave Crum Rep. Ed Trimmer Rep. Jim Denning Rep. Valdenia Winn Rep. Phil Hermanson Rep. Ann Mah



March 16, 2011

Testimony in Opposition to HB 2340 Before the State of Kansas House Committee on Health and Human Services

Presented by: Dr. John S. Neuberger

Chairperson Landwehr and Members of the Committee:

I am opposed to HB 2340 because it would weaken the current state clean indoor air statute. It will allow additional exemptions for bars, taverns, or other facilities with liquor licenses who also sell lottery tickets to allow smoking. Passing this bill would indicate a lack of support for a very important public health measure for disease prevention and control.

Ingredients in environmental tobacco smoke include benzene, carbon monoxide, formaldehyde, arsenic, lead, hexavalent chromium, polonium 210, and tar. Health problems resulting from these exposures include lung cancer, heart disease, low birth-weight, bronchitis, and asthma. A strong clean indoor air law will help reduce both these exposures and the consequent related morbidity and mortality.

Because of health concerns second hand smoke exposure should be eliminated in all indoor workplaces and public places. Thus, the current law should be strengthened by reducing or eliminating exemptions, not increasing them. I would be in favor of passing HB 2039, for example, which would eliminate the exemption for casino gaming floors.

Sincerely,

John S. Neuberger, DrPH, MPH, MBA

Professor

Health & Human Services



Good afternoon Chairman Landwehr and members of the Committee. My name is Karen Bailey and I am the Director of Public Affairs for Penn National Gaming, Inc. the parent company of the joint venture partner of the International Speedway Corporation in Kansas Entertainment, LLC. – the developers of the Northeast Gaming Zone casino, Hollywood Casino at Kansas Speedway.

Penn National Gaming is opposed to HB 2039, a bill aimed at banning smoking in Kansas' state-owned casinos. As members of the hospitality industry, we strive to accommodate BOTH our non-smoking and smoking customers. With construction well underway on our over \$300 million investment in Kansas City, Kansas, we have included in our design the latest ventilation technologies, along with high ceilings and separation, to provide a comfortable environment for all without the need for an outright smoking ban.. While we recognize, this is an emotional, highly contentious issue, as we've seen in every other jurisdiction that has instituted a smoking ban, there are very real consequences that must be considered in terms of the significant economic impact to our business and the State's projected revenues.

Penn National Gaming is the owner of three riverboat casinos in the State of Illinois – all of which are located in border markets (Indiana and Missouri respectively). In 2007 the Illinois legislature approved a statewide smoking ban that took effect on January 1, 2008. The impact to gaming revenues was seen almost immediately. Since the implementation of the ban, statewide revenues have decreased by over thirty percent.

While some of that decrease can be attributed to the bad economic times we all have experienced over the course of those same three years, it is important to note what Illinois' losses are compared to its neighboring states; specifically Indiana and Missouri.

Between FY2007 and FY2010, Missouri's gaming revenues decreased by a rate of 3.1%. For purposes of this testimony the revenues generated by Lumiere Place and River City casinos were removed from the gross revenue figures because they were nonexistent or not in full operation in 2007.

Testimony of Karen Bailey, Director of Public Affairs March 16, 2011.

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Between FY2007 and FY2010, Indiana's gaming revenues decreased by a rate of 14%; also significantly lower than the losses experienced by the State of Illinois. Also for purposes of this testimony, two new racetrack casinos became operational after FY2007 and their revenue has been removed from the total revenue used to calculate this percentage.

Some proponents of smoke free casinos in this state have tried to point to Illinois' Rock Island as a poster child for the success of smoke free facilities due to the increase in revenues generated by the facility between 2007 and 2008. It is important to set the record straight in the matter of the Rock Island Casino which is located on the Illinois/Iowa border. During that same time period the Rock Island Casino completed a major expansion project and relocation with better access to main traffic arteries. The facility that preceded today's facility was abysmal and it was the much needed improvements that drove its revenue growth, not the fact that it went smoke-free. In reviewing Illinois-Iowa revenues between 2007 and 2008, you will find a similar pattern as I described with Indiana and Missouri.

You might also hear about the so-called successful experience in implementing a smoking ban in casinos in Delaware. What smoking ban advocates there fail to mention is that while business did indeed come back after the casinos suffered through nearly 25% losses, it was because the State was forced to take dramatic steps to mitigate the negative impact, including expanding the number of slot machines and hours of operation and adjusting the tax rate.

Finally, it's important to note that in addition to our smoking customers voting with their feet and taking their business across the border or to Tribal casinos, there is the simple issue of our smoking customers spending less "time on device." An average visit to one of our facilities is around two hours in duration. If much of that time is spent in the parking lot, it's pretty easy to understand the economic consequences of continually inconveniencing a significant portion of our customer base.

I urge you to oppose HB 2039. As an operator who will have to compete with four casinos across the river in Missouri and a Tribal casino in downtown Kansas City, Kansas – all who allow smoking – it will be difficult enough to recapture the State's gaming dollars that have been flooding across the border all these years, without the State tying one arm behind our back with a smoking ban. Through state-of-the-art ventilation, high ceilings and separation we can meet the needs of ALL of our customers and respectfully ask you to support accommodation, no prohibition.

Thank you for your time and I am available for any questions you might have.

Testimony of Karen Bailey, Director of Public Affairs March 16, 2011.



Kansas Speedway Development Corporation – Jeff Boerger, President

Good morning Chairman Landwehr and members of the Committee. My name is Jeff Boerger and I'm President of Kansas Speedway Development Corporation ("KSDC"),f ormerly president of Kansas Speedway. KSDC is one of the partners representing Kansas Entertainment, LLC ("KE") – the joint venture partnership between International Speedway Corporation ("ISC") and Penn National Gaming ("PNG").

As background for the Committee, our development group was chosen by the State to develop the destination casino for the Northeast Kansas Gaming Zone.

In 2001 we opened Kansas Speedway to host major league racing including the premier NASCAR Sprint Cup Series. Kansas Speedway took a risk in western Wyandotte County and was the anchor business that launched what is today a vibrant retail and dining destination called Village West. Village West is home to Cabela's, Nebraska Furniture Mart, The Legends, four hotel groups and numerous dining and retail businesses.

And now we look forward to the creation of more than \$500 million in new investment in the Village West area with the addition of the Livestrong Sporting Stadium, Cerner's new office park and of course, the biggest new development for us is our destination gaming facility; Hollywood Casino at Kansas Speedway.

Each year Kansas Speedway attracts close to 500,000 visitors and generates \$242,000,000 in economic impact for the State of Kansas. Our guests fill Kansas hotels, restaurants and shops that generate millions of dollars of tax revenues back to the Kansas taxpayer. Kansas Speedway has been an outstanding corporate citizen and we have given millions of dollars to support numerous charitable organizations in Wyandotte County and the State.

Kansas Speedway delivered on its commitments by securing a second NASCAR Sprint Cup event for June 5, 2011 and will soon start constructing a 2.5 mile road course that will host a Grand-AM event for 2012. In addition, the speedway has continued to re-invest millions of dollars in Kansas by installing lights that will be ready this April and upgrading its seating.

KE is building a first class destination casino for Kansas and the Kansas City market. The initial investment is over \$300 million, with an anticipated workforce of over 1,000 full time employees and approximately 1,700 construction jobs.

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Construction is well under way and we are scheduled to be open first half of 2012.

We do not intend to exploit the smoking exemption at our facility. It only applies to the gaming floor, where we are investing approximately \$1.7 million in a state of the art air handling system that help will mitigate second hand smoke.

This exemption will help keep Hollywood Casino at Kansas Speedway at the same competitive level as the five Kansas tribal casinos that are not affected by a State smoking ban. More importantly, the Missouri casinos located just minutes from of our facility are also exempt from their locally-imposed smoking ban. Hollywood Casino's restaurants, bars, and planned hotel will be subject to the State smoking ban.

It is a fact that the Statewide smoking ban adopted in 2010 includes certain exemptions but not only for the state owned casinos. Compromise and deliberation is a part of any controversial piece of legislation and the Statewide smoking ban is no different in that regard.

Because of Kansas Speedway's continued commitment and the steps Kansas Entertainment has taken to mitigate second hand smoke,I strongly urge you to oppose HB 2039.

Thanks for the opportunity and I'll answer any questions you might have at this time.



Testimony to the House Health and Human Services Committee Regarding House Bill 2039 By Elizabeth Tranchina March 16, 2011

Madame Chairperson and members of the Committee, my name is Elizabeth Tranchina. I'm Vice President of Legal Affairs and the Compliance Officer for Peninsula Gaming, LLC ("Peninsula Gaming"). I'm appearing today on behalf of Peninsula Gaming to provide testimony in opposition to House Bill 2039.

As you may be aware, Peninsula Gaming is the parent company of Kansas Star Casino, LLC, which has entered into a contract with the State of Kansas to construct, manage and operate the Lottery Gaming Facility for the South Central Gaming Zone. We are investing more than \$260 million in the development of the Kansas Star Casino, Hotel and Event Center in the next four years - a project that is expected to create more than 1,600 construction jobs and more than 1,400 permanent jobs. While we are admittedly concerned about our investment, we are equally concerned about the economic and practical impacts to the State of Kansas, including those Kansans who are non-smokers and those Kansans who have no interest in casino gaming. We want to ensure that the State of Kansas receives the full benefit of the economic development resulting from this very significant capital investment. We believe a casino smoking ban will undermine much of the expected benefit.

In short, a casino smoking ban will significantly reduce state tax revenues resulting in reduced budget funding for State programs, fewer jobs and jeopardizing future capital investment in the State.

Impact of Casino Smoking Bans on Gaming Revenue in other Jurisdictions

Objective studies done in other jurisdictions definitively demonstrate that gaming revenues typically decline between 15% and 30% during the first year of implementation of a casino smoking ban. We refer you to two such studies, printed copies of which were provided to the Committee along with written copies of our testimony. Those reports are *Iowa Smoking Ban Economic Impact*, by Norman E. Kjono and *The Final Report to the Iowa Gaming Association*, prepared by Personal Market Research. These reports demonstrate the relatively consistent impacts on gaming revenue during the first year of implementation of casino smoking bans in multiple jurisdictions. Here are a few findings from these studies:

Nevada experienced revenue declines of between 18 % and 25% for slot route operators (for example, slots in bars and convenience stores); We note that Nevada's smoking ban exempts destination casinos;

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Delaware experienced an average reduction in gaming revenue of 22%; this reduction was significantly greater than 22% for those properties with competition from jurisdictions that permitted smoking;

Illinois experienced an average reduction in gaming revenue of approximately 20%, with measurable increases in revenue for Iowa and Indiana, competing jurisdictions;

Colorado experienced an average reduction in gaming revenue of approximately 20%; and

Ontario, Canada experienced an initial reduction in gaming revenue of 25%, with a significant increase in revenue for Detroit, MI casinos, a competing jurisdiction.

Both reports also identify two key factors that amplify the negative impact of a casino smoking ban: One, competing jurisdictions that permit smoking; and two, tribal casinos located within the State that permit smoking. We note that both of these factors are expected to magnify the impact of a casino smoking ban in Kansas. Casinos in Missouri and Oklahoma permit smoking and are within the competitive markets of the Hollywood Casino in Kansas City Kansas and the Kansas Star, in Mulvane, Kansas. The five tribal casinos located in Kansas also permit smoking. As such, we believe the reduction in gaming revenue will be closer to the high end of the range, resulting in an anticipated loss in revenue of approximately 30%.

Negative Consequences for All Kansans from Casino Smoking Ban

This significant reduction in gaming revenue directly translates into a corresponding percentage reduction in tax revenue, thus reducing the State of Kansas General Fund. As such, a casino smoking ban will directly impact numerous state programs with far reaching effects for all Kansans, including increasing budget short-falls and reducing funding for education and infrastructure. Overall, the State of Kansas stands to lose approximately Five Hundred Million Dollars (\$500,000,000.00) in the next 15 years from the State's budget should HB 2039 become law.

Financial losses to the State are not the only negative consequences from banning smoking in casinos. A reduction in gaming revenue will require gaming operators to correspondingly reduce payroll expenses, leading to a reduction in jobs in the local community. These lost jobs will impact many Kansas families – not just the families of casino employees.

Further, lost gaming revenue directly reduces funds available for future capital investment in both gaming and non-gaming investments, and indirectly reduces spending by other local businesses that are impacted by significant reductions in employee payrolls.

Alternative Means of Addressing Smoking Health Consequences

Peninsula Gaming recognizes the serious health consequences of smoking and the importance of reducing the impact of smoking on non-smokers in our casinos. We have a proven record of addressing this issue in each of Peninsula Gaming's properties where state-of-the-art

heating and air ventilation systems are installed to minimize the impact of second hand smoke. This will include a significant investment in a state-of-the-art heating and air ventilation system at the Kansas Star Casino, Hotel, and Event Center.

The gaming areas of the Kansas Star will be served by air handling units that introduce up to 100 percent outside air. This system utilizes a ventilation rate based on 30 cubic feet per minute per person. In other words, this system provides 30 cubic feet of outside air per minute per person. This is 300 percent of the American Society of Heating, Refrigeration, and Air Condition Engineers (ASHRAE) Standard 62.1, which requires 9 cubic feet of outside air per minute per person. The indoor air quality will be controlled by carbon dioxide space sensors that will measure carbon dioxide (as a measure of occupancy) and will adjust the amount outside air ventilation to ensure that 30 cubic feet of outside air per person is provided.

We have chosen a system design for the Kansas Star that exceeds applicable air quality standards. This system is comparable to the systems in our existing properties. We have made this choice in our existing properties and for the Kansas Star because it is good business and it is good for all of our customers and our employees. While every casino's system is designed differently, in general modern, properly designed ventilation systems are very effective. Air quality studies that have been performed on various casino properties have shown that casinos with modern, properly designed ventilation systems are capable of maintaining high air quality that meets Occupational Safety and Health Administration (OSHA) and American Conference of Industrial Hygienists (ACIH) standards for exposure to environmental tobacco smoke and respirable suspended particulate matter (ETS-RSP) during an eight hour period (the standard work day) and reducing carbon dioxide to recommended levels. The air quality in the casinos studied was normally at or near the quality of outdoor air, and typically comparable to the air quality of non-smoking businesses.

The State can protect non-smokers and employees from second hand smoke without the implementation of a casino smoking ban, through the implementation of properly designed ventilation systems in state-owned casinos. This avoids the extremely high cost of a casino smoking ban for Kansans, measured by the loss of State and local tax revenue, jobs, and investment and passes along the much lower cost of compliance to the private sector.

Peninsula Gaming believes that a significantly lower cost solution that obtains comparable results and is paid for by the private sector (and is justified for business reasons and voluntarily implemented) is a vastly superior solution to a casino smoking ban that will directly and indirectly hurt all Kansans.

Thank you for your time and consideration in this matter. I would be glad to answer any questions you might have.

Final Report

We have gathered data, performed miscellaneous market analyses and have reached the conclusions set forth in this final report concerning the financial impact to Iowa's gaming industry of the proposed smoking ban. We have reviewed market demand/supply models and developed reasonable assumptions related to the proposed smoking ban legislation. This report will allow you to better understand, analyze the possible financial outcome of the market impact and correspondingly, the expected financial effect on the State of Iowa General Fund, cities and counties, not-for-profit/qualified sponsoring organizations and related casino employment levels. Personal Marketing Research is pleased to submit this final report to the Iowa Gaming Association.

Scope of the Project

The major work steps to complete the report were as follows:

- Research of the financial effects of smoking bans in other relevant jurisdictions
- Research of market impact in Iowa of the proposed ban
- Analysis of change in revenues related to such impact

Sources

We would like to acknowledge the following organizations who provided information to complete the study and whose sources are referenced in the report:

- Iowa Gaming Association
- Iowa Racing and Gaming Commission
- Illinois Gaming Board
- Indiana Gaming Commission
- Missouri Gaming Commission and Division of Gaming
- Delaware Gaming Control Board
- G2 Marketing Consultants
- Wells Gaming Research
- RSM McGladrey
- Cummings Associates
- Christiansen Capital Advisors, LLC

Resources

In addition, our report utilized other studies, papers and reports including:

- Michael R. Pakko, Smoke-free Law Did Affect Revenue From Gaming in Delaware, The Federal Reserve Bank of St. Louis (April 2005).
- Michael R. Pakko, No Smoking at the Slot Machines: The Effects of Smoke-Free Laws on Gaming Revenues, The Federal Reserve Bank of St. Louis (June 2005).
- Smoking and Slot Machines, Christiansen Capital Advisors, LLC.
- Summary of Studies Related to Proposed Kenosha Wisconsin Casino, Pricewaterhouse Coopers LLP (January 2006)

Executive Summary

Impact on Iowa Casino Revenue and Iowa Tax Revenue

The data currently available and our market analysis support a decrease between roughly 15% to 30% in adjusted gross receipts for the Iowa casino industry as a whole, with the range largely dependent upon development responses/scenarios regarding alternative smoking casinos within each of the Iowa casino's demonstrated customer drive time adjusted radius. The demonstrated customer drive time adjusted radius assumptions are based upon our review of the Iowa gaming market.

Best, Middle and Worst Case Scenarios

Using these ranges for a best, middle and worst case scenario, we have prepared the following tables to show the loss of casino adjusted gross revenue (AGR), loss of state tax receipts and assumed loss of not-for-profit (NFP) contributions related to the smoking ban.

Summary Table: IL ban in place	Projected Losses in:		
Scenario:	Adj Gross Revenue	Tax Revenue	NFP Contributions
Best Case 15%	(200,000,000)	(46,000,000)	(8,000,000)

There is a bill pending in the Illinois legislature which revokes the smoking ban for casinos. Such an exemption (along with other factors) creates a middle case scenario of 21.5%.

Summary Table: IL ban lifted	Projected Losses in:		
Scenario:	Adj Gross Revenue	Tax Revenue	NFP Contributions
Middle Case 21.5%	(300,000,000)	(70,000,000)	(12,000,000)

Finally, the comparative market advantage of the tribal casinos after the implementation of the smoking ban should directly result in the expansion of gaming and related development at the tribal casinos in the competing market areas. This assumed economic impact (along with other factors) produces the worst case scenario of 30% or greater.

Summary Table: Tribal Market Adv.	Projected Losses in:		
Scenario:	Adj Gross Revenue	Tax Revenue	NFP Contributions
Worst Case 30% +	(400,000,000+)	(95,000,000+)	(16,000,000 +)

Employment

Additionally, decline in casino AGR will lead to a decline in employment at the casinos. Based on our review of the employment data, we believe a payroll decrease would range from \$42 million best case to an excess of \$80 million worst case.

Discussion

Our research has found that a smoking ban impacts different segments of the gaming population at different levels. Local gaming revenues are generally impacted in the range of 15% to 25% whereas destination gaming revenues (from those patrons outside the immediate one hour drive time market) are impacted in the range of 25% to 35%, depending upon the alternative smoking options available. Destination gaming patrons rarely travel alone and the smoking preference, accordingly, weighs more heavily in that equation. By way of example, when a group of four gaming patrons travel together and only one smokes, it is likely that the other three will accommodate the smoker by traveling to a casino which allows the smoker to choose a smoking venue. The converse is rarely true. Our review of other relevant jurisdictions' smoking bans have supported this base case conclusion.

Nevada

Personal Marketing Research has archived smoking ban research data from a previous assignment which (although privileged and, therefore, not permitted to be disclosed in this report) generally supports the conclusions and companion data set forth herein. The Nevada smoking ban was passed in December of 2006 and banned smoking in bars and convenience stores. This ban effected only slot route operations and not casinos. These impacted slot route operators, which cater to the local gaming market, saw declines in revenue ranging from 17.6% to 25%. This data supports our base case.

<u>Delaware</u>

Delaware passed a smoking ban in May 2002. The attached Federal Reserve Bank of St. Louis reports estimate the decrease in revenue due to the smoking ban to be as much as 18%. The Christiansen Capital Advisors' report accurately points out that in the two years prior to the smoking ban AGR had increased 10% and concludes that "in truth the total impact of the smoking ban on Delaware racinos could be as much as 20%." Our research concludes that the impact was slightly greater than 22% on average (but overall impact was mitigated by efforts made by the casinos to attract more replacement customers and revenue). The Delaware casino with the most competition from other jurisdictions had the greatest losses (projected at 25 to 30% actual decrease). Delaware casinos' losses varied depending upon competition. Delaware Park (on Delaware's northern border) which has the most competition had almost double the

percentage decrease in revenue when compared with Dover Downs, a casino located in the center of the state (and further removed from competition). Delaware is helpful in developing our model for Iowa because of the varying levels of competition.

Illinois

Illinois is also helpful because of its proximity and direct competition with Iowa's eastern casinos. The smoking ban impact on the Chicago area casinos has resulted in decreases of revenue of 17% to 20%. Since the Chicago market is largely a local gaming market and since there are no tribal casinos in Illinois (which provide a smoking alternative), this impact is within the expected range we expected. Rock Island is within the Quad City market and has experienced a net decline of about 20%. For example, in February market share dropped from 20.4% (in 2007) to 16.6% (in 2008). Most recently, in March (2008), market share dropped to 16.9% from 20.3% in 2007. Rock Island caters almost exclusively to the local gaming market as it has no hotel on site. Further, since Casino Rock Island has only a sub 18% market share of the Quad Cities' market, otherwise marginally incremental gains attributable to attracting nonsmokers from the broader market disproportionately offset the actual decline. Our market studies show that the casino has actually lost almost 23% of its smoking patron revenue but has gained some incrementally due to picking up additional market share from the small percentage of the gaming market that prefers a smoke-free alternative. The Iowa Quad City casinos which enjoy the corresponding 82% plus market share would of course not receive a similar offsetting percentage adjustment.

<u>Ontario</u>

Ontario contributed to our model because of the proximity of market competition to its primarily locals market. Ontario's smoking ban initially impacted revenues to its local patron base of more than 25%. Casino revenues in neighboring Detroit increased more than 15%. Impacted casinos quickly expanded hours and gaming options to increase slumping revenues so that the total impact of the smoking ban is difficult to gauge. However, our review of the market shift fits within the above-referenced parameters of our base case assessment model.

Destination Gaming Patrons

Iowa is unique in that a majority of its patrons drive to its casinos from neighboring jurisdictions. The majority of these patrons are destination gaming patrons who are extremely important to the market due to the fact that they spend substantially more money than locals. Further, the casinos in the interior regions cater to patrons who were previously accustomed to driving to the Tama tribal casino (which renders their "locals" market susceptible to targeting from Central Iowa's tribal casino). Iowa's transient gaming patron market makes it particularly susceptible to damage from a smoking ban, particularly as it relates to destination gaming patrons.

Our research indicates that approximately one-half of destination gaming patrons either smoke or travel with those who do and that destination gaming patrons demand for smoking rooms averages around 50%. Contrary to the normal population models, roughly one-third of all gaming patrons smoke (although some only occasionally). When you consider that half of these

smokers on the average travel with someone who doesn't smoke the resulting impact statistic is roughly 50%. Another important impact statistic is that outer market destination gaming patrons generate a disproportionate and substantial segment of the gaming revenue. Those destination gaming patrons who travel one and a half hours or more spend substantially more money in the casinos than do the local patrons. These revenue progressions are reflected in our findings. Further, studies show that people who smoke while gambling tend to stay longer and gamble more. See below for tables of similar machines located in smoking and non-smoking areas of a casino.

Summary Table: Win Per Unit Differential	Average Win Per Day (Based on Machine Averages)		Percentage Decrease
Scenario:	Smoking	Non-Smoking	
Lowest Differential	\$164.74	\$140.79	17%
Middle Differential	\$113.00	\$55.00	51.4%
Highest Differential	\$187.25	\$45.53	75.7%

The differential is not as great when the smoking and non-smoking areas are not geographically separated by walls or other impediments to line of sight. Further, the ability of patrons to move freely from a non-smoking area to a smoking area greatly diminishes the differential as well. The industry average differential for smoking/non-smoking win per unit is slightly more than 50%.

Indirect Smoking Restriction Impact

Indirect smoking restrictions may likewise have an impact on gaming revenues. As noted above, destination gaming patrons demand for hotel rooms averages around 50%. A restriction on smoking rooms below this threshold will result in the loss of some of these disproportionately valuable patron revenues. Similar indirect smoking restrictions in casino bars and restaurants will have some similar adverse impact on destination gaming patron traffic.

Impact on Tourism

As the above analysis indicates, Iowa casinos may lose up to one-half of their destination gaming patrons due to smoking (i.e. tribal) casinos intercepting the market (as every casino in Iowa has a tribal casino within in its destination market radius). If the bill allowing a casino exemption to Illinois' smoking ban is approved, this problem will be compounded for Eastern Iowa as both local and destination gaming markets will be impacted.

Comparative Market Disadvantage

If Iowa bans smoking in casinos, it will compound the comparative market disadvantage that the licensed casinos are currently experiencing. Tribal casinos currently enjoy an operating advantage as they do not pay a 22/24% gaming tax to the state or local subdivision/non-profit fees. This approximately 30% gross/profit differential already gives the tribal casinos an almost insurmountable marketing advantage over Iowa's licensed casinos. A smoking ban on Iowa's licensed casinos will drive even more patrons and dollars to the tribal casinos creating an

increased comparative market disadvantage which will substantially damage the licensed casinos' ability to compete. This comparative market imbalance will allow the tribal casinos to finance expansions and new casino developments (such as the Ponca tribe's proposed casino in Carter Lake/Omaha). These new tribal casino developments will have a compounding effect on the market resulting in less taxable investment and reinvestment in the Iowa casino properties. If the tribal casinos expand supply to meet the demand produced by the proposed smoking ban, it is likely that the revenue impact will exceed the 30% (on the average) worst case scenario with an even greater impact in those areas which most directly compete (with tribal casinos).

Comparative Market Disadvantage/Case Study/Quad Cities 1991

Those who doubt the impact of comparative market disadvantage need only look to the Quad Cities in 1991 for a good example of how the disadvantage compounds. When Iowa passed gaming in 1989 bet limits where \$5 and Ioss limits where \$200. This loss profile fit over 95% of the gamblers in the market. Illinois passed a similar bill. The Illinois legislature then removed its betting and loss limits. (Illinois also had a tax/fee differential which gave the Illinois operators about a 5% advantage over its Iowa competitors.) Because of the disproportionate market advantage in Illinois, the Iowa boats lost over half of their initial market to the Illinois facilities. Several Eastern Iowa operations were forced to shut down.

Impact on Reinvestment

A smoking ban in Iowa will likely end any reinvestment in Iowa's casinos due to the projected decrease in revenues. Isle of Capri Casinos, Inc. stock was recently downgraded by Brean Murray, Carret & Co., because of the impending negative market impact that Iowa's proposed smoking ban would create. Analysts cited the fact that with Isle of Capri's four Iowa casinos it was particularly susceptible to the substantial losses from the ban. Isle of Capri has recently announced a plan to build a new land-based casino in Bettendorf which will be supported by its two hotels and a new Bettendorf Events Center. Ameristar in Council Bluffs has similarly announced a \$100 million casino expansion project. These and other expansion projects may be in jeopardy if a smoking ban is adopted which impacts Iowa's casino industry. Given the proposed smoking ban's impact on Iowa markets, it is our belief that it is unlikely that future development projects will be implemented by any casino operator that relies on destination gaming revenue. This lack of redevelopment and the loss of the ability to attract capital for reinvestment will have direct, indirect and compounded adverse economic consequences for Iowa's gaming industry and the revenues it generates.

Annualize YTD AGR	Feb 2008 YTD	Annualized	FY 2007
Prairie Meadows	123,509,467	185,264,201	188,746,597
Horseshoe and Bluffs Run	129,609,985	194,414,978	199,838,867
Dubuque Greyhound Park			
& Racetrack Casino	45,694,520	68,541,780	71,302,133
Isle of Capri – Marquette	22,266,290	33,399,435	38,852,369
Diamond Jo	26,049,048	39,073,572	41,612,101
Mississippi Belle II	17,920,542	26,880,813	28,345,884
Catfish Bend	25,827,622	38,741,433	29,527,261
Argosy	37,683,387	56,525,081	57,761,406
Terrible's	36,701,897	55,052,846	59,612,938
Wild Rose	17,531,702	26,297,553	26,361,024
The Isle – Waterloo	50,819,220	76,228,830	296,100
Rhythm City	39,026,659	58,539,989	66,883,539
Isle of Capri – Bettendorf	61,169,807	91,754,711	91,325,473
Ameristar	117,641,118	176,461,677	179,794,819
Harrah's	64,157,294	96,235,941	100,697,575
Diamond Jo Worth	50,726,344	76,089,516	67,526,269
Riverside	56,488,667	84,733,001	71,479,770
Total Revenue	922,823,569	1,384,235,354	1,319,964,125

Information from: Iowa Racing and Gaming Commission, http://www.iowa.gov/irgc/

Iowa Smoking Ban Economic Impact

Prepared for Submission to the Iowa Administrative Rules Review Committee (ARRC) for its December 9, 2008 Meeting Concerning the Iowa Department of Public Health Smokefree Air Act (House File 2212) Enforcement Rules

Submitted by Iowans for Equal Rights

Prepared by Norman E. Kjono December 6, 2008

Data Recorded and Related Analysis Procedures

Information in this report includes data tables and graphics for six states. Three states that have previously enacted smoking prohibitions for casinos and on gaming floors, Washington, Colorado and Illinois, are included. Similar information for three states that have not yet enacted smoking bans that affect the total premises, Iowa, Illinois and Indiana are also presented. Beyond the immediate importance to addressing prospective economic impact of a smoking ban that also applies to casino gaming floors in Iowa, Iowa and Indiana are selected because they are states adjacent to Illinois, which passed a statewide smoking ban that became effective January 1, 2008. The opportunity to carefully examine economic impact of a casino smoking ban in a state that is immediately adjacent to Iowa is therefore presented. Iowa's Smokefree Air Act clearly applies to casino restaurants and bars. Including casinos in this report is therefore appropriate for this analysis beyond the obvious concerns about gaming revenue and state tax proceeds. Considering the January 2008 effective date for the Illinois smoking ban, this analysis can be conducted under contemporaneous economic conditions. By comparison of data for Adjusted Gross Revenue (AGR) and other indices for Illinois and Iowa credible projections of economic and state fiscal impact can be derived.

To facilitate this approach, available records for casino financial activity in six states for 2005 to 2008 were retrieved from state gaming commission or department of revenue online data files. This provided a baseline for calculating year-to-year changes, at least one year preceding 2008 and current data for 2008. All states examined provide records of Adjusted Gross Revenue and some states also provide Admissions and other data, such as square feet for each casino, and so on. Iowa Gaming Commission records were particularly well organized and provide comprehensive information compared to most states for which data were reviewed, to the credit of commission staff. Iowa source data therefore provides a robust and informative base line from which future economic impact studies for 2009 onward can be produced. That baseline can be employed to document future impacts of a smoking ban on Iowa casino gaming floors compared to the zero impact presently projected by the Iowa health department, should the legislature extend regulation of tobacco use to casino gaming floors during the forthcoming General Assembly. Under those conditions the comprehensive baseline data compiled for Iowa casinos can be applied to an economic damages model.

Monthly Adjusted Gross Receipts plus Admissions data (where available) for each state examined were encoded and audited. The audit process employed was to first confirm the entries by sight comparison of encoded items versus the source document data. Annual check sums were then created for each item encoded, by calendar or fiscal year depending on how source report data were presented. Calculated annual checksums were then compared to annual totals in the source documents and variances displayed in the worksheet. Most checksums present zero variance, however for some states there is a modest difference that is apparently due to rounding off of monthly items in the state data file. That was confirmed by once again sight comparing each monthly entry with source documents for years where a variance was observed. All of the final variances observed were very small compared to source record data. None of the variances between checksums and source document annual amounts observed were material in light of the size of the entries. In this manner, significant effort was focused on assuring that all data items relied on for calculations were in conformance with source records to the extent possible and based on data reported by the states.

Three data variables were selected for comparisons: I. Adjusted Gross Revenues; 2. Admissions; and 3., Adjusted Gross Revenue per Admission. Where admissions were not available in source records Adjusted Gross Revenues became the data point for comparison. Monthly calculations for each of the three variables for amount change from previous year and percent change from previous year were made in the work sheet. For the lowa-Illinois comparison Adjusted Gross Revenues and Admissions data were available. The above described three variables are displayed graphically at the bottom of the first page for Iowa and Illinois exhibits. Similar graphics have been prepared for all states. Comparisons of changes in the variables is presented on a second exhibit. For Iowa, a an additional exhibit presents the data on which estimated changes in gross receipts and state gaming taxes mentioned in the above background section are based.

Given the above background and data descriptions we can proceed to analyzing the data results.

Analysis Results and Comparisons

Iowa and Illinois Casino Revenues

1.0 Iowa (see Exhibits 1A and 1B): The comparative data for Iowa and Illinois is compelling as to the effects of a smoking ban on Adjusted Gross Revenue (AGR) and Admissions (ADM). Impact on gross revenues and admissions directly affects Iowa state tax revenues because the formula for wagering tax and casino fee payments is currently based on a percentage of AGR.

Page 1 of Exhibit 1A presents table and graphic historical data for AGR and ADM, as encoded from Iowa Racing and Gaming Commission archive tables. AGR per ADM is calculated from that source data. Amount and percent change from previous year are calculated from encoded items and presented in the six thumbnail graphics at bottom of page 1. Graphics on page 2 of Exhibit include a comparison of Iowa's percent change from previous year for Adjusted Gross Revenues, Admissions and Adjusted Gross Revenue per Admission compared to the same data for Illinois. Similar spread sheets have been prepared for the six states referenced in this report referred to above, however for brevity full source data spread sheets are not included.

- 1.1 A few important observations can be made from the Iowa data (see page 1 of Exhibit 1A):
- a.) Iowa casino dollar amount change in AGR and percent change from previous year (2007) is consistently positive from January 2008 onward with the modest exception of September 2008, which was -2.0% (see first line of three graphics at bottom of page 1 in Exhibit 1A).
- b.) Admissions, the equivalent of retail foot traffic (customers in the door), remained positive compared to previous year January through May 2008, then went 6% to 9% negative for June to October (see second graphic on page 2 of Exhibit 1A). This suggests the point in time when the current economic downturn sharply expressed itself for Iowa casinos in terms of folks walking in the door, which is June of this year.
- c.) AGR per customer Admission (see second line of three graphics at bottom of page 1) is positive and generally increasing January to October 2008, with the exception of March 2008, which is a modest -0.3%. So while fewer persons have been admitted to casinos since May they appear to be spending more gaming money while on casino premises, which creates the increases in AGR per ADM.

In general, it could be said that until later the months of 2008 Iowa casinos have enjoyed positive revenue trends since mid 2005, which presents a positive aspect for wagering tax and casino fee proceeds to the state under current legislation that exempts casino gaming floors from the statewide smoking ban. However, that growth in revenues has been accompanied by increases in Riverboat Casino locations (from 10 to 14) and expansion of both Track and Riverboat facility square feet (Track facilities from 91,271 to 195,051 square feet and Riverboats from 230,732 to 330,411) since 2004. Accordingly, it is also apparent that significant capital cost commitments have been made by Iowa gaming operators related to new construction, expansion and renovation. Given those recent capital cost commitments stability of revenues becomes important to both Iowa gaming operators and the state. Adverse economic impact of imposing tobacco control public policy on gaming facilities could be strongly amplified should a substantive reduction in Admissions and Adjusted Gross Revenue occur immediately after significant capital cost commitments have been undertaken by operators.

1.2 The Iowa data become highly relevant as to tobacco control public policy, however, when comparing the same items to Illinois, where the smoking ban, including casinos, has been effective since January 2008 (see page 2 of Exhibit 1A). In the page 2 graphics for Exhibit 1A the solid line is Iowa and the dotted line is Illinois. Source data for Illinois is presented in Exhibit 2.

- a.) <u>Iowa-Illinois AGR Comparative</u>: In January 2008, when the Illinois smoking ban became effective, Illinois percent change from previous year AGR goes increasingly negative from December's -5.8% to a January value of -17.5% (a month-to-month change of -11.7 percentage points). It appears that the smoking ban imposed about a 12% immediate <u>decline</u> in Illinois AGR. In stark contrast, <u>lowa's AGR increased</u> from -7.1% in December 2007 to positive 5.3% (a month to month change of 12.4 percentage points). Please note that after January the spread between the solid line (Iowa) and the dotted line (Illinois) remains quite constant. This indicates the <u>sustaining and ongoing economic impact</u> of an Illinois one-time smoking ban policy variable injected into the marketplace in January of 2008. The 12.4 percentage point positive swing in AGR for Iowa that occurs from December 2007 to January 2008 and the contrasting -11.7 percentage point negative spike are coincident in time with the effective date for Illinois' smoking ban and indicate a strong adverse impact due to a smoking ban of twenty percent or more. That fact of that impact is strongly supported by similar revenue patterns for both Iowa and Illinois February to October of 2008, which establishes sustaining adverse impact.
- b.) lowa-Illinois Admissions Comparative: In January 2008 lowa Admissions sharply increased from -8.0% to +0.5%, while Illinois Admissions show a continuing -5.9% decline. In February 2008 lowa Admissions again sharply increased from 0.5% to 10.5% compared to previous year and Illinois admissions barely managed to get above zero compared to February 2007 (0.5%). March to May 2008 lowa Admissions were consistently in the positive range compared to corresponding months in 2007, while Illinois was consistently negative. Again, we see a similar patterns where Illinois Admissions data remains below lowa through October.
- c.) <u>Iowa-Illinois AGR Per Admission Comparative</u>: This data provides the most compelling illustration of the true economic impact imposed by a casino floor smoking prohibition. Please set page 1 of Exhibit 1A and Exhibit 2 side-by-side, with Illinois to the right. Now look at the bottom right thumbnail graphic. Which data do politicians want for percent of AGR taxes and fees when looking forward to fiscal responsible policy during a recession? Please see page 2 pf Exhibit 2 for comparative percentages of change from preceding year. The pattern for Illinois AGR per ADM confirms an immediate and sustaining negative impact of the Illinois smoking ban where the financial rubber hits the road, Adjusted Gross Receipts per customer walking in the door. As with the previous two graphics, the spread between Iowa's positive results and Illinois negative results is constant, which again confirms the sustaining adverse impact of the one-time policy smoking ban variable imposed into the Illinois marketplace.

Based on review of the above data and graphics is becomes strikingly apparent that the Illinois smoking ban that included casino gaming floors imposed a readily discernible, acute and sustaining adverse economic impact on casino operators. It is axiomatic that such adverse impact translates to reductions in state gaming-related tax and fee revenues. Based on this information, as well as that below for additional states, it becomes clear that a vote to support expanding lowa's current prohibition on smoking in public places to include gaming floors is a conscious choice by elected representatives to impose significant and sustaining adverse economic impact on casino operators and the predictably associated reductions in state gaming taxes and fees on taxpayers.

- 2.0 Estimated Iowa Casino Smoking Ban Economic Impact (See Exhibit 1B). This two page exhibit is the source for the estimated reduction in Iowa casino Adjusted Gross Revenues in the range of \$358.6 to \$378.3 million and consequential state tax losses of \$82.4 million to \$87.0 million mentioned in the Background section of this report. The calculations use the actual percentage point changes for Iowa and Illinois as encoded from state records for each state to develop a percentage point spread for the sustaining negative economic impact of the Illinois ban compared to Iowa's positive trends.
 - 2.1 The information contained in this exhibit is described as follows:

- a.) The table at top of page 1 in Exhibit 1B restates relevant data from Iowa and Illinois spread sheets.
- b.) Graphics to the right on page 1 in Exhibit 1B illustrate the continuing impact trends of the Illinois smoking ban on casinos in that state.
- c.) The calculation columns to the left on Page 1 of Exhibit 1B show how the estimated impact on Adjusted Gross Revenues and state taxes/fees is calculated for two different time periods.
- d.) The table on page 2 of Exhibit 1B is created from the lowa Racing and Gaming Commission FY 2008 Revenue Reports for Track and Riverboat facilities.
- e.) The two time periods were selected to distinguish the period where effects of the current recession on casino Adjusted Gross Revenue were not yet readily apparent (January to May of 2008) and for the time period from when the month Illinois' smoking ban became effective in January 2008 to the end of currently available casino revenue public records, October 2008.
- 2.2 Observations concerning the data in this exhibit are as follows:
 - a.) The comparative percent change in AGR from previous year graphic in Exhibit 1B is striking. Illinois is consistently negative, showing month-to-month percent reductions from the previous year that approach 20% to 30%. With the exception of September 2008 Iowa AGR percent change from 2007 is consistently positive, considerably more so in the January to May period before the current recession strongly expressed itself in Iowa casino revenues.
 - b.) Notably, the pattern of rises and falls in revenues compared to preceding year are quite similar, which indicates that the spread between Illinois and Iowa is caused by a different policy variable not related to current economic conditions. This revenue change pattern clearly contradicts some would say strongly discredits the assertion by some tobacco control advocates that the economic impact of smoking bans in positive and that any negative swings are due to adverse economic conditions.
 - c.) The mathematic spread between Iowa and changes in revenues is quantified in the two right hand columns of that table at top of Exhibit 1B. Iowa annual calculations for reductions in Adjusted Gross Revenue and state tax and fee proceeds for the two time periods are presented in the left hand column of the page. The estimates are reduction in AGR of \$378.2 million and tax proceeds decline by \$86.9 million for January to May period. The corresponding figures for the overall period of January to October are -\$358.6 million for AGR and -\$82.5 million for state receipts.

Based on the foregoing comparative information it becomes clear that any representation to the effect that expanding the lowa statewide smoking ban to casino gaming floors will have a positive affect on Adjusted Gross Revenues and Admissions is predictably and patently false. The sharp changes in Adjusted Gross Revenues experienced by Illinois casinos coincident in time with the effective date of that state's smoking ban strongly attribute casino revenue declines to the state's smoking ban in January 2008. Moreover, the consistent patterns of revenue changes from preceding year, with Illinois approximately 25% below Iowa, strongly confirm a sustaining negative revenue impact of the Illinois smoking ban on casino revenues and a consequential reduction in related state gaming revenue receipts. Since Illinois and Iowa are adjacent states both states presumably confront similar current economic conditions, which emphasizes the importance of the dramatically different gaming revenues coincident in time with the Illinois smoking ban. The preceding information once again makes it clear that, contrary to the

representations by those who politically support tobacco control smoking ban public policy, a vote to expand Iowa's current prohibition on smoking in public places to include casino gaming floors is a conscious choice by elected representatives to impose significant and sustaining adverse economic impact of about -\$378 million on Iowa casino operators and to dump the costs of the predictably associated -\$87 million reductions in state gaming taxes and fees on Iowa taxpayers.

Indiana, Michigan and Colorado Casino Revenues

Please see Exhibit 3. Spread sheet data tables and graphics similar to those for Iowa and Illinois were prepared for Indiana, Michigan and Colorado casino revenues. In the interests of brevity for this report, however, comparative graphics only from each spread sheet are employed to illustrate comparative revenue changes from previous year and patterns of change.

Indiana: See Exhibit 3A. Indiana does not currently have a smoking prohibition for casinos. A strong contrast between Adjusted Gross Revenues for Indiana and Illinois is observed. The sharp downturn in Illinois AGR percent change from previous year for December 2007 to January 2008 is once again emphasized by modestly increasing revenues for Indiana during that same period. The gap or spread between Indiana increases as Illinois AGR continues its negative trend and Indiana AGR enjoys an upturn to positive changes from previous year. The 2008 annual report for Indiana casinos discusses particularly difficult economic conditions, including the entry of competition form tribal casinos during FY 2008. While Indiana's AGR shows considerable improvement through October of 2008, we observe a similar pattern of changes in AGR for Indiana as was presented above for Iowa. The contrasting negative Illinois data make it clear that a smoking ban for Indiana casinos would severely undermine the current recovery of gaming revenues in that state.

Michigan: See exhibit 3B. This state does not currently have a prohibition on smoking for casinos. This state has a comparatively small non-tribal gaming presence, with three casinos in the Detroit area. Michigan's casino AGR changes positive December 2007 to January 2008 compared to the same months for 2007 and 2008. Once again, that positive change in January 2008 is in strong contrast with Illinois' sharp decline. As with Iowa, the pattern of Michigan's AGR increases for previous year is quite similar to the pattern for Illinois after January 2008 and a consistent spread between the two appears to be the case. Michigan compared to Illinois again confirms the fact, and indicates the magnitude of, smoking ban economic impact on casino revenues. Legislation to impose a smoking ban on Michigan casinos therefore becomes a decision to impose significant additional state revenue losses on Michigan taxpayers.

Colorado: See Exhibit 3C. During its 2006 legislative session Colorado passed a statewide smoking ban that exempted casinos. In the 2007 legislative session the exemption for Colorado casinos was removed, to be effective January 1, 2008. Effective dates for the Colorado and Illinois smoking bans are therefore identical. Exhibit 3C for Colorado provides a compelling confirmation for the now-well-established adverse economic impact of smoking bans on casino revenues. What is striking about the Colorado graphic is that Colorado's AGR change from previous year is virtually identical to that for Illinois. We therefore observe two states that had smoking bans become effective on the same day – January 1, 2008 – showing the same trends for impact on casino AGR, and those strikingly similar trends are completely different than those for states that do not currently have a prohibition on smoking at casinos.

Data from the first five states examined shows non-smoking-ban states to have positive casino revenue changes from previous year, while smoking ban states have negative changes form previous year. The point at which the revenue cross-over occurs is the month – January 2008 – when the smoking ban in each state became effective. The patterns, magnitude and direction of changes are unmistakably clear.

Washington Casino Revenues

Please see Exhibit 4. Washington's statewide smoking ban, which included non-tribal casinos, was enacted by Initiative 901 in November 2005. The effective date for Washington's smoking ban was January 1, 2006. Two full years of data are therefore available for comparison. Data for this state were taken from a special study conducted by the Washington Department of Revenue. Data tables included in that study show quarterly revenues and Washington Gambling Commission records do not provide month-by-month revenues for casinos in the state. Gambling Commission records do, however, provide annual figures for tribal casinos, which is an extremely important part of smoking ban economic impact analysis. Accordingly, a somewhat different format is presented for the Washington exhibit. Though the format is different clearly similar results are evident.

During the period of 2002 to 2007 Washington non-tribal casino revenues increased 26.8%, from \$111 million to \$140 million. The corresponding growth in Washington tribal casinos was 160.1 percent, from \$514 million to \$1.3 billion. Total gaming AGR in Washington similar to that for Iowa private casinos (\$1.4 billion), however two thirds of that state's gaming revenues is derived in sovereign-state markets that are smoking-ban-exempt and tax-exempt. Washington tribal compacts do not require casino revenue sharing base do a percentage of AGR due to federal Indian gaming laws.

The explosive growth of tribal casinos indicates that there was strong market demand for gambling operations in Washington, since tribal casino revenues increased by about \$800 million 2002 to 2007. The gaming capacity that filled this market demand was tax-exempt, however. At Iowa's average gaming tax and fee load based on ADP of 23.0%, this level of tax-exempt gaming expansion would represent a loss of state revenue increases that approaches \$200 million per year.

Many of Washington's tribal casinos, such as the Puyallup Tribe's Emerald Queen, are located in or near major metropolitan areas. Nearly all tribal casinos are within draw areas for state population centers. This information becomes important for Iowa due to the recent consulting contracts awarded by the Iowa Racing and Gaming Commission to determine the extent of demand for expansion of gaming. Recent expansion of tribal gaming facilities in Tama, Iowa, as well as Attorney General Miller's recent lawsuit to halt casino development at reclaimed tribal lands on the Nebraska side of the state, are also relevant. Consideration of tribal gaming operations in Iowa is also important in light of the fact that the current tribal compacts include provisions that require tribal gaming growth for the fifteen year compact term to remain. Absent achieving tribal gaming growth, the compacts could become an eight year agreement, considerably shorter than the current period. The extent to which Iowa tobacco control public policy would influence the competitive position of current non-tribal Track and Riverboat casinos compared to tribal gaming is therefore Highly relevant to conclusions about the economic impact of extending Iowa's Smokefree Air Act to include casino gaming floors.

Washington is a predictive forerunner of what can — and predictably will — occur with tax revenues for states relative to the total scope of increases in gaming revenue with a non-tribal casino smoking ban. In Washington the annualized rate of growth in tribal gaming is more than five times that of non-tribal gaming. As is evident from the Washington Casino Gambling Comparative graphic in Exhibit 4., non-tribal gambling is virtually capped compared to consistent double-digit tribal gaming growth.

As to the predictable impact of smoking bans on casino revenues, Washington is part of the early comparative baseline data. Again we observe a clear and discernible adverse economic impact. The comparison this time is between smoking ban compliant non-tribal and exempt tribal gaming facilities. Please note that the observed impact occurs during a period of increasing market demand for gambling activity that is filled by smoking-ban-exempt tribal casinos.

At end of 4th quarter 2005, immediately before Washington's smoking ban became effective non-tribal casino revenues for the year were \$142,068,327. In 2006, the first year of Washington's ban, non-tribal casino revenues declined to \$132,178,397, a 7.0% decrease. However, in 2006 tribal casino revenues increased from \$1.023 billion to \$1.192 billion, a 16.5% increase. At the end of the second year for Washington's smoking ban non-tribal casino revenues had not yet returned to their previous 2005 levels, modestly increasing to \$140,791,422, yet tribal casino revenues increased another 12.2%. The primary variable between tribal and non-tribal casinos in Washington is that non-tribal casinos must comply with the statewide smoking ban and tribal gaming establishments are exempt from compliance.

It cannot be credibly asserted that the strongly disparate results between tribal and non-tribal casino revenues was due to the overall economy in Washington from 2005 to 2007. The 30.7% expansion of tribal gaming revenues during that period speaks loudly to strong market demand for gaming, demand in which tax-paying non-tribal casinos did not participate — to the detriment of Washington business owners and taxpayers alike.

The conclusion drawn from Washington's gaming data is that smoking bans effectively cap non-tribal gaming revenues, tilt the casino playing field strongly in favor of tax-exempt and smoking-ban-exempt tribal casinos, and thereby limit future gaming revenue tax and fee proceeds to states. In Iowa, a smoking ban therefore not only limits gaming tax participation by the state but it also severely limits growth in contributions to the Gamblers Treatment Fund. That is an explosive combination from social cost and public policy standpoints: dramatic increases in tribal gaming also represent increases in the number of problem gamblers, however the state has increasingly less funding as a proportion of total gambling activity to contend with the social costs imposed.

Washington and Colorado Hospitality Revenues

See Exhibit 5. As previously mentioned above, Washington's smoking ban became effective January 1, 2006 and Colorado's smoking ban for non-casino establishments was effective July 1, 2006. This analysis therefore includes comparative one-year post ban revenues results for two time periods that differ by six months. It is striking that the same revenue patterns for restaurants verses bars is observed, but the observation is made over two different time periods.

The graphics in this exhibit include data from both states' Department of Revenue. Spread sheets for Colorado monthly revenue were encoded and quarterly data derived from those items. The original Colorado database was created with information requested from the state Department of Revenue. Washington data were taken from quarterly revenues included in that state's Department of Revenue special study conducted in 2007.

Colorado: An immediate decline in percent increases for revenues compared to previous year is observed. That change in revenue is a reversal of a trend for increases in bar revenue during the preceding six quarters. At the same time, restaurant revenues modestly reverse a previously-declining revenue trend and the increases accelerate. During the second quarter after Colorado's smoking ban became effective the two lines cross (the declining bar revenue solid line intersects with dashed increasing restaurant line).

<u>Washington</u>: The results in Colorado were predictable, based on preceding results observed for this state. The description is virtually identical. An immediate decline in bar percent increases for revenues compared to previous year is observed. That change in revenue is a reversal of a trend for increases in revenue during the preceding six quarters. At the same time, restaurant revenues strongly reverse a previously-declining revenue trend and the increases accelerate. During the first quarter after Washington's smoking ban became effective the two lines cross (the declining bar revenue solid line intersects with dashed increasing restaurant line).

Restaurant and bar revenues show the same pattern for smoking ban states, much like casino revenues show consistent patterns as described above. This again confirms the fact of observable smoking ban economic impact on restaurant and bar revenues, though the beneficiaries of that impact include members of the same hospitality trade: revenues for restaurants increase and revenues for bars decrease compared to previous years. Analysis of data for Colorado liquor stores show similar increasing revenue trends as that for restaurants. The subject of economic impact of smoking bans on hospitality trade revenues will be revisited as Iowa Department of Revenue data for restaurants and drinking places become available.

The absence of currently available data for restaurants and drinking places from the state department of revenue does not, however, justify in any manner a conclusion by the Iowa Department of Public Health to the effect that the economic impact of the Iowa Smokefree Air Act may indeed be positive. Like casino data, the adverse economic impact of smoking bans on bar and tavern revenues is clearly acute when reviewing data from other states, the precise meta-analysis reference that the health department cited for its conclusions about the impact of Iowa's Smokefree Air Act.

Iowa Smoking Ban Economie Impact Submitted to Iowa ARRC December 9, 2008 By Iowans for Equal Rights

Exhibit List

Exhibit 1A Exhibit 1B	Iowa Statewide Casino Analysis Estimated Casino Revenue Impact Iowa Smoking Ban
Exhibit 2	Illinois Statewide Casino Analysis
Exhibit 3A Exhibit 3B	Indiana Casino Changes in Adjusted Gross Revenue Michigan Casino Changes in Adjusted Gross Revenue
Exhibit 3C	Colorado Casino Changes in Adjusted Gross Revenue
Exhibit 4	Washington Non-Tribal and Tribal Casino Revenue Changes
Exhibit 5	Washington and Colorado Restaurant and Bar Revenue Changes

Exhibit 1A

Iowa Non-Tribal Riverboat & Track Casino Analysis Statewide Comparative

Source: towa Racing and Gaming Commission, Illinois Gaming Board Archive Data (Excludes Food & Beverago and Hotel Revenues)

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### S 11,246 S 11,128 10.9% 2,006,865 \$ 150,437		May 07	5 113,249	\$ 9,743	9.4%	1,907,695	\$ 61,530	3.3%	\$ 59,36	\$ 3.30	5,9%				
Sep 07 \$ 102708 \$ 16,386 16,136 2,247,801 \$ 226,002 10,505 5,64,63 \$ 0.52 10,05 7,155 -2,775 7,876 Cot 07 \$ 117548 \$ 4,765 4,275 4,275 4,275 4,275 Cot 07 \$ 115,008 \$ 10,300 3,775 117,465 \$ 1,005 1,0		Jun 07	\$ 113,246	\$ 11,126	10.9%	2,006,865	\$ 150,437	8,1%	\$ 56,43	\$ 1.42	2.6%	8,3%	1,9%		
Sep 67 \$ 117.49 \$ 4.765 4.2% 2,109.014 \$ 101.162 5.0% \$55.09 \$ (0.43)		Jul 07	\$ 124,872	\$ 13,020	11.5%	2,351,638	\$ 313,741	15.4%	\$ 53.10	\$ (1.79)	-3.3%	1.3%	1,6%	-0.3%	***************************************
Ct 07 \$ 115,008 \$ 10,302 \$ 9.7% \$ 2,085,276 \$ 191,227 \$ 10,11% \$ 56,06 \$ 0,46 \$ 0,44 \$ 4.2% \$ -2.2% \$ 5,6% \$ 0,65 \$ 0,520 \$ 1,05 \$ 117,768 \$ 5,101 \$ 1,05 \$		Aug 07	\$ 122,708	\$ 15,986	15.1%	2,247,801	\$ 292,602	15.0%	\$ 54,59	\$ 0.52	1.0%	7.1%	-0.7%	7.8%	
Nav 07 \$ 111,746 \$ 5,101 \$ 5.8% \$ 1,849.55 \$ 87.643 \$ 5.0% \$ 5.00.42 \$ 0.46 \$ 0.8% \$ 2.2% \$ 5.6% \$ 0.80 \$ 0.9% \$ 1.50.50 \$ 1.5					4.2%	2,109,014	\$ 101,162	5.0%	\$ 55.59	\$ (0.43)	-0.8%	4.5%	0.2%	4.4%	
Dee 07 \$ 105.639 \$ (8.065) 7.1% 5.60,649 \$ 1.46,689 -8.0% \$ 62.88 \$ 0.62 1.0% -5.9% -1.2% -5.9%						2,085,276	\$ 191,227	10,1%	\$ 66,06	\$ (0,22)	-0.4%	5.3%	-2,1%	7,5%	
146(68) 196(440) 1538 1338 173(327) 3930 158 158 158 128 128 1338 1338 170873 168,69 10.5% 154,68 10.5% 12.5% 13.3% 13.3% 170873 168,69 10.5% 154,68 10.5% 12.5% 13.3% 13.3% 134,68 12.5% 12.5% 13.3% 134,68 12.5% 12.5% 13.3% 134,68 12.5% 12.5% 13.3% 134,68 12.5% 12.5% 13.3% 134,68 13.28 12.46 13.2% 13.46 13.2% 13.46						1,849,351	\$ 87,543				0.8%	4.2%	-2,2%	5.6%	
Feb 09 \$ 115,063 \$ 73,350 13,3% 1,770,873 \$ 166,297 10,5% \$63,68 \$ 1,53 2.6% 12,5% -13,3% 0.5% Apr 08 \$ 120,080 \$ 5,001 6.6% 2,055,044 \$ 134,062 7.0% \$63,30 \$ (0.2) -0.3% 1-9,9% -11,5% -9,1% Apr 08 \$ 120,489 \$ 9,793 8.8% 1,925,113 \$ 72,508 3.9% \$62,29 \$ 2,24 4.7% 19,3% -11,1% -9,2% May 09 \$ 128,166 \$ 14,916 13,2% 2,040,555 \$ 132,960 7.0% \$62,81 \$ 3,44 -5,8% 14,1% -11,4% -3,0% Apr 08 \$ 115,250 \$ 573 0.5% 1,811,935 \$ (134,930) 8.7% \$60,86 7.3% \$60,86 7.32% Apr 08 \$ 125,711 \$ 1,840 1.5% 2,147,965 \$ (203,673) 8.7% \$60,86 7.32% Apr 08 \$ 125,711 \$ 1,840 1.5% 2,147,965 \$ (203,673) 8.7% \$60,86 7.32% Apr 08 \$ 125,711 \$ 1,840 1.5% 2,147,965 \$ (203,673) 8.7% \$60,86 5.56 10.2% 2,147,965 \$ (203,673) 8.7% \$60,86 5.56 10.2% 2,147,965 \$ (203,673) 8.7% \$60,86 5.56 10.2% 2,145,96		Constitution and the second		\$ (8,085)		1,680,549	\$ (146,686)			\$ 0.62	1,0%	-5.5%	0.1%		
Mar 08 \$ 130,080 \$ 5 0,061 6.5% 2.055,044 \$ 134,082 7.0% \$ 562.30 \$ (0.22) -0.3% -19.9% -11.9% 9.1% Apr 08 \$ 122,808 \$ 9.793 8.8% 1.925,113 \$ 72,508 3.9% \$ 562.59 \$ 2.84 4.7% -19.3% -11.1% 9.2% Apr 08 \$ 122,166 \$ 14,916 13.2% 2.040,655 \$ 132,980 7.0% \$ 562.81 \$ 3.44 5.5% -14.1% -11.1% -3.0% Apr 08 \$ 122,113 \$ 13.20 \$ 573 0.5% 1.871,935 \$ (134,930) -5.7% \$ 560.80 \$ 4.37 7.8% 1 -20.7% -6.6% -13.2% -13.2% Apr 08 \$ 129,336 \$ 5,628 5.4% 2.19,736 \$ (203,573) -8.7% \$ 560.80 \$ 4.37 7.8% 1 -20.7% -6.6% -13.2% -10.5% Apr 08 \$ 129,336 \$ 5,628 5.4% 2.19,732 \$ (108,269) -4.8% \$ 560.45 \$ 5.86 10.7% 2.21,6% -23.3% -14.5% -19.7% Oct 08 \$ 119,405 \$ 2,497 2.1% 1,927,528 \$ (157,748) -7.6% \$ 56.95 \$ 5.88 10.5% -25.6% -8.6% -19.7% 56.00 \$ 119,405 \$ 2,497 2.1% 1,927,528 \$ (157,748) -7.6% \$ 56.95 \$ 5.88 10.5% -25.6% -8.6% -19.7% 56.00 \$ 510.00 \$ 510.00 \$ 50.00 \$ 510.00 \$ 50.00 \$ 510.00 \$ 50.00 \$ 510.00 \$ 50.00 \$ 510.00 \$ 50.00	3		- West Manualt. Ak	\$25,5,440		1,747,827	\$ (9,390				347 X	77.5%	C-123%	-5.950	576001KH
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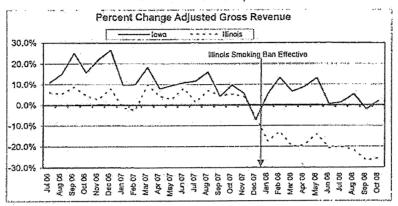
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Exhibit 1A Page 2

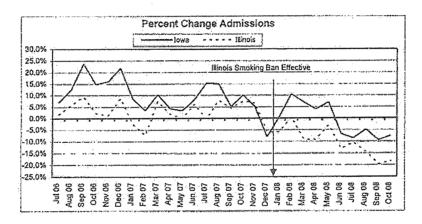
fowa Non-Tribal Riverboat & Track Casino Analysis

Statewide Analysis & Comparative

towa-Illinois AGR Comparative



Iowa-Illinois Admissions Comparative



Iowa-Illinois AGR Per Admission Comparativé

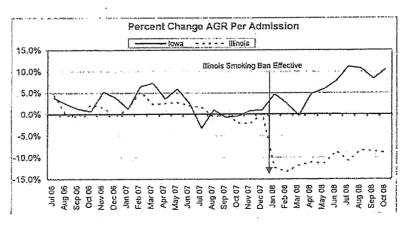


Exhibit 1B Iowa Estimated Casino Smoking Ban Impact

			lowa AG	R and Admiss	ions Data			Illinois AC	R and Admis	sions Dala	Calculated	
Month	ł	Monthly				1	Monthly				Total	Total
- And	1	AGR	AGR PcL	Monthly	Admission	1	AGR	AGR Pcl.	Monthly	Admission	Spread	Spread
Year	Ĺ	(\$1,000)	Change	Admissions	Pct. Chg	1	(\$1,000)	Change	Admissions	Pct. Chg	PCL AGR	Pct. ADM
	I					1					J	
Jen 08	١	-\$408,440	5.28%	747,827			\$ 131,485	r -17.48%	1,238,289	×~-5,89%×	22/18	6.88
Feb 08	ž	\$ 115,063	13.34%	1,770,873	10,50%		S 130,758	-12.88%	1,197,403	0.47%	26.21	10.03
Mar 08	ĺ	\$ 130,090	6.61%	2,055,044	6.98%	1	\$ 147,700	-19.87%	1.349,151	-9.08%	26.47	16.06
Apr 08	1	\$ 120,489	8,65%	1,925,113	3,91%	i	\$ 135,140	-19.34%	1,222,244	-9.24%	28,19	13,15
May 08	i	\$ 128,166	13.17%	2,040,655	6.97%	i	\$ 142,729	-14.05%	1,314,544	-2.98%	27.23	9.92
Jun 08	i	\$ 113,820	0.51%	1,871,935	-6,72%	ì	\$ 130,826	-20,69%	1,206,528	-13.22%	21,20	6,50
Jul 08	i	\$ 126,711	1.47%	2,147,965	-8.65%	i	\$ 138,465	-20.15%	1,302,178	-10,47%	21.83	1,81
80 puA	i	\$ 129,338	5.40%	2,139,532	-4.82%	i	\$ 135,418	-21.59%	1,297,912	-14.46%	17.71	9.64
Sep 08	ì	\$ 115,114	-1.99%	1,909,475	-9,45%	Ϊ:	\$ 122,792	-28.59%	1,152,143	-19,70%	28,58	10.24
Oct 08	1	\$ 119,405	2.14%	1,927,528	-7,56%	:	\$ 122,026	-25,58%	1,155,120	-18,35%	27.71	10,80
Jan - May:		\$ 120,448		1,907,902		;	\$ 137,558		1,264,326		26,17	11,23
Jan - Oct:		\$ 120,662		1,953,595			\$ 133,732		1,243,551		24,77	9,51

Annual Calculations Based on Jan - May Data

AGR

Average Monthly AGR:	\$ 120,448
Annualized AGR:	\$ 1,445,372
Average Total Percent Spread:	(0,2617)
Reduction AGR:	(378,254)
Reduction AGR Tax:	(86,898) (1

Admissions

Avg. Monthly Admissions:	1,264,326
Annualized Admissions:	15,171,914
Average Total Percent Spread:	(0.1123)
Reduction Admissions:	(1,703,806)
Reduction Admissions Tax:	- (2
	Ÿ.

Total Estimated Tex Loss:

(86,998) (3) Annual Calculations Based on Jan - Oct Data

AGR

Avg. Monthly AGR:	\$ 120.662
Avg. Monuny AGA.	\$ 120,002
Annualized AGR:	\$ 1,447,948
Average Total Percent Spread:	(0.2477)
Reduction AGR:	(358,657)
Reduction AGR Tax:	(82,491) (1)

Admissions

Avg. Monthly Admissions:	1,243,551
Annualized Admissions:	14,922,612
Average Total Percent Spread;	(0.1142)
Reduction Admissions:	(1,704,162)
Reduction Admissions Tax:	- (2)

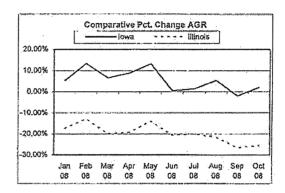
Total Estimated Tax Loss: (82,491) (3)

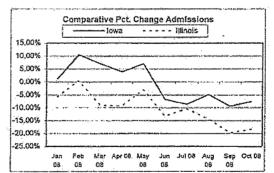
Footnotes:

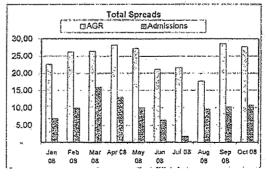
Based on 23.0% overall averages tax rate on AGR, as calculated from FY 2008 IGRC Track and Riverboat Revenue Reports (see Page 2 below).

lowa's Admission Fee Tax was eliminated from revenue report data in 2005.

This tax loss is an understatement because it is based on AGR and Wagering Tax amounts only, When considering alcoholic beverage taxes, sales taxes, and hotel taxes the figure increases. The estimate also does not consider Prospective fiscal impact imposed by migration of pairons from smoking ban compliant. Non-Tribal casinos to smoking ban exempt and tax exempt Tribal casinos.







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Exhibit 1B Page 2

lowa Estimated Smoking Ban Impact Source; lowa Racing and Gaming Commission FY 2008 Revenue Reports

lowa Wagering Tax and Casino Fee Percent Estimate

	T	rack Gaming		Riverboat		
	R	evenue Report	R	evenue Report		Total
		FY2008		FY2008		FY2008
Adjusted Gross Revenue:	\$	462,973,626	\$	952,404,225	\$	1,415,377,851
City Tax	\$	2,314,858	\$	4,762,023	. \$	7,076,891
County Tax	\$	2,314,868	\$	4,762,023	\$	7,076,691
Samblers Treatment	\$	2,314,868	\$	4,762,023	\$	7,076,891
Endowment Fund	S	3,703,789	\$	7,619,234	S	11,323,023
State Misc. Fund	\$	925,948	\$	1,904,808	S	2,830,756
State Tax	\$	96,756,921	\$	179,978,826	S	276,735,747
Regulatory Fee	\$	3,359,244	\$	10,444,687	\$	13,603,931
Admission Fee Tax	\$		\$	*	\$	
Daily License Fee	\$	198,400	\$			198,400
Taxes and Fees Total:	\$	111,888,906	\$	214,233,624	\$	326,122,530
Taxes and Fees as Percent o	f Adjus	ted Gross Rave	nus:			23.0%

Exhibit 2

Illinois Non-Tribal Riverboat Casino Analysis

Statewide Comparative

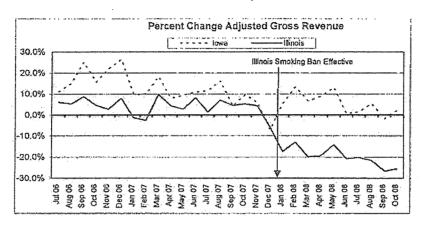
Source: Illinois Gaming Board, Iowa Racing and Gambling Commission Archive Data
(Excludes Food & Beverage and Hotel Revenues)

		Ami. Chg		k				•		(See lo	wa Statewid	e Dala)
Year	llinois	From	Pct. Chg.	Ì	Arnt . Chg	Pct. Chg.	AGR	Amt , Chg	Pot Chg.	lowa	lowa	lowa
And	AGR	Prev. Year	From	lilinois	From	From	Per	From	From	Por Chg.	Pct Chg.	Pat. Cho.
Month	(\$1000)	\$1000	Prev. Year	Admission	Prev. Year	Prev. Year	Admiss.	Prev. Year	Prev. Year	AGR	Admiss.	AGR/Adm.
Li AF	\$ 151,256	NA	N/A	1,435,268	NA	NA	\$ 112,4	N/A	NA	N/A	NA	N/A
Jul 05 Aug 05	\$ 153,224	N/A	N/A	1,331,916	NA	N/A	\$ 115.0	N/A	N/A	N/A	N/A	N/A
Sep 05	\$ 147,224	N/A	N/A	1,257,047	NA	NA	\$ 117.1	N/A	N/A	N/A	N/A	N/A
Oct 05	\$ 149,013	N/A	N/A	1,288,198	NA	N/A	\$ 115.7	NVA	N/A	N/A	N/A	NA
Nov 05	\$ 148,997.	N/A	NA	1,251,381	NA	N/A	\$ 119.1	N/A	N/A	N/A	NA	NVA
Dec 05	\$ 152,443	N/A	NA	1,244,182	N/A	N/A	\$ 122.5	N/A	NA	N/A	N/A	N/A
Jan 06	5 161,381	NA	NA	1,350,159	N/A	N/A	\$ 119.5	N/A	N/A	NA	N/A	NA
Feb 06	\$ 153,671	N/A	N/A	1,265,732	NA	N/A	\$ 119.7	N/A	N/A	N/A	NA	N/A
Mar 05	\$ 167,858	NA	NA	1,382,377	NA	NA	5 121.4	N/A	N/A	į N/A	NA	NA
Apr 06	\$ 150,646	NA	N/A	1,323,459	NA	NVA	\$ 121.4	N/A	N/A	N/A	N/A	N/A
May 06	\$ 161,603	NA	N/A	1,354,341	NA		1 \$ 119.3	N/A	NVA	1 N/A	NA	N/A
Jun 06	\$ 152,375	NA	N/A	1,309,247	N/A	N/A	1 5 115.4	N/A	NVA	1 N/A	N/A	N/A
Jul 06	\$ 171,152	\$ 9,896	6.1%	1,458,249	\$ 22,981	1.6%	\$ 117.4	\$ 5.02	4.5%	10.9%	6,8%	3.8%
Aug 06	\$ 161,312	\$ 8,088	5,3%		\$ 75,429	5.7%	J \$ 114.6	\$ (0,42)	-0.4%	•	12,4%	2.3%
Sep 06	\$ 150,049	\$ 12,825	8.7%	1,375,048	\$ 118,001		\$ 116.4	\$ (0.72)	-0.6%		23.7%	1.2%
Oct 96	\$ 155,744	\$ 6,731	4.5%	1,316,411	\$ 28,213	2.2% 1.2%	\$ 118,3	\$ 2,63	2.3% 1,4%	•	14.8%	0.7% 5.2%
Nov 06	\$ 153,000	\$ 4,003	2.7%	1,266,856	\$ 15,475	8.6%	\$ 120.8 \$ 121.8	\$ 1.71 \$ (0.72)	1,4% -0.6%	25,5%	21.8%	3.8%
Dec 06 Jan 07	\$ 164,572 \$ 159,268	\$ 12,129	6.0% -1.3%	1,351,135 1,315,333	\$ 106,954	-2.5%	\$ 121.8 \$ 121.1	\$ 1.56	1.3%	9,7%	7.8%	1.8%
Feb 07	\$ 150,085	\$ (3,785)	-2.5%	1,191,768	\$ (93,964)	-7.3%	\$ 125,9	\$ 6,26	5,2%	10.1%	3.4%	6.4%
Mar 07	\$ 184,314	\$ 16,456	9.8%	1,483,896	\$ 101,519	7.3%	\$ 124.2	\$ 2.78	2.3%	18.3%	10.3%	7.2%
Apr 07	\$ 167,547	\$ 6,901	4.3%	1,348,645	\$ 23,186	1.8%	\$ 124.4	\$ 3.03	2.5%	7,9%	4.2%	3,6%
May 07	\$ 166,069	\$ 4,466	2.8%	1,354,572	\$ 231	0.0%	\$ 122.6	\$ 3,28	2.7%	9,4%	3,3%	5.9%
Jun 07	\$ 164,958	\$ 12,563	8.3%	1,390,381	\$ 81,134	6,2%	\$ 118.6	\$ 2.26	1.9%	10,9%	8.1%	2.6%
Jul 07	\$ 173,415	\$ 2,263	1,3%	1,454,494	\$ (3,755)	-0.3%	\$ 119.2	\$ 1.86	1.5%	11.6%	15.4%	-3,3%
Aug 07	\$ 172,694	\$ 11,382	7.1%	1,517,363	\$ 110,018	7.8%	\$ 113.8	\$ (0.81)	-0,7%	16,1%	15.0%	1.0%
Sep 07	\$ 157,279	\$ 7,230	4.5% [1,434,880	\$ 59,832	4.4%	\$ 116.5	\$ 0.19	0.2%	4.2%	5.0%	-0.8%
Oct 07	\$ 163,963	\$ 8,219	5,3% [1,414,910	\$ 98,499	7.5%	\$ 115.9	\$ (2,43)	-2.1%	9,7%	10.1%	-0,4%
Nov 07	\$ 159,488	\$ 6,488	4,2%	1,350,151	\$ 83,295	6,6%	\$ 118.1	\$ (2.65)	~2.2%	5.8%	5.0%	0.8%
Dec 07	\$ 154,955	\$ (9,617)	-5.8%	1,271,044	\$ (80,092)	~5.9%	5 121.9	\$ 0.11	0,1%	-7.1%	~8.0%	1.0%
Jan 08	\$1(31,465)	(\$ (27;803);	1, 17, 17, 17, 17, 17, 17, 17, 17, 17, 1	(4,236,269)	\$207.040	5 9%	3200020	(3-17 (19 25)	-123%	5.396	i ore	
Feb 08	\$ 130,758	\$ (19,328)	-12.9% }	1,197,403	\$ 5,635	0,5%	\$ 109.2	\$ (16.73)	-13.3%	13,3%	10,5%	2,5% .
Mar 08	\$ 147,700 . \$ 135,140	\$ (36,614)	-19.9% [1,349,151	\$ (134,745)	-9.1% -9.2%		\$ (14.73) \$ (13.85)	-11.9% -11.1%	6,6% 8,8%	7.0% 3.9%	-0,3% 4,7%
Apr 08 May 08	\$ 135,140 \$ 142,729	\$ (32,407)	-19.3%] -14.1% [1,222,244 1,314,544	\$ (124,401)	-3,0%		\$ (14.02)	-11.4%	13,2%	7.0%	5.8%
Jun 08	\$ 130,826	\$ (34,132)	-20.7%	1,206,528	\$ (183,853)	-13,2%	\$ 108.4	\$ (10,21)	-8.6%	0,5%	-5.7%	7,8%
Jul G8	\$ 138,465	\$ (34,950)	-20.2%	1,302,176	\$ (152,318)	-10,5%	\$ 106.3	\$ (12,89)	-10.8%	1.5%	-8.7%	11.1%
Aug 08	\$ 135,418	\$ (37,276)	-21,6%	1,297,912	\$ (219,451)	-14,5%	•	\$ (9.48)	-8.3%	5.4%	-4,8%	10.7%
Sep 08	\$ 122,792	\$ (44,487)	-26.6%		\$ (282,737)	-19.7%	\$ 106.6	\$ (10,00)	-8.6%	-2,0%	-9,5%	8.3%
Oct 08	\$ 122,026	\$ (41,937)	-25,6%		\$ (259,790)			\$ (10,24)	-8,8%	2.1%	-7.6%	10.5%
			·									
	Illinois	Casino AG	R (\$ Million)		Ilinais Ame	Change AGF	R (\$ Million)			inois Pct Ch	ango AGR	
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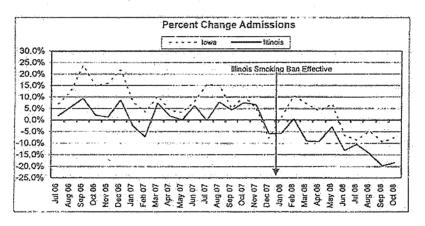
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Exhibit 2 Page 2
Illinois Non-Tribal Riverboat & Track Casino Analysis
Statewide Analysis & Comparative

Illinois-lowa AGR Comparative



Illinois-Iowa Admissions Comparative



Illinois-lowa AGR Per Admission Comparative

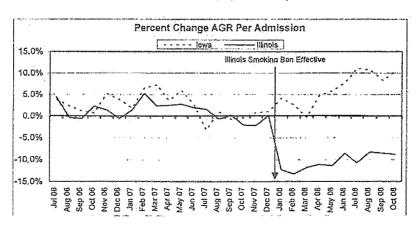


Exhibit 3

Exhibit 3A Indiana

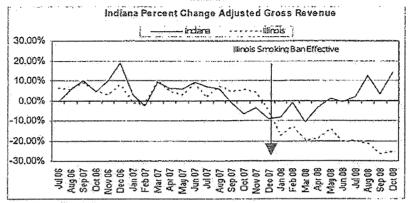


Exhibit 3B Michigan

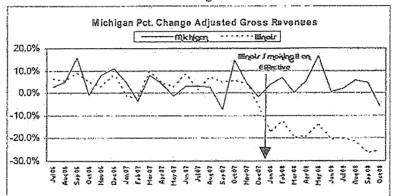
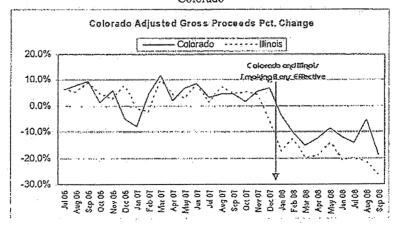


Exhibit 3C Colorado



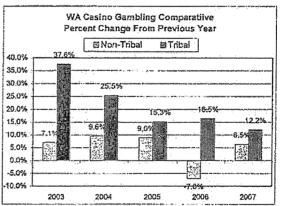
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Exhibit 4
Washington Statewide Casino Gaming Comparative

Sources: Washington Department of Revenue (WADOR) and Washington State Gambling Commission (WAGO)

NAICS: Source:		71321 WA DOR		Column Added	Column Added			WA GC		Column Added	Column Added			Column Added	Column Added
Data Type	Gr	oss Business Income		nount Change om Previous Year	Percent Change From Previous Year			Net Gambling Receipts		mount Change from Previous Year	Percent Change From Previous Year			ount Difference al vs. NonTribal	Percent Difference Tribal vs. NanTribal
Period	ì	Non-Indian Casinos	***************************************			*****	1	ndian Casinos						***************************************	
2002	\$	111,062,696		N/A	N/A	1	\$	514,500,000	*******	N/A	N/A	į		N/A	N/A
2003	\$	118,926,677	\$	7,863,981	7.1%	- 1	\$	707,800,000	\$	193,300,000	37.6%	Ì	\$	185,436,019	30.5%
2004	\$	130,340,564	\$	11,413,887	9.6%	- 1	\$	888,000,000	\$	180,200,000	25.5%	*	\$	168,786,113	15.9%
2005	. \$	142,068,327	\$	11,727,763	9.0%	ĺ	\$	1,023,900,000	\$	135,900,000	15.3%	Ī	\$	124,172,237	6.3%
2006	\$	132,178,397	Š	(9(889,930)	7/0%		\$	1192 500 000	/\$	168,800,000	:15,5%	T.	S	178.789930	/=1+23.5W
2007	\$	140,791,422	\$	8,613,025	6.5%	Ī	\$	1,338,300,000	\$	145,500,000	12.2%	1	\$	136,886,975	5.7%
				W	ashington I	80	Sn	noking Ban Effectiv	a Ja	nuary 1, 2006					
Change 200	2-20	107:	\$	29,728,726	26.8%				\$	823,800,000	160.1%				
Change 200	2-20	005:	\$	31,005,631	27,9%				\$	509,400,000	99.0%				





1. Material Differences Between Washington Tribal and Nontribal Casinos Include:

- a.) Betting limits and games/equipment allowed (overall more restrictive on non-tribal casinos).
- b.) Pursuant to negotiated compact tribal gaming revenue is not shared with the state.
- c.) Tribal establishments do not pay sales tax like business entities that are not exempt from smoking bans,
- d.) If Washington had a state corporate income tax tribal casinos would be exempt.
- e.) Tribal establishments do not pay property tax on facilities.
- (.) Tribal establishments do not contribute to state unemployment funds.
- g.) Tribal establishments do not contribute to state workman's compensation funds.

2. Conclusions:

- a.) Contrary to tobacco control assertions, Washington's I-901 imposed a discernible and severe comparative adverse impact.
- b.) Adverse conomic impact of Washington's I-901 occurred during economic expansion, will be more severe in down market,
- c.) Smoking bans are an integral part of transferring revenues from tax-paying to tax-exempt business entities.
- d.) Adverse economic impact of Washington's smoking ban falls most severely on small business owners and taxpayers.
- e.) Non tribal casinos had not yet recovered from smoking ban impact as of end 2007, revenues still down from 2005.
- t.) Those who support a vast expansion of tribal gaming in their state should also support a statewide smoking ban.

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Exhibit 5 Exhibit 5A. Colorado

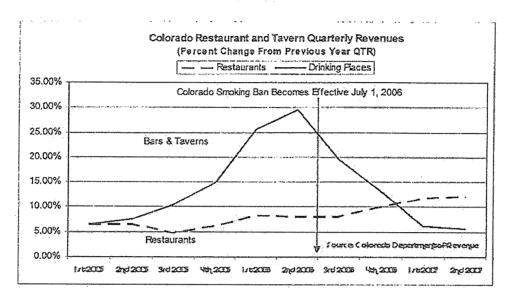
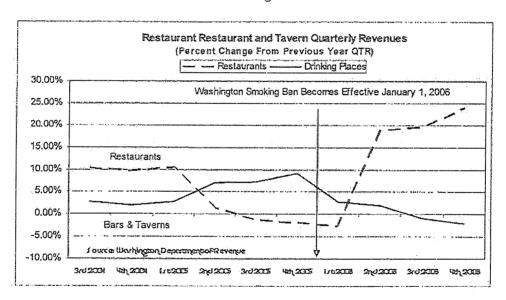


Exhibit 5B. Washington



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Testimony to the
House Health and Human Services Committee
Regarding House Bill 2039
By
Sharon Stroburg
March 16, 2011

Madam Chairperson, members of the House Health and Human Services Committee, I am Sharon Stroburg, Corporate Marketing Director, Butler National Corporation which is the parent company of Butler National Service Corporation, the co-manager of the Boot Hill Casino & Resort located in Dodge City, Kansas. I have 26 years of experience in management of casino gaming facilities.

Thank you for the opportunity to discuss how both Boot Hill Casino & Resort and ultimately the gaming revenue paid to the State of Kansas would be negatively impacted by the imposition of a smoking ban at state lottery gaming facilities.

Casinos are a competitive, customer service business catering to adults over the age of 21. Casino customers make a choice when deciding which casino to visit. All current evidence indicates patrons visit a casino with a ban on smoking less frequently and thus, the revenue to the state decreases.

Examples of this include the following: Canada experienced an overall 15% decrease the first 3 months following a smoking ban, with Casino Windsor at 33.8%, Niagara Falls at 8.2% and Casino Rama at 9.2%. Delaware reported a 10-19% decrease after a ban was imposed in 2002, according to a 2006 study by the University of Louisville and the University of Kentucky. New Jersey reported a 19.5% decrease in the 12 days the ban was imposed in Atlantic City casinos in October 2008, confirmed by the states Casino Control Commission. The 2009 Federal Reserve Bank of St Louis study estimated that Illinois revenue decreased by 20% or \$400 million in the first year. Revenues from smoking areas with slots out-performed the non-smoking slot areas in a range from 60%-185% in 7 Pennsylvania casinos, according to the 2008 State of Pennsylvania study.

On March 9, 2011, the House Executive Committee of the Illinois legislature approved two bills that, if passed, would loosen the restrictions on smoking. The Illinois Casino Gaming Association attributes a majority of the 31% decline in casino revenues to the smoking ban enacted in 2008. During this time Indiana, Iowa, and Missouri (states without smoking bans) have seen revenue increases.

Health & Human Services
Date: 3-/6-//
Attachment: 12



In most states, a smoking ban in casinos becomes even more devastating when surrounding states (Oklahoma, Missouri, Iowa) allow smoking in their casino's and when tribal casinos (Oklahoma, Kansas), under sovereign control, are able to offer smoking in their casinos.

If smoking is banned, over the 14 years remaining on the contract with Boot Hill Casino & Resort, it is estimated the State of Kansas will see a reduction in revenue of over \$32 million. This does not include lost revenue from any other Kansas casinos.

As the lost revenue also will impact the casinos, the state will also see an impact from lost jobs, reductions in sales tax, purchases with vendors, etc.

Dodge City has its own ban on smoking in public places, and specifically exempted Boot Hill Casino & Resort provided a proper air filtration system was installed. In the specification, design and construction of the Boot Hill Casino & Resort, an air handling system that pressurizes the gaming floor to move air and virtually remove the presence of smoke on the gaming floor was purchased. The specialized air handling system cost in excess of \$1.8 million. This purchase was made to allow for the comfort of both smokers and non-smokers on the gaming floor. Boot Hill believes this system adequately addresses the concerns regarding second hand smoke for our patrons while allowing the State of Kansas to maintain competitiveness with other regional casinos that permit smoking. Additionally, Boot Hill believes the local government in Dodge City is in the best position to determine the appropriate level of regulation in its smoking regulations.

Madam Chairperson, thank you for the opportunity to testify in opposition to House Bill 2039. I am pleased to answer any questions.

THE UNIVERSITY OF KANSAS CANCER CENTER

Written testimony from
Edward F. Ellerbeck, MD, MPH
Chair, Department of Preventive Medicine and Public Health
University of Kansas School of Medicine
Program Director, Cancer Control and Population Health
Kansas University Cancer Center
before the
House Committee on Health and Human Services
March 16, 2011

Dear Committee Members,

I am Edward Ellerbeck, Chair of the Department of Preventive Medicine and Public Health at the University of Kansas and director of the Cancer Control and Population Health Program at the Kansas University Cancer Center. As a public health professional, a practicing physician, a leader in the KU Cancer Center, and a bar patron, I would like to thank the legislature for passing a comprehensive clean air bill last year — a bill that is already saving the lives of hundreds of Kansans. I'd also like to thank you for your ongoing support of the KU Cancer Center. Indeed, the KU Cancer Center recently hosted its annual External Advisory Board meeting and one of my proudest moments was the moment when I told them how our faculty members were able to present their own research to the legislature in support of this important piece of legislation.

On behalf of the KU Cancer Center, I ask you to please reject HB 2340, a bill that would expose thousands of Kansans every day to the hazards of second-hand smoke, a bill that would frustrate the efforts of thousands of Kansas smokers who are trying to quit, a bill that would move us backwards in our efforts to control cancer in the state of Kansas.

If I were to speak to you today from my perspective as a public health professional, I would tell you that the hazards of second-hand smoke are very real and that the people at greatest risk are adults – particularly elderly and middle-aged adults like myself who are at risk of heart disease. And that risk occurs as soon as I step into a smoky bar room. Tobacco combustion products trigger oxidative stress that promotes platelet adhesion and creates an immediate increase in my risk for a heart attack. Indeed, 90 percent of the 65,000 deaths each year that can be attributed to second-hand smoke are due to heart attacks.

If I were to speak to you today as a bar patron, I'd tell you that the clean indoor air bill has made my Monday evenings at our local bar much more enjoyable. The bar seems as crowded as ever, but my clothes no longer stink in the morning and my friends who smoke don't seem to mind stepping outside for a few minutes every once in a while.

Health & Human Services
Date: 3-/6-11
Attachment: 13

But facts and science aside, this legislation is about people. And today I'd like to speak to you from my role as a doctor, a primary care physician who takes care of patients like Greg, a 53-year-old man who is highly addicted to cigarettes. He quit smoking two years ago, but prior to the passage of the Clean Indoor Air Act, Greg went to a local bar to enjoy a drink with his friends. That first beer sure tasted good, but it also lowered his resistance. Pretty soon the sights and smells of the other smokers in the bar were too much for him. He bummed a cigarette from another bar patron and the next day found he was back to smoking a pack per day. I'd like to tell you about patients like Kathleen, a lovely young woman in her mid-20s who loves her job working at a local bar. Prior to the passage of the Clean Indoor Air Act, Kathleen was suffering recurrent hospitalizations related to exacerbations of her lung disease -- exacerbations most likely triggered or worsened by exposure to tobacco smoke. The Clean Indoor Air Act allowed Kathleen to keep her job without putting her life at risk every time she went to work. I'd like to tell you about Joe, a 64-year-old man who is recovering from a heart attack. At this point, I don't have any problems with Joe going to the bar to have a drink with his friends (although I'll recommend that he have the grilled chicken sandwich rather than the 1/3-pound cheeseburger with fries and onion rings on the side). But if the bars in Kansas return to their previous smoke-filled state, I'll need to advise Joe and the thousands of Kansans like him with heart disease to stay at home.

On behalf of all of my patients like Greg, Kathleen, and Joe, I ask you to let them enjoy the bars of Kansas without putting their health at risk. On behalf of the faculty of the Department of Preventive Medicine and Public Health and the members of the KU Cancer Center, we are opposed to HB2340 or any other efforts to weaken the protections from second hand smoke that now exist in Kansas.

Sincerely,

Edward Ellerbeck, MD, MPH

Chair, Department of Preventive Medicine and Public Health

Program Director, Cancer Control and Population Health

Kansas University Cancer Center



Written Testimony by

Jessica Hembree, MPA
Program and Policy Officer
Health Care Foundation of Greater Kansas City

March 16, 2011

Thank you for inviting us to offer testimony to the Health and Human Services Committee. The Health Care Foundation of Greater Kansas City was created in 2003 and seeks to provide leadership, advocacy and resources to eliminate barriers and promote quality health for uninsured and underserved. Our grantmaking focuses on safety net, mental health, and healthy lifestyles in six counties in the Kansas City-area, including Allen, Johnson, and Wyandotte in Kansas.

We have been fortunate to support both local and statewide smokefree air efforts, including the work of Clean Air Kansas. Our support is based upon a large and established body of evidence that exposure to secondhand smoke is harmful to health.

In January of this year, the Health Care Foundation released an economic impact study on Kansas City, Missouri since the passage of a 2008 local ballot initiative that required workplaces, restaurants and bars to be smokefree.

Researchers Frank Chaloupka, Ph.D. and John Taurus, Ph.D. of the University of Illinois at Chicago also analyzed the economic impact of smokefree laws in communities throughout Kansas and Missouri. The research focused on cities with populations over 25,000. Using data provided by the Missouri and Kansas Departments of Revenue, the researchers estimated the policy's impact on taxable sales for restaurants and bars. Specifically, they analyzed city-level data on monthly taxable sales in eating establishments (restaurants), drinking establishments (bars), and eating and drinking establishments (restaurants and bars) for cities with populations of 25,000 or more for the period from July 2000 through March 2010.

After reviewing data over a period of ten years, the researchers concluded that smokefree policies have no negative impact on economic activity in the hospitality sector.

Specifically, controlling for economic conditions, existing trends, seasonality, and fixed community characteristics, they found that local smokefree policies in Kansas and Missouri have had no negative impacts on eating and drinking establishment sales in localities with smokefree laws. As expected, they

Health & Human Services Date: <u>3ー16ー11</u> Attachment: <u>19</u> also found that taxable sales in restaurants and bars are strongly, positively related to overall economic conditions, with sales rising as overall economic activity increases and vice-versa.

This study adds to the large and growing body of evidence comprised of comparable studies for other cities, states, and countries on this issue. Specifically, these findings clearly counter tobacco industry and hospitality sector claims that smokefree policies have had a negative economic impact on restaurants and bars. Instead, smokefree policies have had no economic impact on restaurant and bar business, while having the intended effect of protecting workers and patrons of these establishments from the harmful effects of exposure to secondhand smoke.

Let me be clear about what this research addresses. This research looked at the hospitality sector in the aggregate and concludes that there are no negative economic consequences that can be attributed to smokefree laws. It does not report on the impact on individual restaurant and bar businesses in the hospitality industry, a sector with a high turnover rate.

In summary, the Health Care Foundation encourages you to oppose HB 2340 because it weakens protections from second hand smoke in Kansas. HCF supports HB 2039 as it is written and would oppose any efforts to weaken or repeal statewide public smoking restrictions.

Diane Cline 2037 Brentwood St Wichita, KS 67218

My name is Diane Cline. I am a former owner of The Shadow Bistro and Bar in Wichita. I solely owned this establishment for seven years, from July 1, 2003 until July 1, 2010. I closed my business in July of 2010 as my lease had expired and I decided that I wanted to become involved in other business ventures. The restaurant/bar business was getting old and the economy worse.

When I opened my business, it was a smoking establishment. At the time, I did not even feel it to be an option to be "smoke-free", as no other business in Wichita was! As I love to travel and had spent considerable time in California, I of course, LOVED it that the state was "smoke-free". Being TOTALLY opposed to smoking has been a life-long mind set. My mother used to smoke and I recall as a child hearing her coughing EVERY morning when I awakened. Knowing, even at the age of eight, that this was probably not a good thing. I am 61, so that was a very young age to realize that. Ten years ago, I lost my significant other of 18 years to throat cancer. It was not a pretty sight. He had not smoked for 25 years. Obviously, he wished he had never smoked or been near it.

In March of 2004, I could see that the City Council of Wichita was not going to produce a comprehensive smoking ban, as I had lobbied them for. I knew that three businesses here were seriously "working" them to NOT do the right thing. No matter whom I wrote to, lobbied or talked to personally, four of the City Council members were opposed to "government telling a business what to do". This is such a completely ignorant argument. Health and politics are two separate issues. I allege that the owners who want to lobby for smoking are smokers themselves. Obviously, concern for the employees or customers of the establishment are not issues to them.

I decided to make a decision to go non-smoking as of May1, 2004. I posted a sign on the exterior door on March 18th, 2004. My son, Michael Cline, who was the General Manager of The Shadow and the Assistant Manager, Dan Cramer, told me I was "committing suicide". I said I did not care. I was going to do it and if it caused me to lose money, so be it. It upset me every time I heard one of my employees cough (and they were not smokers.) I felt that they deserved to work in a "clean air" environment, as I also did. All of the other employees were so excited that I had made this decision. Michael and Dan were too, but concerned about what effect it may have on the bottom line.

Anyway, that year was BY FAR the best year I had ever had at The Shadow and the years to come exceeded all of the "smoking" years. The first year was particularly amazing as my business grew by 40%. I do not understand the argument that this law will cause loss of business. Non-smokers greatly outnumber smokers in this country today. My Manager and Assistant Manager told me it was the most brilliant decision I ever made. It had promoted business in an unbelievable manner. People, who had not come in to The Shadow before, came in droves, due to the non-smoking policy. Oddly enough, we had two customers complain about not smoking --- that was all---- 2! (However, they still patronized The Shadow.) Everyone else was happy to go to the patio if they "HAD" to smoke. Even the smokers wanted to go home and not smell like an ashtray. I cannot tell you how much community recognition I received for taking such a risk with my business. People I did not know, called, wrote e-mails and letters to congratulate me for such a bold decision, the media in Wichita publicized it.

I cannot tell you how committed I am to a clean air state. I am evidence that this policy will not affect business in a poor way. If every business has the same rules, it will not be a problem. Smokers will smoke outside and play pool in bars. Smokers will smoke outside and drink in bars. Smokers will smoke outside and eat in everyone's restaurants. People go where PEOPLE are, not where SMOKE IS!! The only difference will be that EVERYONE will be healthier. Believe me, this is not what makes/breaks a business. This is; however, what makes/breaks the health of every person exposed to this polluted air. I do not understand why the MINORITY is more important in this legislation. I thought in a democracy, MAJORITY rules. My business was proof that the naysayers have their own agendas. If businesses are suffering now, it is NOT the non-smoking law, it is the economy. I cannot imagine the "recognition" the

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Kansas Legislature would get from the national media if this law were repealed. Again, Kansas taking a step backward to be known as just that.

I hope that my testimony will encourage you to vote for the majority of Kansans' who want the state law to remain in force. I would be happy to speak personally with any one of you who would like to contact me. I can be reached at (316)258-9957.



FROM:

Chad Austin

Vice President, Government Relations

DATE:

March 16, 2011

RE:

House Bill 2340

The Kansas Hospital Association appreciates the opportunity to comment regarding the provisions of House Bill 2340, which amends the statewide indoor smoking ban by exempting bars that are authorized to sell lottery tickets under the Kansas Lottery Act. KHA and its members strongly oppose this legislation.

Tobacco is the number one source of preventable disease worldwide and is responsible for an estimated 438,000 deaths, or nearly one of every five deaths, each year in the United States. As health care providers, we feel it is necessary to take a stand to stop the use of tobacco. Second hand smoke, and most recently "third hand smoke", has been proven hazardous to people's health. Several reports, including the one issued by the U.S. Surgeon General in June 2006 state that "there is no risk-free level of exposure to secondhand smoke. Nonsmokers exposed to secondhand smoke at home or work increase their risk of developing heart disease by 25 to 30 percent and lung cancer by 20 to 30 percent".

In a statewide public opinion poll conducted in December 2008 by the ETC Institute on behalf of KHA, 75 percent of the respondents indicated that they would support a statewide smoking ban in all indoor public places. Of the 25 percent that answered in opposition, 40 percent indicated that they would support a partial smoking ban. The results of the poll demonstrate that overwhelming public support for a statewide indoor smoking ban exists.

On behalf of the members of the Kansas Hospital Association, we stand opposed to the exemption outlined in House Bill 2340.

Thank you for your consideration of our comments.

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MARCH 16, 2011 TESTIMONY WRITTEN IN OPPOSITION TO HB 2340 BEING HEARD IN THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE

Dear Chairperson Landwehr and Members of the Health Committee:

I submit this written statement as a member of a number of organizations concerned about public health in Kansas and in the statewide clean air law in particular. I stand in opposition to HB 2340 because it would nullify the many of the health gains provided by the Kansas Indoor Clean Air Act that began benefiting the people of Kansas in July of 2010.

I am a Township Trustee of the Manhattan Township, the President of the Board of Tobacco Free Kansas, Chairman of the Public Policy and Public Health Committee of the Kansas Chapter of the American College of Physicians, and a member of the Chamber of Commerce of Manhattan, Kansas. The above organizations have supported the Kansas Indoor Clean Air Law because it limited smoking materials in those public places and worksites where second hand smoke would contaminate the breathing area and cause adverse health to those who choose not to smoke. We continue to support this concept and this very important public health legislation. We do not want to have the statewide smokefree law weakened.

Manhattan has its own clean air ordinance and is very happy with this policy. However, the local Chamber of Commerce's policy more strongly supported a statewide law in order to assure that surrounding counties and regions beyond the confines of Manhattan had the same protection from secondhand smoke in all public establishments. Their message was pure and simple: they were in favor of a statewide Law that would have no exemptions. They wanted uniform public health provisions that would provide an equitable and fair environment for all businesses in competition as they all endeavored to serve the demand for good food, beverages, and recreation in social circumstances. The only objections that I observed took place while the Manhattan ordinance was in force but the state law had not yet been enacted to create a level playing field for most hospitality and recreational facilities. In speaking with several bar owners with facilities in Manhattan and in the surrounding areas, I found that they are happy with the adoption of the state law and do not want the statewide clean indoor air law weakened.

Government should be by the people and for the people and should promote life, liberty, and the pursuit of happiness. The 2010 legislative action will help many to live longer, better lives and provided liberty for people to go into public facilities to breathe clean air uncontaminated by the secondhand smoke exhaled by the small number of Kansans who are still using cigarettes.

Manhattan citizens are happy with this new environment and businesses are happy with it. The majority of Kansans would be angry if a bill like HB 2340 would add new exemptions that would increase the number of customers and employees exposed to secondhand smoke. Such action would make even more Kansans vulnerable to serious diseases and the health costs to themselves and to the state of Kansas that come from breathing in tobacco smoke pollution.

However, I would gladly support HB 2039, which is designed to remove the exemption for the gaming floor of a casino, if the bill were to be passed exactly as written. Kansas does need to work now on

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ways to improve the clean air law by eliminating exemptions, not by ruining the law by permitting smoking in more establishments (with or without liquor licenses and with or without lottery licenses).

In summary: Please reject HB 2340 and support the continuance of the current law that prohibits second hand smoke in most public places and work sites. I am speaking for myself but also as a representative of many Kansas constituents who are business people, individual citizens, and health care providers.

James Dixon Gardner M.D. FACP

James Dixon Tardrer M.D.

James Dixon Gardner M.D. 2612 Marque Hill Road Manhattan, KS 66502

785 537 4940 Work 785 537 0836 Fax gardner@pcpman.com

clean air Manhattan

To: Kansas House of Representatives Health and Human Services Committee:

As a representative group from Clean Air Manhattan, we wish to communicate our concern and opposition to HB 2340 that would allow smoking in places that have both a liquor and lottery license. This bill would allow smoking in a variety of places and undermine the current Kansas law. That is definitely a giant step backwards for public health. The current law is a major health and economic benefit for the people of Kansas. Manhattan citizens overwhelming voted in favor of smoke free businesses - not a city commission or other committee-it was our voters and your constituents. It is time to move on to other issues. Kansas has major health and economic problems. Don't waste taxpayer time and money debating something that has already been decided and is approved by nearly three quarters of Kansans including those who continue to smoke. Please do not create loopholes that do not keep our Kansas law simple, strong and fair. HB 2340 would create confusion and allow inequality among businesses and workers who would be involuntarily exposed to the deadly toxins of tobacco smoke. As more are exposed to environmental tobacco smoke our health care costs will continue to rise, even among those who do not choose to smoke.

We, as members of Clean Air Manhattan, do support the proposed HB 2039-to remove smoking from gaming floors as long as the language of the bill is not amended or changed in any way.

Thank you. Your voting constituents from Manhattan

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Dougle BSEIR

Martha G. Gardner Genevieve Gardner James Dixon Gardner, M.D. Douglas B. Smith Charlene Brownson Debbie Nuss Joan Hampton Smith

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Written Testimony before the House Committee on Health and Human Services In Opposition to House Bill 2340 March 16, 2011 By Roger L. Smith, Tobacco Free Wichita Coalition

Chairperson Landwehr and Members of the Committee:

Last year, after careful and prolonged consideration, the Kansas Legislature passed a reasonably comprehensive clean indoor act that is presently enhancing the health of the citizens of Kansas. House Bill 2340 would reduce the benefits of last year's legislation and complicate enforcement of the law, contrary to the desires of the vast majority of Kansans.

The sole provision of HB 2340 allows smoking in bars that sell Kansas lottery tickets. The sale of lottery tickets is not a valid criterion for exemption from the requirements of K.S.A. 21-4010. It does not share the same purpose of the exemption provided last year to state owned casinos, which were exempted to allow competition with tribal casinos that are not subject to Kansas law. In fact, HB 2340 would treat lottery retailers differently, based solely on the possession of a liquor or cereal malt beverage license.

House Bill 2340 does not define "bar," nor does the legislation it amends. This lack of clarity could potentially allow for smoking in any establishment serving liquor or cereal malt beverages, including those patronized by minors. Food service establishments could opt out of the Kansas clean indoor air law simply by purchasing a liquor or cereal malt beverage license.

Enforceable legislation is easily understood by the average reader, and contains a minimal number of necessary exceptions. House Bill 2340 does not meet these criteria. Our experience in Wichita has shown the difficulties in enforcing measures that are not clear and straightforward.

House Bill 2340 would treat Kansas citizens differently, based on their place of residence. Under the provisions of this act, larger cities are more likely to offer smoke free dining and drinking establishments, due to the sheer number of businesses. Smaller communities, with a limited number of businesses, may not offer consumer choices. "Voting with one's feet" works only when options exist.

The vast majority of Kansans, in excess of seventy percent, want clean indoor air in public places. House Bill 2340 only serves the selfish interests of a limited number of individuals whose personal behavior harms others, and a few businesses which place a desire for perceived additional profits ahead of the health of their employees and customers.

I urge you to vote against the measure at hand. It is bad public health policy, flawed legislation, and runs counter to the wishes of your constituents.

Roger L. Smith, Tobacco Free Wichita Board 132 S Edwards, Wichita, KS

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Written Testimony for the House Health and Human Services Committee In Opposition to HB 2340 March 16, 2011 By Shirley Voran

Dear Committee Members,

Please vote "No" to oppose HB 2340 and keep Kansas smoke free. This bill would create a giant loophole in the law by exempting business with both liquor licenses and lottery licenses. This bill would in effect repeal some of the strongest provisions in our statewide smoke free law.

As the food science and culinary hospitality teacher at Dodge City High School, many of my previous students have come to me to share their concern for working in the foods industry in a smoke free environment. They deserve the right to continue to breathe clean indoor air at work in Kansas. With all the evidence based research on the effects of smoking and tobacco, tobacco use is the leading preventable cause of death resulting in billions of dollars in health care costs each year in the United States including Kansas.

As a business owner, I am concerned when individuals come into my store with the overwhelming odor of cigarettes. As a cancer survivor, I am concerned about keeping the air I breathe clean. Nonsmokers have rights and responsibilities. I realize smokers have rights; but they don't live up to their responsibilities when they force nonsmokers to endure those second hand contaminants. As a mother of two daughters one of which became involved with cigarettes while working at a tourism attraction in Dodge City several years ago as a teenager. The last two years she has tried everything to kick the habit. She has been congested and has had a sore throat/sinus infection off and on for years. Her once beautiful voice is now hoarse because of her continuous cough. Of course, she had denied her tobacco use to me as a mother committed to clean air and clean lungs. Her denial and continuous use of tobacco has cost us as parents thousands of dollars in doctor appointments, CT scans, and medicine treating a tobacco addiction. An addiction that has overpowered her will to stop and obtain a healthier lifestyle as a young woman. The tobacco industry knows how to market to our youth. Please do not let this happen to other families and children. Your vote "NO" on HB 2340 is the right vote and your only vote for families and Kansas.

There's no need for additional exemptions to the Kansas Indoor Clean Air Act that would allow some business owners to buy their way out of providing protections from second hand smoke for their employees and patrons like myself. I support the law as it is written and I do not want to go back to a confusing hodgepodge of smoking regulation across the state. Health is an issue that over time will impact the economics of Kansas.

The law is working. It's strongly supported in my community. Give it a chance to keep working.

Shirley R. Voran
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kswheat@kansasgrown.com
620-408-5734

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Written Testimony in Opposition to HB 2340

House Health and Human Services Committee

March 16, 2011

By: Marilyn Hattan

I am a current bowler at West Lanes here in Atchison and the smoke-free enforcement is WONDERFUL! This is one of my favorite hobbies and I would have probably given it up if it had not been for the Smoke-Free law. It is now a great place to enjoy fellowship with my friends and other bowlers. The law was put into effect too late for one of our team members whose physician said she had to give up the sport due to the smoke. She now has a pace maker and will never be able to bowl again. Why should people in this same situation need to give up something they enjoy just because of the cigarette smoke. Hardly seems fair to me!

I lost a son-in-law and a brother-in-law to lung cancer — both heavy smokers. The family and patients suffered together. It is horrible to have to watch your loved ones die from something that may have been prevented had it not been for tobacco.

At least, by smoking outside the smoker cuts down on the number of cigarettes they smoke and the ones who don't smoke are able to keep their lungs smoke free. If the law is changed to smoking where lottery tickets are sold, every business will be selling the tickets.

Please keep the law in place or change it to no exceptions like other states have done – no indoor smoking AT ALL. Traveling through those states, i.e. Colorado, Utah, etc, is wonderful. At least they care about their citizens and are trying to protect them. Let Kansas do the same!!!!

Marilyn Hattan 1409 Kansas Avenue Atchison, KS 66002

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TOBACCO FREE KANSAS

Written Testimony in Opposition to HB 2340
House Health and Human Services Committee
March 16, 2011
By Mary Jayne Hellebust
Executive Director, Tobacco Free Kansas Coalition, Inc.

Dear Chairperson Landwehr and Members of the Health Committee:

The more than 200 members, coalitions and network partners within Tobacco Free Kansas Coalition oppose HB 2340 because it would undermine a law whose express purpose was to protect the most people possible from unwanted exposure to secondhand smoke, a known toxin. Offering smoking exemptions to businesses with both liquor and lottery licenses makes a mockery of the concept of a smokefree state law.

HB 2340 A Public Health Reversal. HB 2340 would negate the gains achieved from the 2010 Kansas Indoor Clean Air Law and would allow many establishments, especially in small communities, to again allow tobacco smoke pollution which is a known cause of serious heart and lung diseases and premature death for both workers and customers.

Indoor Air Quality—94% Decrease in Indoor Air Pollution since July 1, 2010. Since mid-summer, Kansans have enjoyed the freedom to breathe clean indoor air where they work, where they dine, and where they play. Secondhand smoke is a poisonous mixture of more than 7,000 chemicals, including hundreds that are toxic and at least 69 that cause cancer. To demonstrate the improvement in air quality in hospitality areas, testing was conducted in 36 establishments in six cities across the state before and after the implementation the clean air policy. The testing was provided by trained volunteers with the data results analyzed and reported on by researchers with the Roswell Park Cancer Center in Buffalo, NW. The air quality report released in January 2011 noted a 94% decrease in the amount of inside air pollution, primarily secondhand smoke in hospitality venues where smoking had previously been permitted in Kansas. (See attached copy of the report) The particulate pollution in the smoking establishments changed from hazardous levels to the quality of outside air after smoking was restricted in these hospitality businesses. Allowing additional smoking venues would be

Tobacco Free Kansas Coalition Officers:

President James Gardner, MD Vice-President Ken Davis

Secretary Nicole Brown

Treasurer John P. Smith

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Health & Human Services

Phone (785) 272-8396 * Fax (785) 272-5870 * www.tobaccofreekansa: Date: 3-16-11

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detrimental to the health and economic interests in Kansas. Such a change repudiates both the scientific basis for clean indoor air laws as well as the strong support of Kansans for their current smokefree law.

<u>Polling Date Proves Law Highly Regarded.</u> A February 2011 poll of Kansas voters cites 77% of Kansas voters in support of the current Kansas Indoor Clean Air Act because they are free from exposure to secondhand smoke and their time in hospitality arenas is much more pleasant.³ (See attached summary memo of key findings.) In Kansas, 84% of Kansans recognize the dangers of secondhand smoke, ³ which has annually caused the deaths of about 400 Kansans and illnesses for countless others who work or visit hospitality venues.⁴ The enactment of the statewide smokefree law was the culmination of three years of dedicated work by people all over Kansas determined to provide protection from secondhand smoke for all regions of the state, not just those communities with local clean indoor air policies.

Research Studies on Smokefree Indoor Air Policies. Since the 1960's, scientific studies at private and governmental research centers have continued to show the dangers of exposure to secondhand smoke for children as well as adults. More recent studies and research documents including Surgeon General's Reports have demonstrated that there is no safe level of exposure to secondhand smoke and that the only way to negate such exposure is the elimination of smoking in indoor areas. With the passage of clean indoor air laws, there are significant decreases in a variety of diseases—at a savings in health costs and lives. Another recent study, The Economic Impact of the 2008 Kansas City Missouri Smoke-free Air Ordinance, adds additional proof to the continuing research-based conclusions that clean indoor air laws do not affect the economic climate of a region or area where they are adopted.

Clean Indoor Air Laws Reduce Health Costs. With Kansas facing severe budgetary crises, much of which is driven by health costs related to Medicaid, health policy decisions must be based improving health for Kansans. In addition to 400 non smokers dying in Kansas each year from diseases caused by secondhand smoke, tobaccorelated costs for Kansas are estimated at \$927 million a year, \$196 million of which is for Medicaid treatment. Clean air policies can help some people to decrease or even quit smoking and help kids to avoid ever starting. The current clean indoor air law does not prohibit anyone from smoking. The law merely places that smoking behavior outside of most public places and worksites where tobacco pollution smoke is an unwanted healthy hazard for non smokers and an undue medical burden for the entire state.

Clean Air Law Driven by Community Initiatives. The effort to enact the Kansas Indoor Clean Air Act was driven by Kansas people and local coalitions. They understood that toxins released by smoking in enclosed areas were not healthy for Kansans and were harmful to the financial stability of the state because of the cost of treatment for smoking-related diseases. The movement towards a comprehensive statewide clean air law was propelled through a steady progression of local smokefree laws that began in the city of Salina in 2002. By 2009, 39 separate local policies with varying restrictions on secondhand smoke in work sites and public places set stage for action by the state legislature. Although bills had been drafted for clean indoor air in public places and worksites for a number of years, the final language on smoking restrictions was finalized in 2009, with some exemptions that were not favored by the public health and medical communities. The final language of HB 2221 provided smokefree coverage for the vast majority of public places in Kansas and was strong enough to pass in the Kansas Senate in 2009 and then in the Kansas House of Representatives in 2010.

<u>Support for the Removal of Remaining Exemptions</u>. Over the next few years, public health proponents will work to strengthen the bill by eliminating the exemption for gaming floors as proposed by HB 2039, as well as the removal of exemptions for private clubs, hotels/motels, etc. Only then will Kansans be protected from the dangers of secondhand smoke in all public places and worksites.

The Kansas Clean Indoor Air Law Is Working Well. For years now, the majority of Kansas people have spoken long, loud and strong about their preference for clean indoor air policies. The adoption of the Kansas Indoor Clean Air Law made Kansas the 28th state to adopt an effective healthy smokefree policy that covers the vast majority of workplaces and public places. Opening up other smoking venues as proposed by HB 2340 would take the state back to smoke-filled establishments where both customers and employees alike must breathe contaminated air. For the health of the state, for the economic viability of health care efforts, and for the protection of children who would be exposed to expanded smoking in restaurants, bowling alleys and other venues, the Kansas Indoor Clean Air Act should be left alone as a true public health achievement for the state. This law is what Kansans want: 79% of Kansas voters want to give the current law a chance to work before making any changes, and even 54% of non smokers are satisfied with the law. 8

References:

¹ U.S. Department of Health and Human Services. *The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General.* Atlanta: U.S. Department of Health and Human Services, Center for Disease Control and Prevention, Coordinating Center for Health Promotion, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2006. (Surgeon General's Report)

² Travers, Mark J. PhD, MS and Lisa Vogl, BS, *Air Quality Effect of the Kansas Indoor Clean Air Law*. Department of Health Behavior, Roswell Park Cancer Institute, Buffalo, New York. January 2011, accessed March 14, 2011 at http://www.tobaccofreekansas.org/site06/pdf/Kansas%20Air%20Quality%20Testing%20Report%202011.pdf (Funded by Tobacco Free Kansas Coalition)

³ Kansas Statewide Tobacco Survey, Conducted by Public Opinion Strategies, Glen Bolger, principal pollster, Virginia. January 2011. Accessed at http://www.tobaccofreekansas.org/site06/pdf/KS%20Statewide%20Tobacco%20Survey%20-%20January%2011-12,%202011.pdf on March 14, 2011

⁴ Toll of Tobacco in Kansas, Campaign for Tobacco Free Kids, accessed March 11, 2010 at http://www.tobaccofreekids.org/facts_issues/toll_us/kansas

⁵ U.S. Department of Health and Human Services. *How Tobacco Smoke Causes Disease: What It Means to You.* Atlanta: U.S. Department of Health and Human Services, Center for Disease Control and Prevention, Coordinating Center for Health Promotion, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2010. (Surgeon General's Report)

⁶ Taurus, John A., Ph.D. and Frank J. Chaloupka, Ph.D., *Executive Summary: The Economic Impact of the 2008 Kansas City Missouri Smoke-Free Air Ordinance*, December 2010 (Funded by The Health Foundation of Greater Kansas City)

⁷ Toll of Tobacco in Kansas

⁸ Kansas Statewide Tobacco Survey

AIR QUALITY EFFECT OF THE KANSAS INDOOR CLEAN AIR LAW

Mark J. Travers, PhD, MS

Lisa Vogi, BS

Department of Health Behavior



January 2011

12-Y

EXECUTIVE SUMMARY

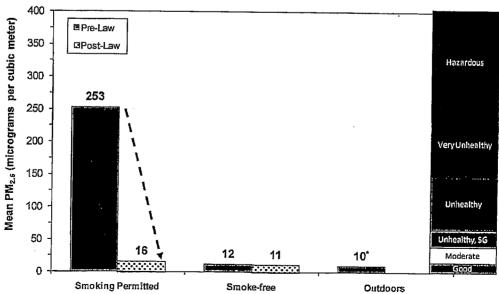
Beginning in January, 2009, through November, 2010, indoor air quality was assessed in 36 restaurants and bars in the following 6 Kansas communities: Topeka, Emporia, Pittsburg, Kansas City, Wichita and Western Kansas (Liberal and Great Bend). Prior to the Kansas Indoor Clean Air Law being implemented on July 1st, 2010, 12 of these locations were smoke-free and 24 locations permitted indoor smoking. After the law officially took effect, the 36 restaurants and bars were reassessed to observe the effect of the Kansas statewide smoke-free air law.

The concentration of fine particle air pollution, $PM_{2.5}$, was measured with a TSI SidePak AM510 Personal Aerosol Monitor. $PM_{2.5}$ is particulate matter in the air smaller than 2.5 microns in diameter. Particles of this size are released in significant amounts from burning cigarettes, are easily inhaled deep into the lungs, and cause a variety of adverse health effects including cardiovascular and respiratory morbidity and death.

Key findings of the study include:

- In the 24 locations with observed indoor smoking before the law, the level of fine particle air pollution was hazardous ($PM_{2.5} = 253 \mu g/m^3$). This level of particle air pollution was 25 times higher than outdoor air in Kansas and 21 times higher than the smoke-free locations.
- Prior to the law, employees working full time in the locations with indoor smoking before the law were exposed to levels of air pollution 4.4 times higher than safe annual levels established by the U.S. Environmental Protection Agency because of their occupational exposure to tobacco smoke pollution.
- Indoor particle pollution levels declined 94% in Kansas as a result of the smoke-free air law to low levels, similar to those found in outdoor air.

Figure 1. Effect of the Kansas Clean Indoor Air Law on Indoor Air Pollution



"Used for comparison purposes. Based on the 2008 average $PM_{2.5}$ level from the EPA monitoring sites in Kansas City (http://www.epa.gov/air/data/). The color-coded EPAAir Quality Index is also shown to demonstrate the magnitude of the measured particle levels

Introduction

Secondhand smoke (SHS) contains at least 250 chemicals that are known to be toxic or carcinogenic, and is itself a known human carcinogen,[1] responsible for an estimated 3,000 lung cancer deaths annually in never smokers in the U.S., as well as more than 35,000 deaths annually from coronary heart disease in never smokers, and respiratory infections, asthma, Sudden Infant Death Syndrome, and other illnesses in children.[2] Although population-based data show declining SHS exposure in the U.S. overall, SHS exposure remains a major public health concern that is entirely preventable.[3, 4] Because establishing smoke-free environments is the most effective method for reducing SHS exposure in public places,[5] Healthy People 2020 Objective TU-13 encourages all States, Territories, Tribes and the District of Columbia to establish laws on smoke-free indoor air that prohibit smoking in public places and worksites.[6]

Currently in the U.S., 28 states, Washington D.C., and Puerto Rico have passed strong smoke-free air laws that include restaurants and bars. The states are Arizona, California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oregon, Rhode Island, Utah, Vermont, Washington, and Wisconsin. Because of these statewide policies well over 50% of the U.S. population is now protected from secondhand smoke in all public places.[7] Nine Canadian provinces and territories also have comprehensive smoke-free air laws in effect. Hundreds of cities and counties across the U.S. have also taken action, as have whole countries including Ireland, Scotland, Uruguay, Norway, New Zealand, Sweden, Italy, Spain, England and France.

The goal of this study was to determine the effect that the Kansas state smoke-free air law (effective July 1st, 2010) had on reducing the level of fine particle air pollution in bars and restaurants in 6 Kansas communities. The new Kansas state smoke-free air law prohibits smoking in most public places, places of employment, restaurants, bars, and within 10 feet of any doorway, open window or air intake of areas where smoking is prohibited. The state law exempts the gaming floors of state-owned casinos.

It is hypothesized that: 1) before the law, levels of indoor fine particle air pollution will be significantly higher in places with indoor smoking compared to those that are smoke-free; 2) particle levels will decline significantly in a cohort of establishments permitting smoking at baseline that are sampled before and after the smoke-free air law; 3) there will be no significant change in particle pollution levels in a cohort of establishments that smoke-free at baseline that are sampled before and after the law; and 4) the degree of indoor particle air pollution will be correlated with the amount smoking.

METHODS

Beginning in January, 2009, through November, 2010, indoor air quality was assessed in 36 restaurants and bars in the following 6 Kansas communities: Topeka, Emporia, Pittsburg, Kansas City, Wichita and Western Kansas. Prior to the Kansas Indoor Clean Air Law being passed by the Kansas House of Representatives on February 25th, 2010, 12 locations were smoke-free and 24 locations permitted indoor smoking. After the law officially took effect on July 1st, 2010, the 36 restaurants and bars were reassessed to observe the effect of the Kansas state smoke-free air law.

MEASUREMENT PROTOCOL

Trained volunteers followed an established air monitoring protocol and spent a minimum of 30 minutes in each venue. The number of people inside the venue and the number of burning cigarettes were recorded every 15 minutes during sampling. These observations were averaged over the time inside the venue to determine the average number of people on the premises and the average number of burning cigarettes. Room dimensions were also determined using a combination of any or all of the following techniques; a sonic measuring device, counting of construction materials of a know size such as floor tiles, or estimation. Room volumes were calculated from these dimensions. The active smoker density was calculated by dividing the average number of burning cigarettes by the volume of the room in meters.

A TSI SidePak AM510 Personal Aerosol Monitor (TSI, Inc., St. Paul, MN) was used to sample and record the levels of respirable suspended particles in the air. The SidePak uses a built-in sampling pump to draw air through the device where the particulate matter in the air scatters the light from a laser. This portable light-scattering aerosol monitor was fitted with a 2.5 μ m impactor in order to measure the concentration of particulate matter with a mass-median aerodynamic diameter less than or equal to 2.5 μ m, or PM_{2.5}. Tobacco smoke particles are almost exclusively less than 2.5 μ m with a mass-median

diameter of 0.2 μ m.[8] The Sidepak was used with a calibration factor setting of 0.32, suitable for secondhand smoke.[9, 10] In addition, the SidePak was zero-calibrated prior to each use by attaching a HEPA filter according to the manufacturer's specifications.

TSI SIDEPAK AM510 PERSONAL AEROSOL MONITOR



The equipment was set to a oneminute log interval, which averages previous one-second 60 measurements. Sampling was discreet in order not to disturb the occupants' normal behavior. The Sidepak is about 5x4x3 inches and weighs about one pound. For each venue, the first and last minute of logged data were removed because they are averaged with outdoors and entryway air. The remaining data points were averaged to provide an average $PM_{2.5}$ concentration within the venue.

PM_{2.5} is the concentration of particulate matter in the air smaller than 2.5 microns in diameter. Particles of this size are released in significant amounts from burning cigarettes, are easily inhaled deep into the lungs, and are associated with pulmonary and cardiovascular disease and mortality.

STATISTICAL ANALYSES

To evaluate the first hypothesis, statistical significance is assessed using the Mann-Whitney test on the $PM_{2.5}$ concentrations. The second and third hypotheses are assessed using the Wilcoxon signed-rank test to compare the difference in the average levels of $PM_{2.5}$ between establishments with observed smoking and those with no observed smoking before and after the Kansas state smoke-free air law came into effect. The fourth hypothesis is tested by using all 72 sample visits and correlating the average smoker densities to the $PM_{2.5}$ levels using the Spearman rank correlation coefficient (r_s) . Descriptive statistics including the venue volume, number of patrons, and average smoker density (i.e., number of burning cigarettes) per 100 m³ are reported for each venue and averaged for all venues.

RESULTS

A summary of each location visited and tested is shown in Table 1. Before the statewide smokefree law, the average $PM_{2.5}$ level in the 24 locations permitting indoor smoking was 253 $\mu g/m^3$ (Figure 1). Before the law, the $PM_{2.5}$ concentrations in places with smoking were significantly higher than smoke-free locations where the mean $PM_{2.5}$ concentration was 12 $\mu g/m^3$ (U=4.00, p<0.001, r=.80). After the Kansas state smoke-free air law, the mean $PM_{2.5}$ level in the 24 locations that previously permitted smoking was 16 $\mu g/m^3$ (T=0.00, p<0.001). This is a 94% reduction in $PM_{2.5}$ levels compared to the pre-law levels. This difference is statistically significant (p<0.001). There was no significant change in $PM_{2.5}$ levels in the 12 places that were smokefree before the law (T=34.0, p=0.693).

In the 24 locations with observed smoking, before the smoke-free law was passed, the average number of burning cigarettes was 4.0 which corresponds to an average smoker density (ASD) of 0.48 burning cigarette per 100 m³. Looking at all 72 sample visits, $PM_{2.5}$ levels are positively associated with the active smoker density indicating that the amount of indoor smoking may be the primary driver of the indoor particle pollution levels. This association was statistically significant (r_s =0.79, p<0.001).

400 Mean PM_{2.6} (micrograms per cubic meter) Pre-Law 350 □Post-Law Hazardous 300 253 250 200 Very Unhealthy 150 Unhealthy 100 Unhealthy, SG 50 10 0 **Smoking Permitted** Outdoors Smoke-free

Figure 1. Effect of the Kansas Clean Indoor Air Law on Indoor Air Pollution

*Used for comparison purposes. Based on the 2008 average PM_{2.5} level from the EPA monitoring sites in Kansas City (http://www.epa.gov/air/data/). The color-coded EPA Air Quality Index is also shown to demonstrate the mag nitude of the measured particle levels

Table 1. Fine Particle Air Pollution in Kansas Bars and Restaurants

				Pre	Law		Post-Law				
Venue Number		Size (m³)	Average # people	Average # burning cigs	Active smoker density*	Average PM _{2.5} level (µg/m³)	Average # people	Average # burning cigs	Active smoker density*	Average PM _{2.6} level (µg/m³)	
No Obse	rved Smoking								_	749,	
1	Westem *	881	52	0.0	0.00	33	51	0.0	0.00	28	
2	Westem *	383	5	0,0	0.00	· 4	5	0.0	0.00	6	
3	Westem [†]	1308	47	0,0	0.00	30	51	0.0	0.00	33	
4	Western *	794	15	0,0	0.00	15	12	0.0	0.00	10	
5	Topeka	314	42	0.0	0.00	5	20	0.0	0.00	4	
6	Pittsburg	1408	24	0.0	0.00	3	16	0.0	0.00	9	
7	Pittsburg	96	14	0.0	0.00	5	11	0.0	0.00	10	
8	Emporia	3154	73	0.0	0.00	5	11	0.0	0.00	6	
9	Wichita	510	28	0.0	0.00	9	16	0,0	0.00	4	
10	Wichita	1654	51	0.0	0.00	18	51	0.0	0.00	10	
11	Kansas City	919	22	0.0	0.00	5	27	0.0	0.00	6	
12	Kansas City	892	35	0,0	0.00	7	43	0,0	0.00	5	
Average		1026	34	0.0	0.00	12	26	0.0	0.00	11	
Smoking	Observed							-			
13	Western *	2039	9	2,0	0.10	115	3	0,0	0.00	3	
14	Western *	489	11	6.0	1.23	136	19	0,0	0.00	14	
15	Western *	766	13	2.0	0.26	250	25	0.0	0.00	12	
16	Topeka	856	66	2.0	0.23	151	77	0.0	0.00	29	
17	Topeka	713	37	2.0	0.28	155	63	0.0	0.00	4	
18	Topeka	877	31	5.0	0.57	156	26	0,0	0.00	12	
19	Topeka	401	49	5.0	1.25	1039	39	0.0	0.00	150	
20	Pittsburg	297	10	1.0	0.34	181	21	0.0	0.00	9	
21	Pittsburg	233	39	1.0	0.43	58	23	0.0	0.00	6	
22	Pittsburg	339	11	3.0	0.88	438	7	0,0	0.00	4	
23	Pittsburg	1712	25	20	0,12	278	25	0.0	0.00	17	
24	Pittsburg	565	63	3.0	0.53	442	73	0.0	0.00	5	
25	Pittsburg	505	17	1.0	0.20	476	26	0.0	0.00	21	
26	Pittsburg	1269	17	1.0	0.08	163	56	0.0	0.00	10	
27	Emporia	2022	133	2,0	0.10	23	45	0.0	0.00	13	
28	Emporia	400	36	6.0	1.50	753	12	0.0	0.00	7	
29	Emporia	1076	26	5.0	0.46	348	22	0.0	0.00	6	
30	Emporia	412	27	3.0	0,73	177	28	0.0	0.00	9	
31	Wichita	726	25	5.0	0.69	55	23	0.0	0.00	9	
32	Wichita	1752	31	7.0	0.40	93	27	0.0	0.00	4	
33	Wichita	1439	34	9.0	0.63	308	27	0.0	0.00	4	
34	Kansas City	2219	84	8.0	0.36	123	85	0.0	0.00	8	
35	Kansas City	1694	13	2.0	0.12	28	62	0.0	0.00	12	
36	Kansas City	2159	27	2.0	0.09	124	54	0.0	0.00	11	
Average		1040	35	3.5	0.48	253	36	0.0	0.00	16	

^{*}Average number of burning cigarettes per 100 cubic meters.

The real-time plots showing the level of indoor air pollution in each venue sampled is presented in Figures 2-7, starting on page 11. The continuous $PM_{2.5}$ plots reveal the following results: 1) low outdoor $PM_{2.5}$ levels are observed while outside between locations; 2) high levels of indoor air pollution are observed in the venues where smoking was observed before the law went into effect; and 3) peak exposure levels in some venues where smoking was observed reached levels far in excess of the average recorded level in those venues.

[†] Western Kansas consists of Great Bend and Liberal Counties

DISCUSSION

The EPA cited over 80 epidemiologic studies in creating a particulate air pollution standard in 1997.[11] The EPA has recently updated this standard and, in order to protect the public health, the EPA has set limits of 15 μ g/m³ as the average annual level of PM_{2.5} exposure and 35 μ g/m³ for 24-hour exposure.[11] In order to compare the findings in this study with the annual EPA PM_{2.5} exposure standard, it was assumed that a full-time employee in the locations sampled that allow smoking works 8 hours, 250 days a year, is exposed to 253 μ g/m³ (the average level in the sites with smoking before the law) on the job, and is exposed only to background particle levels of 10 μ g/m³ during non-work times. For a full-time employee their average annual PM_{2.5} exposure is 66 μ g/m³. The EPA average annual PM_{2.5} limit is exceeded by 4.4 times due to their occupational exposure. Based on the latest scientific evidence, the EPA staff currently proposes even lower PM_{2.5} standards to adequately protect the public health,[12] making the high PM_{2.5} exposures of people in smoking environments even more alarming.

Previous studies have evaluated air quality by measuring the change in levels of respirable suspended particles (RSP) between smokefree venues and those that permit smoking. Ott et al. did a study of a single tavern in California and showed an 82% average decrease in RSP levels after smoking was prohibited by a city ordinance.[13] Repace studied 8 hospitality venues, including one casino, in Delaware before and after a statewide prohibition of smoking in these types of venues and found that about 90% of the fine particle pollution could be attributed to tobacco smoke.[14] Similarly, in a study of 22 hospitality venues in Western New York, Travers et al. found a 90% reduction in RSP levels in bars and restaurants, an 84% reduction in large recreation venues such as bingo halls and bowling alleys, and a 58% reduction even in locations where only secondhand smoke from an adjacent room was observed at baseline.[15] A cross-sectional study of 53 hospitality venues in 7 major cities across the U.S. showed 82% less indoor air pollution in the locations subject to smokefree air laws, even though compliance with the laws was less than 100%.[16]

Other studies have directly assessed the effects SHS exposure has on human health. Rapid improvements in the respiratory health of bartenders were seen after a state smokefree workplace law was implemented in California[17]. Smokefree legislation in Scotland was associated with significant early improvements in symptoms, lung function, and systemic inflammation of all bar workers, while asthmatic bar workers also showed reduced airway inflammation and improved quality of life.[18] Farrelly et al. also showed a significant decrease in both salivary cotinine concentrations and sensory symptoms in hospitality workers after New York State's smokefree law prohibited smoking in their worksites.[19] A meta-analysis of the 8 published studies looking at the effects of smokefree air policies on heart attack admissions yielded an estimate of an immediate 19% reduction in heart attack admissions associated with these laws.[20] In its 2009 report, Secondhand Smoke Exposure and Cardiovascular Effects: Making Sense of the Evidence, the Institute of Medicine also concludes that secondhand-smoke exposure increases the risk of coronary heart disease and heart attacks and that clean indoor air laws reduce this risk. Given the prevalence of heart attacks, and the resultant deaths, clean indoor air laws can have a substantial impact on public health.[21]

The effects of passive smoking on the cardiovascular system in terms of increased platelet aggregation, endothelial dysfunction, increased arterial stiffness, increased atherosclerosis, increased oxidative stress and decreased antioxidant defense, inflammation, decreased energy production in the heart muscle, and a decrease in the parasympathetic output to the heart, are often nearly as large (averaging 80% to 90%) as chronic active smoking. Even brief exposures to SHS, of minutes to hours, are associated with many of these cardiovascular effects. The effects of secondhand smoke are substantial and rapid, explaining the relatively large health risks associated with secondhand smoke exposure that have been reported in epidemiological studies.[22]

The hazardous health effects of exposure to second-hand smoke are now well-documented and established in various independent research studies and numerous international reports. The body of scientific evidence is overwhelming: there is no doubt within the international scientific community that second-hand smoke causes heart disease, lung cancer, nasal sinus cancer, sudden infant death syndrome (SIDS), asthma and middle ear infections in children and various other respiratory illnesses. There is also evidence suggesting second-hand smoke exposure is also causally associated with stroke, low birth weight, spontaneous abortion, negative effects on the development of cognition and behavior, exacerbation of cystic fibrosis, cervical cancer and breast cancer. The health effects of secondhand smoke exposure are detailed in reports by the California Environmental Protection Agency[23] and the U.S. Surgeon General[24, 25].

CONCLUSIONS

This study demonstrates that employees and patrons in Kansas bars and restaurants with observed indoor smoking, prior to the smoke-free air law, were exposed to harmful levels of indoor air pollution resulting from indoor smoking. The Kansas state smoke-free air law passed on February 25th, 2010, that currently prohibits indoor smoking in most public places, places of employment, restaurants, bars and within 10 feet of any doorway, open window or air intake where smoking is prohibited has been shown to decrease exposure to toxic tobacco smoke pollution by 94%. This reduction in exposure to toxic tobacco smoke will result in improved quality of life and health outcomes for Kansas workers and residents.

ACKNOWLEDGMENTS

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Support for Roswell Park Cancer Institute researchers was provided by the Flight Attendant Medical Research Institute.

Roswell Park Cancer Institute (RPCI) is America's first cancer center founded in 1898 by Dr. Roswell Park. RPCI is the only upstate New York facility to hold the National Cancer Center designation of "comprehensive cancer center" and to serve as a member of the prestigious National Comprehensive Cancer Network.

Over its long history, Roswell Park Cancer Institute has made fundamental contributions to reducing the cancer burden and has successfully maintained an exemplary leadership role in setting the national standards for cancer care, research and education.

The campus spans 25 acres in downtown Buffalo and consists of 15 buildings with about one million square feet of space. A new hospital building, completed in 1998, houses a comprehensive diagnostic and treatment center. In addition, the Institute built a new medical research complex and renovated existing education and research space to support its future growth and expansion.

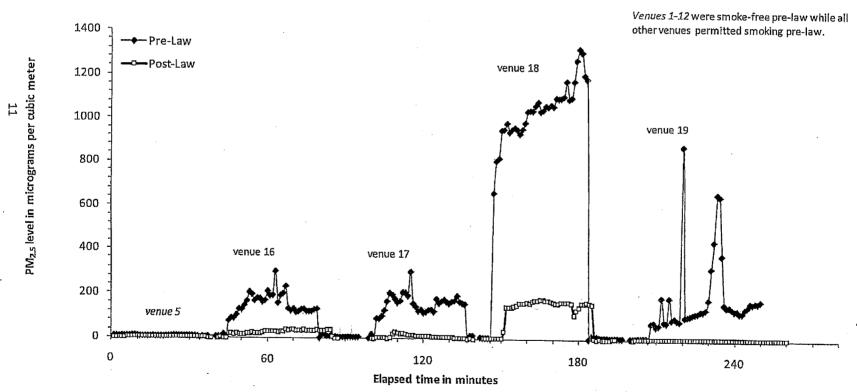
For more information about Roswell Park and cancer in general, please contact the Cancer Call Center at 1-877-ASK-RPCI (1-877-275-7724).





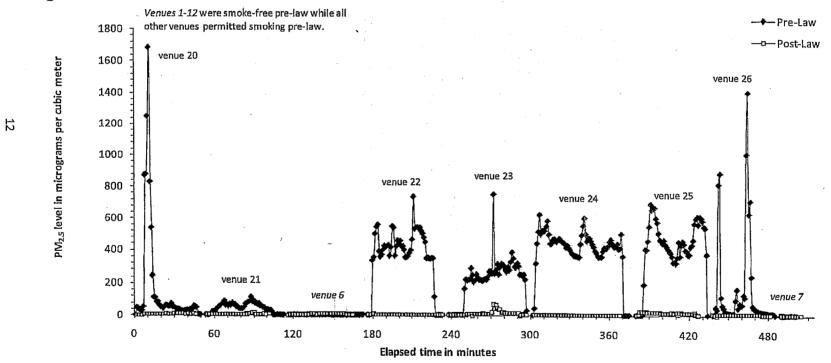
Topeka, Kansas Air Monitoring Study August 2009, October 2010

Figure 2

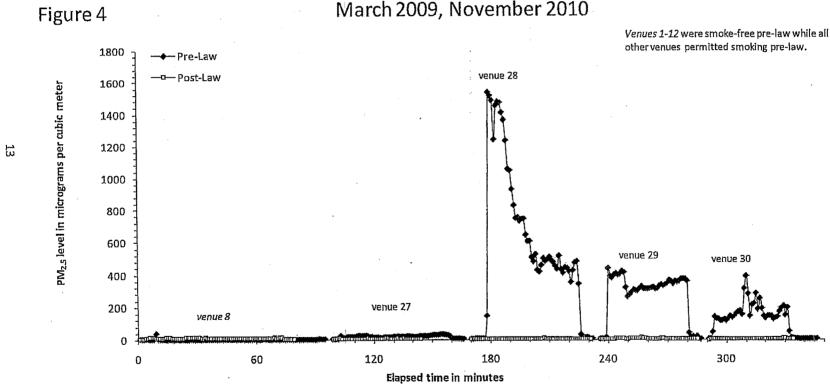


Pittsburg, Kansas Air Monitoring Study October 2009, November 2010



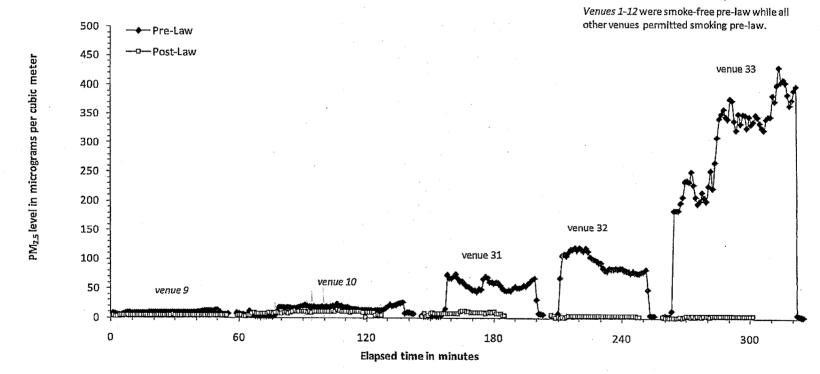


Emporia, Kansas Air Monitoring Study March 2009, November 2010

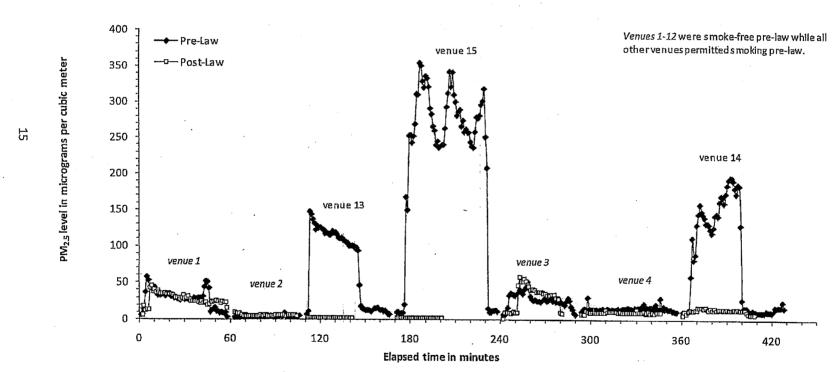


Wichita, Kansas Air Monitoring Study June 2010, October 2010





Western*, Kansas Air Monitoring Study June 2010, October - December 2010

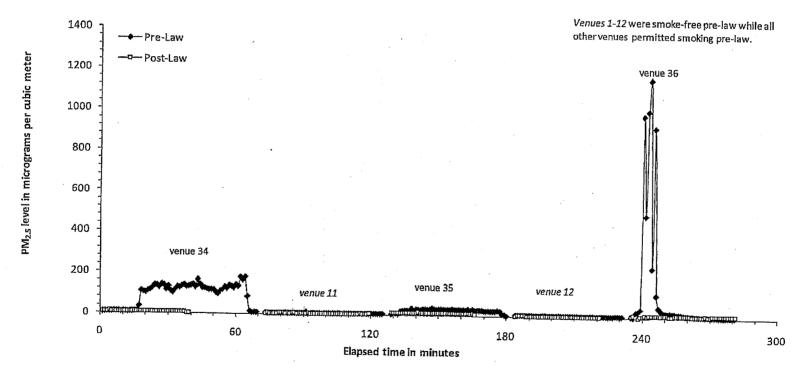


^{*} Western Kansas consists of Great Bend and Liberal communities

Figure 6

Figure 7

Kansas City, Kansas Air Monitoring Study January 2010, September 2010



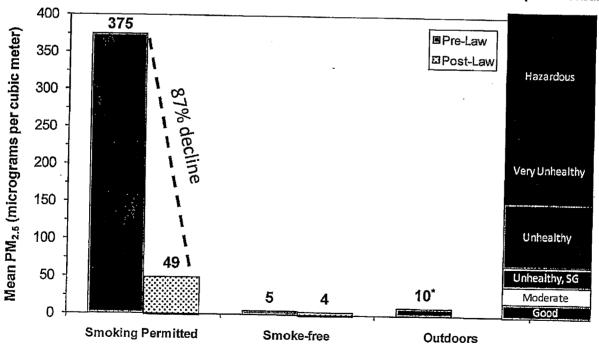
TOPEKA

Table 1. Fine Particle Air Pollution in Topeka Kansas Bars and Restaurants

				Pre-	Law			Post	-Law	
Venu Numb	er City	Size (m³)	Average #people	Average # burning cigs	Active smoker density*	Average PM _{2.5} level (µg/m³)	Average #people	# puming	Active smoker density*	Average PM _{2.5} level
No Obs	erved Smo	king				(1-3)				(µg/m³)
5	Topeka	314	42	0.0	0.00	5	20	0.0	0.00	
Averag	e	314	42	0.0	0.00	5	20		0.00	4
Smokin	g Observe	d					2.0	0,0	0.00	4
16	Topeka	856	66	2.0	0.23	151	77	0.0	0.00	20
17	Topeka	713	37	2.0	0.28	155	63	0.0		29
18	Topeka	877	31	5.0	0.57	156			0.00	4
19	Topeka	401	49	5.0	1.25	_	26	0.0	0.00	12
Averag		712				1039	39	0.0	0.00	150
			46	3.5	0.58	375	51	0.0	0.00	49

^{*}Average number of burning cigarettes per 100 cubic meters.

Figure 8. Effect of Kansas State Smoke-free Air Law on Indoor Air Pollution in Topeka Kansas



Used for comparison purposes. Based on the 2008 average PM_{2.5} level from the EPA monitoring site in Kansas (http://www.epa.gov/air/data/). The color-coded EPA Air Quality Index is also shown to demonstrate the magnitude of the measured particle levels

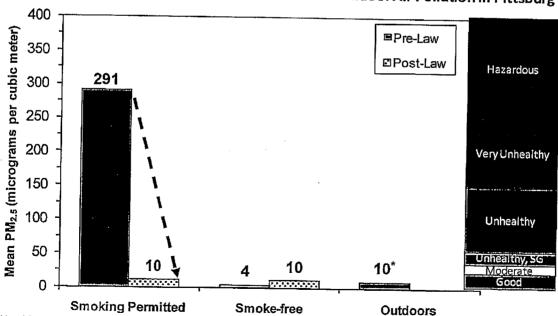
PITTSBURG

Table 3. Fine Particle Air Pollution in Pittsburg Kansas Bars and Restaurants

				Pre-	Law			Post	-Law	
Venue Numbe	er City	Size (m³)	Average# people	Average# burning cigs	Active smoker density*	Average PM25 level (µg/m³)	Average# people			Average PM25 level (µg/m³)
No Obse	erved Smoki	ng				·	·			(F3)
6 7	Pittsburg	1408	24	0,0	0.00	3	16	0.0	0.00	9
<u> </u>	Pittsburg	96	14	0.0	0,00	5	11	0.0	0.00	10
Average		752	19	0.0	0.00	4	14	0.0	0.00	10
Smoking	Observed									
20	Pittsburg	297	10	1.0	0.34	181	21	0,0	0.00	9
21	Pittsburg	233	39	1.0	0.43	58	23	0.0	0.00	6
22	Pittsburg	339	11	3.0	0.88	438	7	0.0	0.00	4
23	Pittsburg	1712	25	2.0	0.12	278	25	0.0	0.00	-
24	Pittsburg	565	63	3.0	0.53	442	73			17
25	Pittsburg	505	17	1.0	0.20	476		0.0	0.00	5
26	Pittsburg	1269	17	1.0	0.08	163	26	0.0	0.00	21
Average		703	26	1.7			56	0.0	0.00	10
	numbar af h		20	1.7	0.37	291	33	0.0	0.00	10

^{*}Average number of burning cigarettes per 100 cubic meters.

Figure 9. Effect of Kansas State Smoke-free Air Law on Indoor Air Pollution in Pittsburg Kansas



Used for comparison purposes. Based on the 2008 average PM_{2.5} level from the EPA monitoring site in Kansas (http://www.epa.gov/air/data/). The color-coded EPA Air Quality Index is also shown to demonstrate the magnitude of the measured particle levels

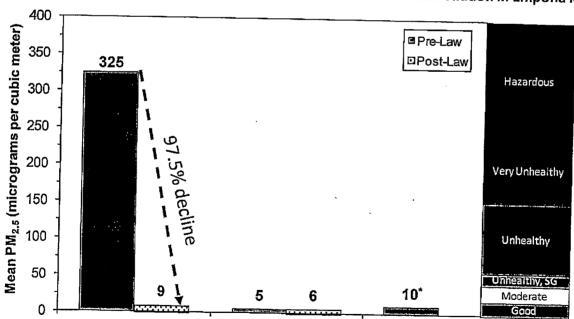
EMPORIA

Table 4. Fine Particle Air Pollution in Emporia Kansas Bars and Restaurants

				Pre-	Law			Post	-Law	
Venue Numbe	r City	Size (m³)	Average# people	Average# burning cigs	Active smoker density*	Average PM25 level (µg/m³)	Average#	Arranaaa	Active smoker density*	Average PM2.s level (µg/m³)
No Obse	rved Smoki	ng								(19/11/)
8	Emporia	3154	73	0.0	0.00	5	11			
Average	;	3154	73	0.0	0.00	5		0.0	0.00	6
Smoking	Observed						11	0.0	0.00	6
27	Emporia	2022	133	2.0	0.10	23	45	0.0	0.00	
28	Emporia	400	36	6.0	1.50	753	12		0,00	13
29	Emporia	1076	26	5.0	0.46	348		0.0	0.00	7
30	Emporia	412	27	3,0			22	0.0	0.00	6
Average		978			0.73	177	28	0.0	0.00	9
		370	56	4.0	0.70	325	27 -	0.0	0.00	9

^{*}Average number of burning cigarettes per 100 cubic meters.

Figure 10. Effect of Kansas State Smoke-free Air Law on Indoor Air Pollution in Emporia Kansas



Smoking Permitted Smoke-free Outdoors
Used for comparison purposes. Based on the 2008 average PM_{2.5} level from the EPA monitoring site in
Kansas (http://www.epa.gov/air/data/). The color-coded EPA Air Quality Index is also shown to demonstrate the magnitude of the measured particle levels

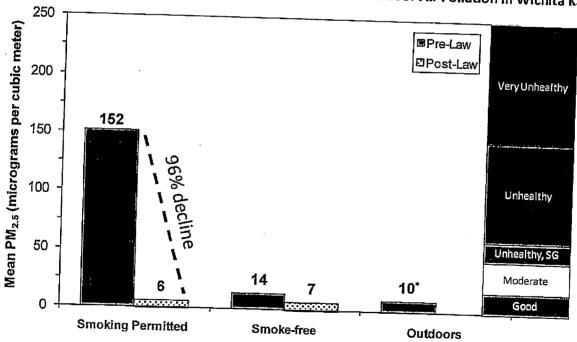
WICHITA

Table 5. Fine Particle Air Pollution in Wichita Kansas Bars and Restaurants

					- TTODEMUI	unus				
			·	Pre-	Law			Post	-Law	
Venue Numbe	er City	Size (m³)	Average# people	Average# burning cigs	Active smoker density*	Average PM2.s level (μg/m³)	Average# people	A.c	Active smoker density*	Average PM2.5 level
9	Wichita	510	28	0.0	0,00	9				(µg/m³)
10	Wichita	1654	51	0.0	0.00	_	16	0.0	0.00	4
Average	9	1082	40	8.0		18	51	0.0	0.00	10
Smoking	Observed			0.0	0.00	14	34	0.0	0.00	7
31	Wichita	726	25	5.0	0,69	55				
32	Wichita	1752	31	7.0	0.40	93	23	0.0	0.00	9
33	Wichita	1439	34	9.0	0.63		27	0.0	0.00	4
Average		1306	30			308	27	0.0	0.00	4
*Average	number of h	Urning piggmetter	30	7.0	0.57	152 ~	26	0.0	0.00	

^{*}Average number of burning cigarettes per 100 cubic meters.

Figure 11. Effect of Kansas State Smoke-free Air Law on Indoor Air Pollution in Wichita Kansas



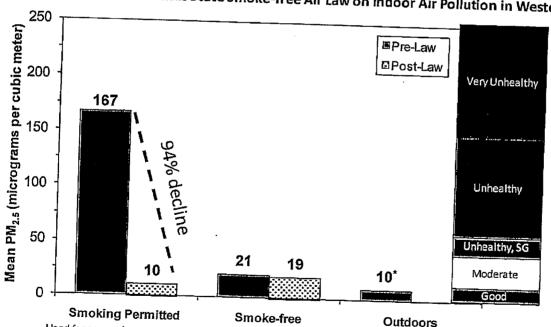
Used for comparison purposes. Based on the 2008 average PM2.s level from the EPA monitoring site in Kansas (http://www.epa.gov/air/data/). The color-coded EPA Air Quality Index is also shown to demonstrate the magnitude of the measured particle levels

WESTERN KANSAS (LIBERAL AND GREAT BEND)

Table 6. Fine Particle Air Pollution in Western Kansas Bars and Restaurants

				Pre-	Law			Post	Law	
Venue Numbe		Size (m³)	Average# people	Average# burning cigs	Active smoker density*	Average PM25 level (µg/m³)	Average # people	Average# burning	Active smoker density*	Average PM25 level (µg/m³)
1	Western 1	881	52							
2	Western *	383		0.0	0.00	33	51	0.0	0.00	28
3	Western †	1308	5	0.0	0.00	4	5	0.0	0.00	6
4			47	0,0	0.00	30	51	0,0	0.00	
	Western *	794	15	0.0	0.00	[′] 15	12			33
Average		842	30	0.0	0.00	21		0.0	0.00	10
moking	Observed						30	0.0	0.00	19
13	Western *	2039	. 9	2.0	0.10	440				
14	Western	489	11	6.0		115	3	0.0	0.00	3
15	Western	766	13		1.23	136	19	0.0	0.00	14
verage		1098		2.0	0.26	250	25	0.0	0.00	12
			11 per 100 cubic met	3.3	0.53	167	16	0.0	0.00	10

Figure 12. Effect of Kansas State Smoke-free Air Law on Indoor Air Pollution in Western Kansas



Used for comparison purposes. Based on the 2008 average PM2.5 level from the EPA monitoring site in Kansas (http://www.epa.gov/air/data/). The color-coded EPAAir Quality Index is also shown to demonstrate the magnitude of the measured particle levels

[†] Western Kansas consists of Great Bend and Liberal Counties

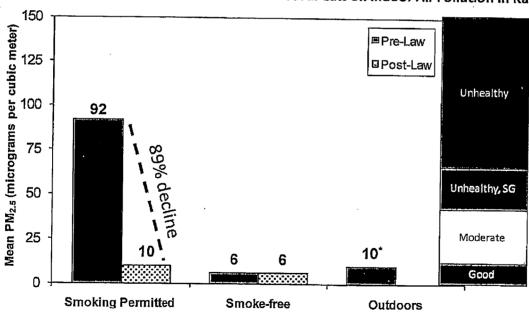
KANSAS CITY

Table 7. Fine Particle Air Pollution in Kansas City Kansas Bars and Restaurants

t-Law	
smoker	Average PM _{2.5} level (µg/m ³)
	(Pg/II)
0.00	6
0.00	5
0.00	- 5
0.00	
0.00	
0.00	8
0.00	12
	11

^{*}Average number of burning cigarettes per 100 cubic meters.

Figure 13. Effect of Kansas State Smoke-free Air Law on Indoor Air Pollution in Kansas City Kansas



Used for comparison purposes. Based on the 2008 average $PM_{2.5}$ level from the EPA monitoring site in Kansas (http://www.epa.gov/air/data/). The color-coded EPA Air Quality Index is also shown to demonstrate the magnitude of the measured particle levels

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MEMORANDUM

TO:

INTERESTED PARTIES

FROM:

GLEN BOLGER

RE:

KANSAS STATEWIDE SURVEY KEY FINDINGS

DATE:

JANUARY 24, 2011

Key Findings

1. Voters strongly favor the state's recently passed smoke-free law.

Voters overwhelmingly favor the new smoke-free law. Fully 77% of voters say they favor the law with well over half (62%) saying they strongly favor it. Just 21% oppose the law.

Support is strong across party lines, in each of the state's major media markets, and with Tea Party supporters. Even a majority of smokers support the law.

	Total Favor	Total Oppose
Overall	77%	21%
Republicans (46%)	77%	21%
Independents (20%)	69%	30%
Democrats (29%)	85%	13%
Kansas City DMA (37%)	81%	18%
Topeka DMA (16%)	80%	17%
Wichita DMA (40%)	75%	22%
Fav Image of Tea Party (31%)	65%	32%
Smokers (18%)	54%	44%
Non-Smokers (81%)	82%	16%

Turning Questions Into Answers.

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2. Support for the law is driven by voters' belief in the importance of smoke-free workplaces and the dangers of secondhand smoke.

Fully 85% of voters say that having a smoke-free environment inside workplaces, including restaurants and bars, is important. Two-thirds (67%) say it is very important and just 14% say it is not important.

A similar number (84%) of voters view exposure to secondhand smoke as a health hazard. A significant majority (60%) say it is a serious health hazard, and just 15% say it is not a health hazard.

In both cases, even a large percentage of smokers agree that a smoke-free work environment is important (69% important/30% not important) and that secondhand smoke is a health hazard (73% health hazard/25% not health hazard).

3. Voters say going to bars and restaurants is more enjoyable since the smoke-free law was passed.

A significant majority (60%) of voters say that going to bars and restaurants is more enjoyable since the law passed and half (50%) say it is much more enjoyable. Only 5% say going out is less enjoyable, and 34% say it has made no difference to them.

4. There is no support for repealing the smoke-free law.

When asked if they would be more or less likely to support a candidate who wanted to repeal the smoke-free law, only 19% said they would be more likely to support the candidate, while 59% said they would be less likely. A majority of Republicans (17% more likely/61% less likely) and Democrats (19% more likely/67% less likely) would be less likely to support a candidate who backs repeal of the smoke-free law.

The Bottom Line

Kansas voters strongly support the state's smoke-free law. Voters appreciate that the law creates smoke-free workplaces and like that it protects them from exposure to secondhand smoke. As a result, voters say it is now more enjoyable to go to bars and restaurants than it was before the law was passed. From a political standpoint, there is nothing to be gained (and plenty to be lost) from supporting the repeal of a law that voters overwhelmingly support.

Methodology

Public Opinion Strategies is pleased to present the key findings from a survey of 500 likely voters in Kansas. The survey was conducted January 11-12, 2011 and has a margin of error of +4.38% in 95 out of 100 cases.

My name is Jace Smith, and I'm writing you as a concerned citizen of Kansas City, KS. I would like to share with you my story, and why I want to see our state keep the current clean indoor air law, without any major exemptions, for all places of employment.

While attending Emporia State University, like many students, I had to work to cover my college tuition and expenses. After applying at several places, I was able to find employment with a local bar. My schedule varied, but usually I worked 3 nights a week.

After working there for two months, I noticed a change in my health. When I would come home from working a shift, my eyes would be blood shot, and my clothes would smell like smoke. From the beginning I knew I was working in an unhealthy environment, but really I didn't care, because I was making money, and was thankful to have a job. Then one night after work, as I was getting ready for bed, I suddenly had trouble breathing. My throat was felt tight, and I began to wheeze. I couldn't catch my breath. After a trip to the emergency room, I found out that I had suffered an asthma attack.

I have asthma to this day. There is no cure for adult asthma. I take medication to control my symptoms, and try my best to avoid any possible triggers, like secondhand smoke. I'm writing this to speak up for restaurant and bar workers who have to make a living in these toxic environments. No restaurant worker should have to risk their health in order to earn a paycheck.

Today, over 20 million Americans are living with asthma, and are forced to avoid public places that allow smoking. Think of the increased revenue businesses would see if smoking was prohibited in all public places.

My family and I enjoy frequenting the Legends Restaurant District in Kansas City, KS. We really enjoy the smoke-free atmosphere. Before the state smoke-free law was passed, my family and I would make the 15-20 minute drive to Overland Park, KS, where they had implemented a strong, comprehensive smoke-free law. I'm happy to be able to stay close to home now.

In closing, I leave you with this: Secondhand smoke is a health hazard. I'm proof of that. I am against HB 2340, and ask that you vote NO on this bill. Please keep the current smoke-free law as is! Thank you for your time.

Jace Smith
1503 Delaware Ridge Place
Kansas City, KS 66109
E-mail- smithjace@hotmail.com

Health & Human Services
Date: 3-16-11
Attachment: 2-3



American Heart | American Stroke Association. | Association.

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Testimony In Opposition to HB 2340

Thank you for the opportunity to submit testimony in opposition to HB 2340. Cigarette smoking remains the leading cause of preventable morbidity and premature death in the United States.¹

- Each year, approximately 443,000 persons in the U.S. die prematurely as a result of smoking or exposure to secondhand smoke.2
- Second hand smoke is a carcinogen to children and adults who do not smoke.3
- Second hand-smoke produces immediate adverse effects on heart function, blood platelets, inflammation, endothelial function and the vascular system.4

The American Heart Association has long advocated for strong public health measures that will reduce the use of tobacco products in the United States and limit exposure to secondhand smoke.

The AHA maintains that smoke free laws should be comprehensive and should apply to all workplaces and public environments, that there should be no preemption of local ordinances, and no exemptions for hardship, opting out, or ventilation. HB 2340 turns the clock backwards on progress that was made last year when the Kansas Legislature enacted the Kansas Indoor Clean Air Act and by doing so, joining the majority of other states in passing a comprehensive law regulating smoking in public places.

The health effects of smoking and exposure to second hand smoke are not debatable. Furthermore, we know that Kansans support the new law in record numbers. A statewide poll conducted in January of this year by nationally recognized polling firm Public Opinion Strategies found that 77% of Kansas voters support the current smoke free law and don't want to see it changed. The poll also found:

- 84% view exposure to second hand smoke as a health hazard
- More than 2/3rds of voters in each of the state's media markets favor the law
- Support for the new law is even stronger than when a similar poll was conducted prior to the law being enacted last year.
- Even 54% of smokers said they liked the law.

Health & Human Services Date: 3-16-11

Attachment: フチ

Chairman of the Board William H. Roach Jr., Esq.

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Chicago, Illinois President

There is no doubt that law enacted last year by the legislature was popular with Kansans and the level of support continues to grow. The American Heart Association urges the House Health and Human Services Committee to reject this and all attempts to scale back or repeal the current clean indoor air law.

Respectfully Submitted,

Oprin 11. Welker

Kevin M. Walker

Regional Vice President of Advocacy

American Heart Association

16 March 2011

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March 14, 2011

RE: Opposition to HB 2340

Dear Members of the Kansas Legislature Health and Human Services Committee,

As a member of the Emporia Clean Air Ordinance committee, we worked hard at the local level to enact a smoke free ordinance. When the state law passed, we were even more thrilled that the whole state would now have a comprehensive smoke free law, and that all Kansans would enjoy clean air, too.

Since the passage of the Emporia and Kansas smoke free laws, we have heard from many Emporians how much they appreciate being able to go into a bar or restaurant and enjoy the smoke free atmosphere. I have even spoken personally to a local bar/grill restaurant owner, who was originally against the smoke free ordinance. Now two years later, he does not feel the ordinance has hurt his business. He stated that some of his smoking customers do not stay as long as they used to, and therefore don't eat and drink as much. However, he has gained many new customers, who would not come in before the smoke free ordinance. Some of them were families with children, some adults just didn't like the smoke, and some of them were coaches who wanted to bring in their athletic teams after a big game, but didn't want their team exposed to the second hand smoke. His new business has by far made up for the lost business.

Changing the law will mean that Kansas has taken a step backwards on this important public health issue. The people of Kansas have spoken, and the majority of Kansans (77%) are very pleased with our clean indoor air law. Please don't bend to the pressure of a minority of Kansans who are still smokers (20%) and want to return to their old ways. Public health interests should always trump business owner's rights or personal preferences.

Sincerely,

Margi Grimwood

2440 Westview Terr.

Emporia, KS 66801

Health & Human Services
Date: 3-/6-//
Attachment: 25

"Advocating for Quality Long-Term Care" since 1975

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March 16, 2010

The Honorable Brenda Landwehr, Chair House Health and Human Services Committee

HB 2340 -Health and Human Services Committee Smoking Ban

Kansas Advocates for Better Care (KABC) is a not for profit organization which works to improve the quality of long-term care available in Kansas. We are submitting testimony today in opposition to HB 2340.

KABC is in support of the Clean Indoor Air Act that passed in the 2010 Kansas Legislature and was signed into law by the Governor. KABC opposes the expansion in HB 2340 to sites that would currently and in the future be able to allow smoking. KABC supports the provisions of the existing law that guards the health and welfare of Kansans outside of residential settings.

KABC opposes expanding smoking exemptions for businesses selling lottery tickets, either now or that would apply as a lottery sales site in the future. Such a step would reduce the quality of health for persons employed at those businesses and Kansans who do business in them. This bill would contribute to the rising tide of health care costs attributable to secondhand smoke and to the suffering that accompanies exposure to secondhand smoke.

Thank you,

fity & mex Etnich

On behalf of the Board of Directors and Members

913 Tennessee Suite 2 Lawrence, Ka phone: 785.842.3088 fax: 785.749.0029 toll-free: 800.525.1782

Health & Human Services
Date: 3-16-11
Attachment: 26

Testimony in Opposition to HB 2340 (written only)

American Lung Association

Tracy Russell

March 16, 2011

Madam Chairperson and Members of the House Health and Human Services Committee:

The American Lung Association opposes HB 2340 as a significant erosion of the clean indoor air law that was approved last year. The proposed legislation grants an exemption to the smoke-free policy for bars that have lottery licenses. This proposal is more than just a weakening of the law, it is a virtual repeal of the clean indoor air law. Bars, as defined in current law, are "any indoor area that is operated and licensed for the sale and service of alcoholic beverages, including alcoholic liquor...as defined for onpremises consumption." Under this broad definition, bars could be restaurants, bowling alleys, bingo parlors and any other venue with a liquor license. Such a sweeping exemption essentially nullifies existing law.

Allowing such a broad exemption also creates a patchwork of laws across the state. Current law allows local ordinances to be more restrictive than the state law. Most local ordinances enacted prior to the law did not have a bar exemption. Reverting back to local ordinances eliminates the uniformity of application that business owners favored. If adopted, HB 2340 could result in one standard being applied in a city with a more restrictive ordinance and the county applying the law with this broad exemption.

The Kansas Clean Indoor Air law has been in effect for less than one year. Yet, an overwhelming majority of Kansans support the law and accept it as a settled issue. According to a January 2011 poll conducted by Public Opinion Strategies, 77% of Kansans support the new law. This surpasses the 71% who supported the policy prior to enactment by the legislature. A majority expressed the opinion that going to restaurants and bars is more enjoyable since passage of the law. More importantly, 84% of those polled believe that secondhand smoke is harmful health hazard. A majority of 75% also support the right of workers to work in a smoke-free environment over the rights of smokers and business owners.

Health & Human Services
Date: 3-16-11

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In addition to current law being favored by Kansans, there has already been a demonstrable environmental impact. In an air quality study commissioned by the Tobacco Free Kansas Coalition and conducted by air quality expert Dr. Mark Travers of the Roswell Park Cancer Institute, there has been a significant reduction in indoor air particle pollution since the law took effect in July. In a study of six Kansas communities, Dr. Travers measured a 94% decrease in air particle pollution. Prior to enactment of the law, Kansas workers were exposed to 4.4 times the air particle pollution deemed safe by the Environmental Protection Agency. Since the law went into effect, 97% of the bars and restaurants tested measured good or moderate on air quality. (Effect of the Kansas Indoor Clean Air Law, 2011).

The American Lung Association joins a majority of Kansans in supporting the Kansas Clean Indoor Air Act as a public health initiative that protects Kansans from the impact of secondhand smoke. I urge your rejection of HB 2340. Thank you for your consideration.

Testimony in Opposition to HB 2340 Abby Brungardt

Being able to walk into a restaurant and not having to smell the smoke is great. Knowing that my kids will not have to deal with second hand smoke and possible come down with asthma or even cancer. Growing up in a family that had two parents that smoke drove me nuts, just smelling like smoke and watching them waste away due to the smoking. Both of my parents quit smoking 15 years ago which is awesome and love not seeing them waste away anymore.

In March of 2010 I lost my mother to lung cancer, that has been the hardest thing to deal with and I am here today to make a change and help others to understand the importance of staying healthy. My job is to be a role model to my kids and others and it would be in the best interest to others that this law stays in affect. I have dedicated myself to help others along with raise money to help fight lung disease. Do we want the statistics to go up or do we want them to go? Just something to think about how important everyone's own health is including you and your family.

Abby Brungardt Wichita, KS

Health & Human Services
Date: 3-16-11
Attachment: 28

Date: March 16, 2011

To: Madam Chair and Members of the Committee

From: Caressa Potter -- Asthmatic and behalf of an asthmatic sibling and a father with Cardiac

issues.

Re: HB 2340

Dear Madam and Members of the Committee.

I ask that you consider no changes in the State wide smoking ban. Myself as an asthmatic, a brother with severe asthma who has had many hospitals stays, has had massive studies done at two specialty hospitals including KUMC and National Jewish Center for Immunology and Respiratory in Denver, and a Father with severe Cardiac problems who has a artificial valve, a pacemaker, has had numerous cardio conversions, and an ablation this ban has been a wonderful thing for us.

We, as a family, have been able to go to many eating establishments and participate in more indoor activities without the worry of an asthmatic episode or a coughing episode leading into shortness of breath. Before the ban, we could not go to places that had smoking, because of the risk of having an asthmatic episode. In addition to the asthma, the second had smoking is harmful to my father, both whom need to have the cleanest air to breath. But no one needs to be exposed to second hand smoke.

According to most Kansans, 79% want to give the law, already in place, a chance to work. All establishments have already made the modifications for smokers. Why do we need to go make changes now when 77% Kansas has already accepted this law with 54% of them being smokers?

The following is an article written by <u>Blue Cross and Blue Shield of Kansas</u>: "A report released by the U.S. Surgeon General warns that secondhand smoke may be more dangerous than we realize. In fact, regular exposure to secondhand smoke increases the risk for cardiovascular disease and lung cancer in nonsmokers.

Working or living in an environment where there's smoking poses the greatest health risk. But experts now know that any amount of exposure may be harmful."

- o Sitting behind a smoker for three hours at a sporting event = 1 Cigarette
- Spending two hours in the non-smoking section of a restaurant= 1.5
 Cigarettes
- o Living with a pack-day smoker, 24 hours a day= 3 Cigarettes
- Working for 8 hours in a smoker-friendly office = 6
- Cigarettes Working an 8-hour shift in a restaurant with smoky bar= 16 cigarettes

Smoking, second hand smoking, and third hand smoking all have been proving to show severe health risks not only for individuals without Lung and Cardiac Diseases, but for

Health & Human Services
Date: 3-/6-11
Attachment: 2-9

those who do. I ask that you vote to keep the ban State wide, and to keep taking the next steps in protecting Kansans from these type of smokes.

Thank You,

Caressa Potter



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TO:

HOUSE HEALTH AND HUMAN SERVICES COMMITTEE

REPRESENTATIVE BRENDA K. LANDWEHR, CHAIR

FROM:

CHRISTOPHER J. MASONER,

AMERICAN CANCER SOCIETY

DATE:

MARCH 16, 2011

RE:

HB 2039 AND HB 2340

Representative Landwehr, Members of the Committee, thank you for the opportunity to provide written testimony today regarding the issue of clean indoor air in the State of Kansas.

The American Cancer Society has long supported a <u>strong</u> statewide smoke-free law to protect Kansans from the dangers of secondhand smoke. After many years of discussion and debate, the enactment of the Kansas Indoor Clean Air Act (HB2221) during the 2010 Session was a major public health victory for our State. Since the Act took effect, Kansans across the State have enjoyed protection from the harmful effects of secondhand smoke in the vast majority of workplaces. HB 2340, by allowing smoking to return to bars, restaurants, bowling alleys, and other licensed drinking establishments, would be a tremendous step backwards for the health of our State, and would be contrary to the wishes of an overwhelming majority of Kansas voters.

The key components of the Society's position are as follows:

- Secondhand Smoke Is A Public Health Hazard. When one person chooses to smoke a cigarette, they expose everyone around them to more than 7,000 chemicals contained in the smoke from their cigarette. Hundreds of these chemicals are hazardous, and at least 69 are known causes of cancer. Exposure to secondhand smoke can cause immediate consequences for non-smoking employees and patrons, such as heart attacks, asthma, and weakened immune systems, as well as long-term consequences like lung cancer.
- Hospitality Workers Deserve Protection From Secondhand Smoke. Prior to passage of the Indoor Clean Air Act, hospitality workers suffered most directly from harmful exposure to secondhand smoke. Unlike patrons who may have spent a couple of hours in a smoking establishment a couple of days each week, the employees in those establishments were exposed to secondhand smoke over the entire course of their shifts, day after day. As a typical example, we have attached a statement from Judy, a waitress at a Topeka bar and grill. After working in smoke-filled bars for many years, Judy developed health problems and visited her doctor. Her doctor's immediate advice was to quit smoking. When Judy told him she doesn't smoke, he told her to quit her job. Passage of the Indoor Clean Air Act

1



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means that Judy, and others like her, don't have to choose between their lives and their livelihoods. HB 2340 would once again force that terrible decision back onto Kansas hospitality workers.

- The Indoor Clean Air Act is Working. Of course, the most significant advantage from prohibiting smoking in enclosed public places is that it improves the quality of the air inhaled by employees and patrons. A recent study conducted of hospitality venues throughout Kansas proves that the air in those venues sampled after the effective date of the Act was 94% less polluted than samples taken prior to that date. The study indicates an improvement in air quality from "Hazardous" prior to the Act to "Good" or "Moderate" after the Act took effect. The cleaner air directly benefits hospitality employees and patrons.
- The Indoor Clean Air Act Enjoys Broad Support. Prior to passage of the Indoor Clean Air Act, polls showed that 71% of Kansas voters wanted the Legislature to pass a comprehensive smoke-free law. A new poll taken in January, 2011—six months after the Act took effect—shows that the level of support for the Act has risen to 77%. This support remains high across party lines (Republican, Democrat, Independent) and political ideology (Conservative, Moderate, Liberal). The mandate expressed by the voters in the 2010 elections does not include repeal or weakening of the Indoor Clean Air Act.
- Clean Air Policies Do Not Harm The Hospitality Industry. The Indoor Clean Air Act has not been in effect long enough to assess any overall economic impact in the State. However, a recent study of 10 years of economic data for larger Kansas and Missouri communities has shown no adverse economic impact on hospitality businesses as the result of local smoke-free laws. Furthermore, countless objective studies have been conducted in other areas to determine the economic impact, if any, of smoke-free policies on businesses. These studies have found, at worst, no impact on hospitality business resulting from the passage of smoke-free laws, and in many cases, even a slight improvement. For additional information and a compilation of many such studies, please see the following factsheet: Smoke-Free Laws Do Not Harm Business At Restaurants And Bars, Campaign for Tobacco Free Kids (http://www.tobaccofreekids.org/research/factsheets/pdf/0144.pdf).
- The So-Called "Casino Exemption". Much of the criticism surrounding the Indoor Clean Air Act has centered on the exemption that permits smoking on the gaming floors of certain casinos in Kansas. The American Cancer Society has never supported the casino exemption, or indeed any other exemption in the law, and we welcome genuine efforts to make the law stronger to provide greater protection for more workers. Taken as a whole, however, we believe the current Act provides very good protection for the vast majority of Kansans. HB 2340 would obliterate that protection.

For these reasons, we ask that you reject HB 2340 and any other attempts to weaken the Act.

I've worked in A DAR SINCE 1968, fourty to 55 HR'S PER WEEK. In 2010 I went to DR. Rockerfellers Office, had test And A check up HE SENT ME A LETTER it SAid, Indy you need to quit smoking now! I went to the Des office And told him I didn't Smoke. HE told mE to Quit my job, but the smoking DAN WERT IN ON DEC 4th, SO I didn't have to quit! I Like the No smoking, the bak is clean and smell's good. The way I feel about smoking is, I go Places And don't hurst Anyone's health. When they come in And Smoke, I'm there for 9 HRS I can't get Away from the Smoke. Thank you Sudy

Board of Directors

Bonnie Branson, RDH, PhD UMKC School of Dentistry

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Community Health Center of SEK

Marlou Wegener Blue Cross and Blue Shield of KS

Katherine Weno, DDS, JD KDHE, Bureau of Oral Health

Health and Human Services Committee March 16, 2011

Madam Chair and members of the Committee, thank you for the opportunity to testify about HB 2340 and HB 2039. My name is Tanya Dorf Brunner, and I am the Executive Director of Oral Health Kansas, Inc. We are the statewide advocacy organization dedicated to promoting the importance of lifelong dental health by shaping policy and educating the public so Kansans know that all mouths matter. We achieve our mission through advocacy, public awareness, and education. Oral Health Kansas has over 1,100 supporters, including dentists, dental hygienists, educators, safety net clinics, charitable foundations, and advocates for children, people with disabilities and older Kansans.

Oral Health Kansas stands in support of the current Kansas Clean Indoor Air Act.

The link between tobacco use and periodontal disease is strong. According to the American Academy of Periodontology, smokers are more likely to have calculus (hard plaque), deep pockets between the teeth and gums, and loss of the bone and tissue that support the teeth. Untreated, periodontal disease can lead to tooth loss. According to the Centers for Disease Control, over 40 percent of daily smokers over age 65 do not have teeth, while only 20 percent of nonsmokers are toothless.

A Centers for Disease Control study published in the Journal of Periodontology demonstrated the link between smoking and periodontitis. In the study Dr. Scott Tomar found that smokers are three to six times as likely as nonsmokers to have periodontitis. He said, "Cigarette smoking may well be the major preventable risk factor for periodontal disease. The good news is that quitting seems to gradually erase the harmful effects of tobacco sue on periodontal health."

According to the American Cancer Society, approximately 90 percent of people diagnosed with oral cancer are tobacco users. Again, smokers are six times as likely as nonsmokers to get oral cancer.

The Mayo Clinic's Nicotine Dependence Center has shown through studies that "de-normalizing smoking" through a smoking ban decreases the urge to smoke in many individuals and can help lead to successful quitting.

The health benefits of the smoking ban extend to the oral health of thousands of Kansans, and these benefits translate into savings in the state's health care system.

We urge the Committee to retain the Kansas Clean Indoor Air Act and continue protecting the oral health of Kansans everywhere. Thank you for the opportunity to provide this testimony.

800 SW Jackson, Suite 1120 Topeka, KS 66612

785.235.6039 (phone) 785.233.5564 (fax) ohks@oralhealthkansas.org

www.oralhealthkansas.org

Health & Human Services
Date: 3-/6-//
Attachment: 3/

Written Testimony in Opposition to HB 2340

House Health and Human Services Committee

3.16.2011

Presented by: Louie Riederer of Johnny's Tavern

Honorable Representative Landwehr and Members of the Committee,

I'm Louie Riederer of Overland Park, Kansas, an owner of Johnny's Tavern with six locations in Kansas City, Johnson County and two locations in Lawrence.

When Olathe, Kansas went smoke free back in 2006 I was very upset. At the time I was making over a one million dollar investment in building a new Johnny's Tavern at Ridgeview and K-7 highway and I thought the smoking ban would hurt my business tremendously.

After I opened the doors, I realized how good it was to be smoke free. We were just unbelievably successful there. Even the smokers liked the smoke free atmosphere.

That was a turning point for me. I saw for myself that going smoke free was a very positive step. I then supported the smoking ban and wanted it to be uniform across the state. With eight locations in different municipalities I believed the best course was to operate on a level playing field without varying regulations from town to town or exemptions that would make it difficult to compete with others in my industry.

I did experience some dips in revenue at some of my locations after smoking restrictions were put into place but after time, business transitioned, oftentimes even improving.

I just came to the conclusion that as a business owner, I needed to change with the times. The majority of my customers wanted smoke free hospitality. I was able to provide smoking in outdoor patio areas and that has contributed to more street life in some of the areas.

I am here today in opposition to HB 2340. This bill, if approved, would return us to the days of a confusing mix of smoking regulation and an unfair playing field in which to compete. The new law is working. My customers and staff like it. Give it a chance to work before trying to change it.

Health & Human Services

Date: 3-16-11
Attachment: 38

22-1

KANSAS HEALTH CONSUMER COALITION



534 South Kansas Avenue, Suite 1220 Topeka, KS 66603

Office: 785.232.9997 Fax: 785.232.9998

E-mail: info@kshealthconsumer.com www.kshealthconsumer.com

Testimony in Opposition to HB 2340
House Health and Human Services Committee
Anna Lambertson, Executive Director, Kansas Health Consumer Coalition
March 16, 2011

Madam Chair and Members of the Committee,

Please accept this written testimony in opposition to HB 2340.

My name is Anna Lambertson and I am the Executive Director of the Kansas Health Consumer Coalition (KHCC). KHCC is a statewide non-profit organization with the mission to advocate for affordable, accessible and quality health care in Kansas. Our statewide network includes consumers, advocates and health-care professionals.

On behalf of KHCC, I am opposing HB 2340 because we feel the statewide clean indoor air law should remain intact without amendments.

Last year, we made history in our state when the Kansas Clean Indoor Air Act was signed into law. We began to experience the benefits of the new law immediately, as this important legislation made it possible for Kansans to walk into most public places without being exposed to dangerous cigarette smoke.

We will continue to see some of the most important benefits of the clean indoor air law over time. Reducing Kansans' exposure to secondhand smoke will help our state decrease tobacco-related illness, which could also help lower health care costs in our state. Over time, our clean indoor air law could lead to fewer young people beginning to smoke.

The important benefits of the Kansas Clean Indoor Air Act are numerous and can have long-lasting positive effects on our state as a whole. This is why today, I am opposing the amendments to the law proposed by HB 2340. These amendments could weaken the law overall and increase the number of public places that Kansans could be exposed to unhealthy cigarette smoke.

I respectfully ask you to vote no on HB 2340.

Health & Human Services

Date: 3-16-11

Attachment: 33



Date:

March 14, 2011

To:

Kansas House of Representatives

Health and Human Services Committee

From:

Meg Trumpp, MEd, RRT, AE-C

President, Kansas Respiratory Care Society

Subject:

House Bill 2340

Madam Chair and Members of the Committee,

As President, I am writing on behalf of the Kansas Respiratory Care Society (KRCS), to voice opposition to House Bill 2340 which will greatly weaken the current Kansas Clean Indoor Air law.

As respiratory therapists caring for the respiratory health of the citizens of Kansas, we are dedicated to preventing lung disease and promoting lung health. We work every day with patients suffering from the ill effects of smoking. We also see the impact of secondhand smoke on our patients with asthma, cystic fibrosis, lung cancer and COPD. The States with strong smoke-free laws have lower rates of smokers and fewer children that take up smoking.

The KRCS opposes HB 2340 because it provides additional exemptions and weakens the law considerably. An overwhelming 77% of Kansans support the law as written, up from 71% prior to enactment. This support crosses party and ideological lines with a great majority of Republicans, Democrats and Independents in agreement on this issue. Even a majority of smokers support the law. Kansans deserve the right to breathe clean indoor air.

The Kansas Respiratory Care Society requests the Committee to vote **NO** on HB 2340 and to do the right thing and support our existing Kansas Clean Indoor Air law.

Meg Trumpp, MEd, RRT, AE-C KRCS President Respiratory Care Program Director Newman University 3100 McCormick Avenue Wichita, KS 67213-2097 Phone: (316) 942-4291 ext. 2344

E-mail: trumppm@newmanu.edu

Debra Fox, MBA, RRT-NPS KRCS Patient Advocacy Chair Wesley Medical Center 550 North Hillside Wichita, KS 67214 Phone: (316) 962-2992

Email: Debbie.fox@wesleymc.com

Kansas Respiratory Care Society – An Affiliate of the American Association for Respiratory Care
www.krcs.org
P.O.Box 750362, Topeka

Health & Human Services

Date: 3-16-11
Attachment: 34



To:

House Committee on Health & Human Services

From:

Dan Morin

Director of Government Affairs

Date:

March 16, 2011

Subject:

HB 2340 – Smoking ban; allow smoking in the bars that sell lottery tickets

The Kansas Medical Society appreciates the opportunity to provide written comments in opposition to HB 2340 would exempt from the statewide smoking ban any bar that is authorized to sell lottery tickets under the Kansas Lottery Act.

As an organization composed of members who see the results that tobacco use has on people's health every day we recognize tobacco use is contrary to the mission of promoting and protecting health. It is well documented that tobacco use and health are incompatible and many patients are seen by Kansas physicians for illnesses caused or exacerbated by tobacco use. Any person observing the adverse effects that lung cancer, emphysema, and oral cancer from chewing tobacco can have on the lives of loved ones can surely empathize with those wanting to eliminate such diseases.

Smoking creates a health hazard for the surrounding public when someone chooses to do it, therefore we can, and should, stop people from doing it if they are posing a health threat to other people. The concept is similar to the public health goal of vaccinations. All 50 states have compulsory vaccination laws based on the premise that individuals who may potentially carry or spread diseases pose a threat to other members of society and increase the cost burdens on the health care system. The same holds true for smoking in public places.

The Kansas Medical Society has consistently supported a statewide and comprehensive smoking ban with no exceptions. We believe adding exceptions would soften the extensive protections passed just last session which already benefit a vast majority of Kansans.

We do not support HB 2340 as it adds an exemption to the current statewide law to allow smoking in any bar that would be is authorized to sell lottery tickets. Thank you for your time and attention to our comments.

> Health & Human Services Date: 3-16-11

623 SW 10th Avenue • Topeka, Kans: Attachment: 3.5



To:

House Committee on Health & Human Services

From:

Dan Morin

Director of Government Affairs

Date:

March 16, 2011

Subject:

HB 2039 - Smoking regulations; casino exemption deleted

The Kansas Medical Society appreciates the opportunity to provide written comments in support of HB 2039 which would amend current law regarding smoking in public places to delete the exemption allowed for the gaming floor of any lottery gaming facility or racetrack gaming facility.

As an organization composed of members who see the results that tobacco use has on people's health every day we recognize tobacco use is contrary to the mission of promoting and protecting health. It is well documented that tobacco use and health are incompatible and many patients are seen by Kansas physicians for illnesses caused or exacerbated by tobacco use. Any person observing the adverse effects that lung cancer, emphysema, and oral cancer from chewing tobacco can have on the lives of loved ones can surely empathize with those wanting to eliminate such diseases.

Smoking creates a health hazard for the surrounding public when someone chooses to do it; therefore we can, and should, stop people from doing it if they are posing a health threat to other people. The concept is similar to the public health goal of vaccinations. All 50 states have compulsory vaccination laws based on the premise that individuals who may potentially carry or spread diseases pose a threat to other members of society and increase the cost burdens on the health care system. The same holds true for smoking in public places.

The Kansas Medical Society has consistently supported a statewide and comprehensive smoking ban with no exceptions. We believe eliminating exemptions is consistent with our goal and would strengthen the extensive protections passed just last session which already benefit a vast majority of Kansans.

We support HB 2039 as written. Thank you for your time and attention to our comments.



The Voice and Vision of Nursing in Kansas www.ksnurses.com

1109 SW Topeka Blvd., Topeka, Kansas 66612-1602 (785) 233-8638 • Fax (785) 233-5222 • <u>ksna@ksna.net</u> President: Patricia J. Plank, MSN, RN

Written Testimony in Opposition to HB 2340

Presented to the House Health and Human Services Committee March 15, 2011

Chairperson Landwehr and Members of the House Health and Human Services Committee, the Kansas State Nurses Association oppose's HB 2340 which is aimed at making additional allowances for exempting public establishments from the Clean Indoor Air bill (HB 2221) that passed during the 2010 Legislative session and was successful implemented statewide on July 1st. While there have been a couple legal challenges of this new statute, it is clear from public opinion polls in the state, early revenue impact reports and anecdotal information that Kansans support this direction of public policy and Kansas becoming the 29th state to pass a comprehensive Clean Indoor Air law. HB 2340 would allow any business with a liquor or cereal malt beverage license and a lottery license to allow smoking on its premises. Such a bill could lead to the re-establishment of smoking as a norm in many eating, dining and recreational establishments across the state, including bars, taverns, bowling alleys, pool halls, and many restaurants.

In 2006 The Surgeon General concluded that:

- There is no risk-free level of exposure to secondhand smoke: even small amounts of secondhand smoke exposure can be harmful to people's health.
- Many millions of Americans continue to be exposed to secondhand smoke.
- A smoke-free environment is the only way to fully protect nonsmokers from the dangers of secondhand smoke. Separating smokers from nonsmokers, cleaning the air, and ventilating buildings cannot eliminate exposure of nonsmokers to secondhand smoke.

The Kansas State Nurses Association remains committed to protecting citizens from second hand smoke, and promoting public policies that are aimed at embracing healthier life-styles for all. Weakening the Kansas Clean Indoor Air law is not supported by the professional nursing community.

Terri Roberts J.D., R.N. Legislative Committee Kansas State Nurses Association

The mission of the Kansas State Nurses Association is to promote professic to provide a unified voice for nursing in Kansas and to advocate for the health and we KSNA is a Constituent Member Association of the American Nurses As:

Health & Human Services
Date: 3-/6-//
Attachment: 3 %



The Voice and Vision of Nursing in Kansas

www.ksnurses.com

1109 SW Topeka Blvd., Topeka, Kansas 66612-1602 (785) 233-8638 • Fax (785) 233-5222 • <u>ksna@ksna.net</u> President: Patricia J. Plank, MSN, RN

Results of Kansas Clean Indoor Air Act Support Poll

77% of Kansas Voters Support Keeping State's SmokeFree Law

Even 54% of smokers favor law protecting people from secondhand smoke

Topeka, KS (February 9, 2011) – A new poll released today by a coalition of public health groups finds 77 percent of Kansas voters support the state's recently passed smokefree law. The poll shows broad support for the law including large majorities of Democrats, Republicans and Independent voters across Kansas.

"These results show what we have always known - Kansans understand secondhand smoke is a serious health hazard, and they don't want their right to breathe clean air taken away," said James Gardner, M.D., Chair of the Tobacco Free Kansas Coalition. "Although certain special interests may not like the smokefree law, it is clear the people of Kansas overwhelmingly support being free from toxic effects of secondhand smoke."

The survey also found among Kansas voters:

- 59 percent are less-likely to vote for candidates who want to repeal the law
- 84 percent view exposure to secondhand smoke as a health hazard
- 54 percent of people who smoke like the state's smokefree law

The survey of 500 likely Kansas voters was released by a coalition of public health groups. The polling firm Public Opinion Strategies conducted the survey January 11-12, 2011. The poll has a margin of error of +/- 4.38 percentage points.

In February 2010, Kansas became the 28th state to pass a smokefree law that protects workers and the public from the serious health hazards of secondhand smoke in public places and hospitality venues. The law went into effect on July 1, 2010.

The need for protection from secondhand smoke in all workplaces and public places has never been clearer. Secondhand smoke contains more than 7,000 chemicals, including at least 69 carcinogens. The evidence is also clear that smokefree laws protect health without harming business. As the U.S. Surgeon General Richard Carmona concluded in 2006, "Evidence from peer-reviewed studies shows that smokefree policies and regulations do not have an adverse impact on the hospitality industry."

The coalition of public health groups releasing and funding the poll includes the American Cancer Society, American Heart Association, American Lung Association, Robert Wood Johnson Foundation, Campaign for Tobacco Free Kids, Sunflower Foundation, Oral Health Kansas, Tobacco Free Kansas Coalition, Clean Air Kansas and Wichita Medical Research Education Foundation

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E-mail:info@cleanairkansas.org Phone: 1-877-620-CAKS
Designed and Hosted by Typex

Letter asking the Health and Human Services Committee to vote no on HB 2340

I, Don A. Yothers, 1916 Daisy Ct., Manhattan, KS 66502, ask you to vote NO, on bill 2340. I do this because I was one of those foolish people that smoked a pack of cigarettes every day for 39.5 years, and have now been treated for COPD for over 20 years. I am a life member of two Veterans organizations that have bars and it is my experience that the only members that used these bars while they were still able to smoke were nothing but the drunks that could not be served in other bars. One of these organizations sells lottery tickets already, and I understand they are having trouble staying open because the drunks are doing their drinking at home or out on Ft.Riley, where our no smoking ban is not in effect as far as I know. Even the Legion post I belong to now has permission to have smoking in the bar area of the building although it is not completely isolated from the rest of the building and this is the reason I do not use the bar except for once a month when there is a Legion meeting, and then only as long as the meeting lasts. Again I ask please vote no on this bill.

Don A. Yothers

Health & Human Services
Date: 3-16-11
Attachment: 37



March 16, 2011

Dear Representative Landwehr and members of the House Health and Human Services Committee:

The Kansas Health Institute has conducted research and reported to the legislature in the past regarding the research perspective on the statewide smoking ban.

Attached is testimony submitted to the House Health and Human Service committee last legislative session regarding the statewide smoking ban. Also attached is an issue brief describing the 2009 study that KHI published on the economic impact of the Lawrence smoke-free ordinance on bars and restaurants.

KHI is submitting this information as a neutral conferee. Please let us know if there are any questions that we can answer or any further information that would be helpful to the committee as you are considering HB 2039 and HB 2340.

Thank you very much,

Duane Goossen Vice President for Fiscal and Health Policy Kansas Health Institute



For additional information contact:

Rachel Smit, M.P.A. Senior Analyst Kansas Health Institute 212 SW Eighth Avenue, Suite 300 Topeka, Kansas 66603-3936 Tel. 785.233.5443 Fax 785.233.1168

Email: rsmit@khi.org Website: www.khi.org

House Health and Human Services Committee

February 10, 2010

Statewide Smoking Bans: A Research Perspective

Rachel Smit, M.P.A. Sharon Homan, Ph.D. Anne Nugent, M.P.H. Kansas Health Institute

Information for policymakers. Health for Kansans.

The Kansas Health Institute is an independent, nonprofit health policy and research organization based in Topeka, Kansas. Established in 1995 with a multiyear grant from the Kansas Health Foundation, the Kansas Health Institute conducts research and policy analysis on issues that affect the health of Kansans.

Chairwoman Landwehr, members of the committee, thank you for this opportunity to talk about smoke-free policies from a research perspective. The Kansas Health Institute does not advocate for or against legislation; our mission is to inform policymakers by identifying, producing, analyzing and communicating information that is timely, relevant and objective. As a neutral conferee, I hope to shed light on the conflicting testimony you may hear regarding smoking bans and their impact, both on health and on the bottom line of businesses.

As policymakers, you are challenged to address tobacco use among Kansans, since it is the number one leading cause of preventable death and illness in the U.S. We can all hopefully agree that government has a compelling interest in 1) reducing the number of Kansans who initiate tobacco use and 2) increasing the number who stop using tobacco. Research shows that the third-prong of any effective strategy to address the negative health impact of tobacco is a sustained effort to reduce exposure to secondhand smoke.

The science is clear: secondhand smoke results in preventable deaths and illness. A large body of published research indicates that exposure to secondhand smoke increases the risk of coronary heart disease by 25-30 percent. Moreover, data from experimental studies indicate that negative cardiovascular effects are seen after very brief (less than one hour) exposures to secondhand smoke.

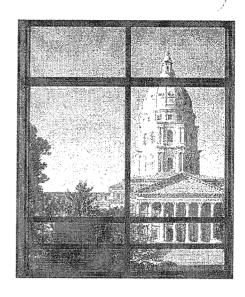
Rigorous research also documents that smoke-free policies effectively reduce exposure to secondhand smoke. The Institute of Medicine went so far as to conclude that there is sufficient scientific evidence to infer a cause-and-effect relationship between smoking bans and decreases in acute coronary events (i.e. heart attacks); however, these types of studies are subject to many methodological challenges.

If improvements in public health are the committee's primary concern, then it stands to reason that a smoking ban that covers as many workplaces and public spaces as possible will be more effective in achieving this goal than one containing exemptions. However, we recognize that as policymakers you have competing priorities and important decisions to make, including a decision about the appropriate role of government in protecting the public's health. As you weigh the pros and cons of allowing exemptions for certain businesses, we would remind you of the KHI study completed last year about the economic impact of the 2004 smoking ban in Lawrence. We found no evidence of an economic impact on overall sales in the restaurant and bar industry as a result of that ban. This finding is consistent with other published, peer-reviewed studies, which find no evidence of an association between smoking bans and long-term economic impacts on the restaurant or bar industry. While an individual business could well be affected by

a statewide smoking ban as the marketplace adjusts to the new regulation, the challenge for this committee is to weight any value in allowing some businesses to exempt themselves from the ban against the known costs in terms of workers' and patrons' health. Thank you for your time.

Issue Brief





Impact of Lawrence Smoke-Free Ordinance

Rachel J. Smit, M.P.A. Sharon M. Homan, Ph.D. Gina C. Maree, M.S.W., LSCSW

More Information

This Issue Brief describes the results of a Kansas Health Institute study on the impact that a smoke-free ordinance in the city of Lawrence had on restaurant and bar sales. It is intended to help policymakers better understand the health and economic implications of such ordinances.

For a list of references used in writing this brief and a supplemental report, which includes information about the study methodology, please visit our Web site at www.khi.org.

Results in Brief

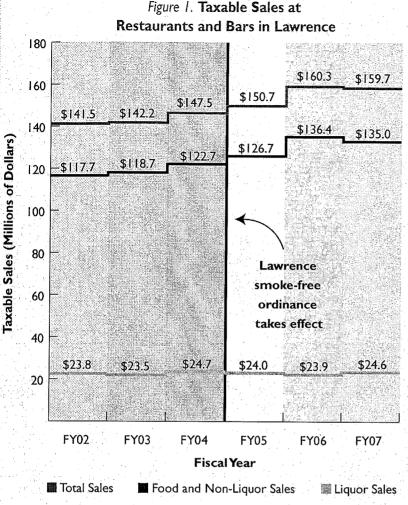
here has been much debate about whether the comprehensive smoke-free ordinance implemented in Lawrence in July 2004 caused financial harm to the restaurant and bar industry. The question about the potential economic impact has been clouded by claims of individual proprietors who indeed may have experienced a decrease in business following implementation of the ordinance. This study addresses the broader question of the ordinance's impact on the restaurant and bar industry. It found that:

- Total sales at restaurants and bars in Lawrence continued to increase in the first two years after a smoke-free ordinance was implemented in July 2004.
- The trend in total sales did not change notably after implementation of the ordinance.
- Food and other non-liquor sales continued to increase in the first two years after implementation of the ordinance.
- Liquor sales declined in the first two years after implementation of the ordinance but it is not clear whether the smoke-free policy played a role in the slowdown because liquor sales also declined two years prior to its implementation.
- The Lawrence findings are similar to those of other studies, which have failed to show any long-term negative impact on the overall restaurant and bar industry.

BACKGROUND

uided by evidence of the health dangers of second-hand smoke, state and local decision makers across the country are implementing smoke-

free policies. And those policies, according to recent studies, are having a positive impact on the health of those they were designed to protect.



Note: Total sales are food, non-liquor, and liquor sales combined. Sales have been adjusted for inflation and are in June 2007 dollars. Fiscal years are July to June.

A new study in Colorado documented a significant drop in heart attack hospitalizations in the community of Pueblo in the three years after the adoption of a ban on workplace smoking. And while some believe that factors other than the ban may have contributed to the drop, the researchers who conducted the study have said the results suggest a cause-and-effect relationship.

Another study, this one in New York state, also showed a notable decline in heart attack hospital admissions in the year after the state adopted a comprehensive smoke-free law.

Though the health effects of smokefree policies are beginning to emerge, a debate continues about whether such policies adversely affect certain hospitality industry businesses, such as restaurants and bars. Economic theory suggests that either a positive or negative impact on overall sales is possible. However, no study published in a peer-reviewed journal has yet found consistent evidence that smoke-free policies have a long-term negative impact on the restaurant and bar industry.

The KHI study detailed in this brief examines the economic impact of Kansas' first comprehensive smoke-free ordinance. Adopted by the city of Lawrence in 2004, it prohibits smoking in all enclosed public places and work-places, including restaurants and bars.

Though data limitations make it difficult to document a cause-and-effect relationship, the study shows that total sales at restaurants and bars continued to increase in the first two years after implementation of the ordinance before leveling off in the third. Food and nonliquor sales followed a similar trajectory. The study also shows that liquor sales declined in the first two years after implementation. However, it is difficult to draw any conclusions about the role that the ordinance played in the downturn given that liquor sales also declined two years prior to its implementation.

Generally, it appears that the results of the Lawrence study are similar to those of the peer-reviewed studies referenced earlier that failed to show any long-term negative impact on the restaurant and bar industry.

DATA AND METHODOLOGY

of the Lawrence smoke-free ordinance on restaurants and bars we analyzed taxable sales, both food (and other non-liquor sales) and liquor.

2

We analyzed two sets of monthly tax receipts provided by the Kansas Department of Revenue:

- 1) Food and non-liquor sales subject to the state sales tax at Food Services and Drinking Places, or FSDP establishments. Businesses in this category include full-service and fast-food restaurants, bars, caterers and mobile vendors. Throughout this brief, businesses in this category are referred to as restaurants and bars.
- 2) Liquor sales subject to the state's liquor excise tax at businesses licensed for on-premise liquor sales. The liquor excise tax, also referred to as the "liquor-by-the-drink tax," is levied on alcoholic beverages consumed on-premise, not on liquor and beer sold for off-premise consumption.

The department of revenue did not make individual-level business data available because of concerns that establishments could be identified based on levels of tax receipts.

In order to evaluate the potential impact of the smoke-free ordinance, we analyzed:

- 1) Total sales (both liquor and nonliquor) at restaurants and bars;
- 2) Food and non-liquor sales at restaurants and bars; and
- 3) Liquor sales at restaurants and bars.

We compared taxable sales in the three years after implementation of the Lawrence ordinance to sales in the three years prior to when it took effect, examining data from July 2001 to June 2007. We adjusted taxable sales for inflation using the monthly Midwest Consumer Price Index. All dollar figures presented in this brief are in June 2007 dollars.

We summed the inflation-adjusted monthly data over state fiscal years (July to June) to examine annual sales over time. To further test our findings, we also analyzed the monthly data using multiple linear regression techniques. The results of those analyses can be viewed in a supplemental report available at www.khi.org.

THE LAWRENCE EXPERIENCE

The trend in total sales did not change notably after implementation of the smoke-free ordinance.

- As is depicted in Figure 1 on the preceding page, total sales at restaurants and bars grew by 2.2 percent in the first year after implementation of the ordinance. That growth rate is in line with those in the years prior to the ordinance: 3.7 percent in FY04 and 0.5 percent in FY03.
- In the second year under the ordinance total sales grew by 6.4 percent, the highest growth rate during the six years that we analyzed.
- In the third year under the ordinance, sales dropped by 0.4 percent. The reason for this leveling-off is not clear. But it is unlikely that any change directly related to the ordinance would first be detected three years after its implementation.

Food and non-liquor sales continued to increase in the first two years after implementation of the ordinance.

- As depicted in Figure 1 on the preceding page, the pattern of food and non-liquor sales mirrors total sales.
 This is because food and non-liquor items comprise roughly 85 percent of total sales.
- Prior to implementation of the ordinance, food and non-liquor sales grew by 0.9 percent in FY03 and by 3.4 percent in FY04.

In Lawrence,
the trend in
total sales at
restaurants and
bars did not
change notably
with the
implementation
of the smoke-free
ordinance in
July 2004.



KANSAS HEALTH INSTITUTE

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• In the first two years after implementation of the ordinance, food and non-liquor sales continued to grow, by 3.2 percent in FY05 and by 7.7 percent in FY06. Sales then dropped by 1.0 percent in FY07.

Liquor sales dropped after implementation of the ordinance, but the cause is unclear.

- As depicted in Figure 1 on page
 2, liquor sales in Lawrence fluctuated both before and after the ordinance was implemented.
- Prior to the ordinance, liquor sales declined by 1.3 percent in FY03 and then increased by 5.1 percent in FY04.
- Liquor sales declined in the first two years after implementation of the ordinance by 3.0 percent in the first year and 0.6 percent in the second. But they grew by 3.3 percent in FY07, nearly reaching the level they were at in FY04 before the ordinance.
- It is difficult to establish a clear cause-and-effect relationship between the ordinance and the slowdown in sales.

POLICY IMPLICATIONS

his study indicates that Lawrence's smoke-free ordinance did not have an overall negative impact on the restaurant and bar industry. While it may have affected individual businesses in different ways, policymakers should be careful not to generalize those experiences to the restaurant and bar industry as a whole. There are clearly winners and losers in the rough-and-tumble marketplace of the restaurant and bar industry. However, there are no studies in scientific, peer-reviewed journals that document a consistent negative, community-wide impact on restaurants and bars following the implementation of a smoke-free ordinance.

On the other hand, the harmful effects of secondhand smoke in workplaces and public places are well established. And the U.S. Surgeon General has reported that smokefree policies are the most effective means of protecting people from secondhand smoke exposure. That determination has been reinforced by the results of recent studies that have documented a reduction in heart attacks in communities with smoke-free policies.

As of the writing of this brief, at least 33 cities and two counties in Kansas have restricted smoking in public places, workplaces or both.

State policymakers contemplating smoke-free policies will continue to grapple with questions about local control and the appropriate role for government in protecting the public's health. But on the key question of whether smoke-free policies have negatively impacted the restaurant and bar industry as a whole, the verdict appears to be in.

Acknowledgments

The authors would like to thank Mr. Steven Brunkan at the Kansas Department of Revenue for his invaluable assistance with the data for this study. We would also like to thank Ms. Jessica Hembree, Dr. Candace Ayars, Dr. Leigh Murray, Dr. Michael Fox, Dr. Melissa Clark, Mr. Ron Liebman and Mr. Nathan Wozny for their assistance with earlier phases of this study.

March 16, 2011

Members of the House Health and Human Services Committee:

As a registered lobbyist, I apologize that I cannot be here to testify in person today. Previous commitments have caused me to present my testimony in writing.

My name is Father H Setter. I am the pastor of All Saints Catholic Church in Wichita, 3205 E. Grand Street. In addition, I am the Chaplain of the IPCPR (International Premium Cigar and Pipe Retailers Association).

I am also the Founder and Chairman of the Setter Foundation, a 501 (c)(3) established to raise monies for local charities. Because of my unique relationship to the Cigar industry, I have been able to host Annual Benefit Cigar Dinners for the last fourteen (14) years to raise monies for my foundation. To date I have been able to give about \$200,000 to local charities that has been raised at these dinners. These are charities that receive little or no government assistance and rely primarily upon the generosity of individuals and organizations to exist. They include: the Orpheum Theater Renovation effort, the Lord's Diner, the Center of Hope, the Kansas Foodbank, the Guadalupe Clinic, the Anthony Family Shelter, the Dodge House, Catholic Charities, The ARC, the Independent Living Resource Center, the Mother Mary Anne Clinic, Literacy Resources of the Metropolitan Area, Shoes and Socks for Wichitans, The Union Rescue Mission Men's Shelter, and the Girard House for unwed mothers.

I am asking that you include an exemption for my Annual Benefit Cigar Dinner in your modifications of the current smoking ban. The fact and reality of what I am actually asking your support with simply translates to this:

I am asking that the state smoking ban include an exemption for my annual charity cigar dinner which totals about six hours A YEAR.

It has been held in the Ballroom at the Wichita Hilton Airport for the last thirteen of the fourteen years. With this exemption I can continue to hold my annual charity cigar dinner.

If I am not mistaken, when the statewide smoking ban issue developed several years ago, there was an exemption for my charity cigar dinner included in it when it came out of committee. For reasons unknown to me it seemed to be struck from the bill on the Senate floor. I am asking you to include it again in whatever legislation you are proposing. Once again, the exemption that I am asking for amounts to about six hours a year. I would like to continue hosting this dinner in the future to continue raising monies for local charities, just as I have for the last fourteen years.

I thank you for taking time to read and consider my testimony today.

Sincerely,

Father H Setter

Health & Human Services
Date: 3 - 16 - 11Attachment: 39

I would like to thank Representative Landwehr, Chairwoman of Public Health and Welfare, for allowing me to submit the following written testimony in regards to H.B. 2340.

I am a small business owner from Wichita. After the State smoking ban was implemented in my community, I had to close a facility that I leased to not-for-profit organizations for the operation of Bingo games as a fund raiser.

In Wichita, our Bingo games compete with Indian Casinos that operate Bingo games less than an hour away in Oklahoma. Patrons are allowed to smoke in these facilities. Many of the patrons who have played Bingo in Wichita, benefiting charitable organizations in our community, are now deciding to drive to Oklahoma where they can play Bingo and smoke during the game.

As the direct result of the State wide smoking ban, I have had to close a bingo facility and have forced Kansas non-profit organizations to raise their funds in a different manner.

The Smoking ban that passed the legislature had a glaring inequity in the bill. To allow a State Owned Casino to smoke, while prohibiting all other similar businesses from smoking, was hypocritical at best. I understand the only reason State Owned Casinos were exempted was because of testimony about the profits they would lose if patrons were not allowed to smoke. I am writing this testimony because some Kansas private businesses have lost significant income due to the passage of the smoking ban, and yet, State Owned Casinos are still exempt.

I would ask the committee to amend H.B. 2340 to include facilities that are licensed to operate a bingo game that also sell State lottery tickets.

Thank you for your attention to this important matter.

Jim Cochran

2347 Amidon

Wichita, Ks

Health & Human Services
Date: 3-16-(1

Attachment: 40