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EDITORIALS

A smoking ban that trespasses

A proposed, new assault by Washington on smoking nationwide should have everyone worried, whether they happen to light up or not. More to the point, anti-smoking legislation in Congress that has the Clinton administration's blessing represents an attack on fundamental property rights.

This week, Surgeon General Joycelyn Elders and five of her predecessors endorsed a bill that would slap sweeping smoking restrictions on virtually every nonresidential building in the country. The Smoke-Free Environment Act, premised partly on a 1993 Environmental Protection Agency study classifying so-called secondhand tobacco smoke as a carcinogen, would ban smoking in every building regularly entered by 10 or more people at least one day a week. An exception would be granted to properties establishing separate, specially ventilated smoking rooms. Private residences would be exempt. How tolerant.

This is not about smoking etiquette — when and where smokers should yield out of consideration to the many people who have had the good sense not to take up tobacco. Nor is this about the tentative and much-debated evidence on the harmful effects of "passive" smoke on nonsmokers.

At issue is whether the ever-longer arm of government should be able to intrude further into private property, like a tavern or a diner, to check yet another public-health concern arbitrarily anointed by our federal philosopher-kings. This is particularly problematic where the jury is still out on a potential hazard like secondhand smoke. Disturbingly, many state and local governments al-

ready are meddling in such matters.

The real rub in such a highhanded policy at any level of government is that it pre-empts private clubs, businesses and so forth from making decisions that are best suited to their patrons and employees. Indeed this is an area in which, as usual, the private sector in the free market has already taken the lead anyway.

Assorted bans or restrictions on smoking, effected by property owners rather than by government, are already in force in various publicly used buildings, from large employers to small cafes. Only the proprietors of such places, after all, truly understand what need there is for smoke-free areas.

Why, for example, should the feds force a smokeless environment on bars where, in so many cases, the majority of patrons smoke? They do so in an enclosed setting posing no threat to anyone outside, and whatever the danger of secondhand smoke, it can't be worse than what those smokers already inhale.

In such an establishment, smokers have made a conscious decision to surround themselves by and large with other smokers. Clearly, any patrons' objections could most fairly be handled by that business's owner. But under the proposed federal law, such an establishment likely would lose its clientele.

Praise is of course in order for the many employers and other private property owners nationally who have seized the initiative to curtail or even ban smoking on their premises in the interests of health, comfort or public taste. But they're the ones equipped to make such decisions and they alone should do so.