

521046145

WORKPLACE SMOKING RESTRICTIONS:

Communications and Lobbying
Support Program

February 1984

521046146

CONTENTS

OVERVIEW	1
OBJECTIVE	4
RESOURCES	5
LEGISLATIVE STRATEGIES	18
VOLUNTARY STRATEGIES	22

521046147

OVERVIEW

Public smoking restrictions fall into three broad categories:

1. Legislation

The industry has faced more than 1,000 public smoking bills and defeated more than 90 percent during the last decade. However, more smoking restriction bills have been enacted than any other type of "anti-tobacco" bill. Such restrictions are in effect in 37 states and Washington, D.C. and may account for as much as 21 percent of the variation in cigarette consumption during 1961-1982, according to a recent study prepared by the Tobacco Merchants Association.¹

Based on a state-by-state analysis of public smoking bills (see attached Appendix), we know that when these measures are defeated, they are typically reintroduced and often redrafted to accommodate legislators' objections. Bills that pass are often not very restrictive but are amended in subsequent legislatures to increase penalties and broaden the scope.

The workplace is rapidly becoming the new target of smoking restriction advocates. In many states, it is the one area that has been untouched by legislators. Currently, only nine states have laws or regulations restricting smoking in the workplace. Similar legislation is either pre-filed for

¹Marvin K. Bloom with Zoe Baylies and Farrell Delman, "Tobacco: Its Economic Performance, Part VIII, Government Impact on Consumption;" Tobacco Merchants Association; October 28, 1983; pages 1,9,10.

521046148

1984 or carried over from 1983 in nine other states and Washington, D.C. Additional introductions are expected in at least two other states.

In state legislatures where smoking restriction advocates have been unsuccessful they are moving to the local level. Industry lobbyists expect to face at least 20 workplace smoking restriction ordinances in 1984.

2. Voluntary

Our analysis of voluntary restrictions indicates that they are often decentralized, initiated more often by a particular employee or floor manager rather than a senior executive.

Small companies seem to receive the most publicity for their restrictive policies. For example, Radar Electric, a Seattle company with fewer than 100 employees, bans smoking by employees and customers alike and has been the subject of many articles. However, we know that smoking restrictions exist more quietly in companies as large as Pratt & Whitney Aircraft (7,000 employees in West Palm Beach, Florida) and IBM (over 350,000 employees nationwide). Pratt & Whitney restricts smoking in areas which are frequently shared by smokers and non-smokers. IBM bans smoking in elevators and copy rooms, restricts smoking in cafeterias and conference rooms, and provides no smoking signs on request from employees.

521046149

Public agencies have voluntary restrictions similar to many corporations. The U.S. General Services Administration bans smoking in libraries and shuttle vehicles, makes provisions for "no smoking" areas in open work bays, and allows employees to ban smoking in private offices. In New Jersey, a smoking policy for state agencies designates specific "no smoking" areas and prohibits smoking in group work areas unless the occupants unanimously decide otherwise.

We do not know precisely how widespread these voluntary policies have become, but we do know that, with the help of anti-smokers, they are growing. As an industry, we have done little more than respond to requests for information on voluntary restrictions.

3. Litigation

This category is small compared to the other two. Our participation has been and should continue to be limited to those cases with the potential for a favorable outcome (i.e., cases where labor unions challenge the right of management to unilaterally impose smoking restrictions; and cases where complaints are based on a purported Constitutional right to a smoke-free environment).

At the direction of the Executive Committee, the remainder of this proposal will address only legislative and voluntary restrictions. The following pages discuss the resources and strategies for these two categories.

521046150

OBJECTIVE

Discourage legislators, businesses, institutions, and public agencies from unfairly discriminating against employees who smoke.

521046151

RESOURCES

The following pages describe resources to help The Institute lobbyists and communicators deal with the workplace smoking issue.

Some of these resources are already in place, some are being developed, and others have yet to be authorized.

All of these resources are targeted at individuals responsible for proposing, enacting, and enforcing public smoking restrictions in the workplace.

We refer generally to how we will use these resources. More detailed descriptions of strategies and tactics are to be found on pages 17-24.

521046152

1. A study identifying and analyzing the mechanisms, concerns and decision-makers involved (in corporations and public agencies) in the process of restricting smoking in the workplace.

Background

This study was requested by the Executive Committee to improve our understanding of how voluntary restrictions are imposed.

Current Status

We have received a proposal from the accounting firm of Touche Ross which indicates that two corporations and one public agency have consented to participate anonymously in such a study. The cost of the research will be \$72,000.

Staff is prepared to proceed immediately with this study but does not regard it as essential to our efforts. Limited research into the nature of the problem was completed by staff more than a year ago. This study will probably not add significantly to our understanding of the issue. We would prefer to devote our resources to work which has a more direct effect on the issue.

521046153

2. Dr. Lewis Solmon's critique of Dr. William Weis' research on the cost of employing smokers.

Background

In May 1981, Dr. William Weis, an accounting professor from the University of Seattle, published an article which claimed that smokers cost their employers more than non-smokers. Weis proceeded to make that claim on radio and television and in business publications.

In March of last year, Dr. Lewis Solmon, associate dean of the graduate school of education at UCLA, published an article (in the same journal which first carried Weis) refuting Weis' claims. Solmon spoke out and, aided by The Institute's public relations counsel, received substantial coverage in business and general media (see Tab A).

Current Status

Having been confronted repeatedly by Dr. Solmon, Dr. Weis has abandoned several of his arguments and refuses to debate the issue.

That being the case, we are now being careful not to draw unnecessary attention to Weis.

Solmon will continue to speak out against Weis' claims when necessary. However, we feel Solmon can be used more effectively

521046154

if he engages in new research into the economics of workplace restrictions. He will propose such research later this year. In addition, we are now seeking additional experts, either individuals or institutions, in areas similar to Dr. Solmon's own expertise.

521046155

3. Resolutions, speeches, articles, and other written materials signed by union leaders and/or members.

Background

There is great potential for organized labor and tobacco to work cooperatively on legislative matters and on the labor implications of voluntary workplace smoking restrictions.

The process of creating a tobacco-labor coalition necessarily begins by establishing appropriate relations with The Bakery, Confectionery, and Tobacco Workers Unions. This is already underway, with positive results. The Tobacco Workers are a small but influential group which will help the industry secure support from other unions as well as the AFL-CIO.

Current Status

Articles have been drafted (see Tab B). We are working with The Tobacco Workers to get labor officials to sign and place them in appropriate labor publications. Labor relations specialists at Ogilvy & Mather Public Relations will be made available to labor leaders to prepare additional speeches, resolutions, and other written materials.

Our emphasis at this time is on making contacts with the major public employee unions (American Federation of State, County and Municipal Employees and the Service Employees International Union).

521046156

4. A survey of first-line supervisors and union officials on workplace productivity and workplace issues.

Background

The survey will be used (along with the written materials discussed in #3) to persuade personnel managers and labor officials that smoking restrictions are unnecessary.

Current Status

The survey is now being conducted by Response Analysis Corporation, a market research firm specializing in employee attitude research. Interviews with management supervisors in corporations and government agencies are almost complete. When complete, this research should demonstrate that as workplace issues go, public smoking is relatively unimportant. Final results will be available in May.

Al Vogel, Senior Vice President at Response Analysis, has agreed to speak and/or testify regarding survey results.

The overall cost of the survey is \$80,000 (\$65,000 of that amount was paid in 1983).

521046157

5. A cost analysis of actual workplace smoking restrictions in two companies.

Background

There are two ways of viewing the issue of "costs" related to workplace smoking. The first, promoted by Dr. William Weis and others, suggests that smokers cost their employers more than non-smokers. We have been able to refute Weis' research because it was poorly done.

A second way of viewing costs associated with workplace smoking is to examine the expense of implementing and enforcing restrictions. A study, proposed by Touche Ross, would investigate the actual costs incurred by two companies with smoking restrictions.

Current Status

We received a proposal from the accounting firm of Touche Ross on September 1, 1983 which indicated that the analysis would require six to eight weeks after the companies' consent was obtained. The research will cost \$60,000 and has not yet been authorized.

521046158

6. An investigation of insurance marketing practices including non-smoker discounts.

Background

Non-smoker insurance discounts are increasing at the voluntary level in the form of marketing practices, and in legislatures in the form of bills requiring insurance companies to have non-smoker discounts. The proposed study will be used to increase the awareness of benefits administrators and legislators of the misleading nature of such marketing practices.

Current Status

We have received a proposal from J. Patrick Bryan, President of IMSINC, a consulting firm specializing in insurance marketing.

Bryan's proposal recommends two phases of research: an initial feasibility study and, if warranted, a second phase to complete the research.

The research will cost \$30,000 and has not yet been authorized. Bryan will make a spokesperson available to discuss and/or testify regarding the results.

521046159

7. The report on ambient smoke effects from the University of Geneva.

Background

Since most workplace smoking restrictions are based on arbitrary health arguments, we need to increase the awareness of legislators and corporate medical directors that existing research on the effects of ambient smoke is inconclusive.

Current Status

Proceedings of The University of Geneva symposium recently became available. One article in particular, "Investigation on the Effects of Regulating Smoking on Levels of Indoor Pollution and on the Perception of Health and Comfort of Office Workers," by Theodore D. Sterling and Elia M. Sterling, seems well-suited for our needs. We are attempting to identify an expert spokesperson in the area of ambient tobacco smoke. This will be coordinated with our overall use of the Geneva materials.

521046160

8. An examination of the legal implications of workplace smoking restrictions.

Background

Using the proposed research, we can increase the awareness of corporate attorneys that smoking restrictions may result in costly legal actions, and may lead to further challenges of other management prerogatives.

Current Status

We have received a letter from Covington & Burling, outlining the legal implications of privately imposed workplace smoking restrictions. The law firm is prepared to draft a more detailed position paper for use with companies and to act as industry spokespersons in meetings with corporate attorneys.

521046161

9. A study identifying the design/planning concerns associated with segregating smokers and non-smokers in the workplace.

Background

The study was requested by the Executive Committee as a possible additional resource for opposing workplace restrictions.

Current Status

We have received a proposal from Environetics International, Inc., an architectural/design firm with offices nationwide. They recommend interviewing 35 corporations and 15 architectural/engineering firms to develop a "check-list of design concepts for use with office managers. The research will cost \$40,000.

Staff is prepared to proceed immediately with this study but considers it a lower priority than other research outlined.

521046162

10. Executive summaries of resources #2-#9.

Background

Most of the resources are used to make a single argument to a single audience in a corporation or legislative committee. If the industry is trying to persuade an audience with more general interests (e.g., a senior manager or a legislative hearing) all of the arguments should be used.

Current Status

Executive summaries of each of the resources will be developed as soon as research is completed. Institute field staff, lobbyists, and speakers will be trained in the use of these materials. Additionally, copies will be made available to member companies, The Bakery, Confectionery, and Tobacco Workers, and public relations counsel.

521046163

11. Other human resources.

Background

To implement an effective workplace smoking program, The Institute must allocate adequate staff and resources. These include provisions for:

- ° A director of corporate relations to manage this issue and to assist on all other issues, reporting to the vice president of public information;
- ° A task force comprised of personnel from member companies to review staff recommendations and assist in contacting non-tobacco corporations; and
- ° Public relations counsel to assist in implementing many aspects of the program.

Current Status

Staff has drafted descriptions of the corporate relations position and the task force (see Tab C) and awaits approval from the Executive Committee before proceeding in these areas.

Public relations counsel has been working with us on the Solmon placement and labor relations activities. If we are to move ahead aggressively in communicating our position, continued involvement of the agency will cost \$20,000 per month.

521046164

LEGISLATIVE STRATEGIES

Legislation, because of the broad and visible effect it has, is of greater concern than the voluntary restriction of smoking. The industry should continue to oppose with no compromise all public smoking bills and should not be willing to settle for less severe legislation.

Reasons for this position are:

- If we compromise, the new position may become our starting point in future battles; it would be difficult to return to our original position with any credibility.
- Accepting alternative legislation does not ensure that restrictions will be less severe. Often, a bill is passed in a less extreme form only to be made more severe in future legislatures.
- Extreme bills are less likely to pass than "courtesy measures" since they are perceived as more irrational.
- Compromise can jeopardize our position and our relationship with long-term allies.
- Our strategy of no compromise works well: the industry defeated more than 90 percent of the public smoking bills in the past decade.

The industry has relied on several arguments in persuading legislators that public smoking restrictions are unnecessary and unfair. They include:

521046165

- Smoking restriction legislation is intrusive: Government should not legislate social behavior; people can and do segregate smoking on a voluntary basis; such legislation infringes upon corporate decision-making and upon union bargaining rights.
- It is costly without any known benefits: consider costs for compliance, enforcement, lost jobs, lost tax revenues, lost hospitality/tourist revenues.
- It is impractical and inefficient: consider the extreme difficulty of segregating smoking in workplaces, convention halls, arenas, shopping malls, schools, etc.
- It is meaningless: it cannot be enforced; this kind of legislation erodes the legal process and breeds contempt for the law.
- It is discriminatory: it is used to harass minorities; in the workplace it only affects employees in open bay situations.
- It is arbitrary: ambient smoke has not been shown to cause disease in non-smokers.

Institute staff and lobbyists throughout the country use a variety of tactics in fighting these restrictions. On an ongoing basis, they communicate with the legislative committees which traditionally review such bills. Additionally, they try to influence general legislative policy. For example, a recent rule in Colorado allowing legislators to introduce only six bills per legislative session is proving beneficial to the industry.

521046166

Once a bill is introduced, other tactics are used in a variety of combinations, depending on the state and the specific situation.

These tactics include:

- Building a coalition against restrictions. Although it varies from state to state, such coalitions are generally made up of those affected by the legislation (e.g., tobacco workers, restaurants, grocery stores, hotel/motel and other tourist industries, chambers of commerce, public employees, police, bowling alleys, etc.) Institute materials are used to demonstrate that restrictions are unnecessary, unfair, and not in these groups' best interest.
- Working with supportive legislators (e.g., the Black and Puerto Rican bloc in the New York State legislature who opposed the Grannis legislation for the past several years).
- Developing letter writing campaigns directed at key legislators.
- Using witnesses (e.g., TI spokespersons or medical director, Dr. George Schafer) to testify before legislative committees or debate smoking restriction advocates in the local media.
- Hiring outside consultants to prepare studies that can be used with coalition members and legislators to illustrate our arguments.
- Arranging a panel of consumers to discuss concerns regarding pending legislation. Results are presented by one of the panel members to targeted legislative committees. This was recently used in New Mexico.

521046167

- Supplying legislators with materials on the existence of voluntary policies to demonstrate that there is no need for legislation.
- Introducing amendments to a bill in an effort to get the sponsors to withdraw it from further consideration.

The resources discussed on pages 5-17 will supplement the ongoing efforts of industry lobbyists and Institute staff to fight workplace smoking legislation. Written materials and/or experts to present the materials will be made available on request. Consultants will act as media spokespersons if local coverage regarding a particular bill is appropriate and desired.

521046168

VOLUNTARY STRATEGIES

Our voluntary policy must not contradict -- but should reinforce -- our legislative position.

Even though we have no way of monitoring all of the organizations capable of restricting smoking, we must oppose as many as possible. The industry should concentrate its efforts on those situations which affect the most people.

We will deal with organizations in three categories: those that have never considered restrictions; those that are considering implementing a policy; and those that have already implemented one. In all cases, we will work to persuade decision-makers that restrictions are unnecessary and unfair.

However, in areas where legislation forces organizations to implement restrictions, the industry should consider privately seeking a third party (e.g., state chamber of commerce) to distribute guidelines for implementing fair smoking restrictions. Otherwise, we lose by default to anti-smoking organizations that provide model policies for adoption.

The initial strategy for opposing voluntary workplace restrictions targets the business community in general. Our goals are to contain William Weis and others who claim that smokers cost their employers more than non-smokers. Six months ago, Dr. Lewis Solmon began speaking out against Weis' claims.

521046169

When confronted by Solmon, Weis now denies some of his major research findings. Solmon is considering new research on the economics of workplace restrictions for our review. If appropriate, we will publicize his new findings as we have his earlier work, and, as previously noted, we will continue to seek additional expert assistance.

An intermediate strategy targets union leaders. We need to increase their opposition to smoking restrictions as we begin to persuade workplace decision-makers that restrictions might impose labor relations problems. With the active participation of The Bakery, Confectionery, and Tobacco Workers Union, we are currently preparing articles and other written materials for placement with labor media and distribution to labor audiences.

Ongoing strategies are aimed at various persons within an organization who might affect the process of restricting smoking. The strategies use one or more written resources and/or expert spokespersons from our consulting firms. For example, the cost analysis of workplace smoking restrictions will be used with financial officers while executive summaries of all the resources will be used with senior managers.

521046170

Our tactics will be generally the same for corporations and public agencies and will follow this sequence:

1. Identifying an organization with a smoking restriction policy or a firm which is considering one. (We are currently surveying the Fortune 500 companies to determine what kinds of policies are in effect.) Sometimes organizations contact

The Institute on their own initiative, so this initial process is not always necessary. We will also be requesting TAN members to identify opportunities for us.

2. Distributing the materials to targeted decision-makers.

First, we will determine if there is any industry contact within the organization (e.g., the comptroller of one of our member companies knows one of the financial officers at the company being considered). A task force made up of persons from member companies will help us with this effort. If there is a contact, we will send the materials to that individual with a request that they be distributed to the various persons in the organization who will be active in the decision to restrict smoking. If there is no contact, we will identify an appropriate individual and "tailor" materials for that person to distribute.

3. Following-up and making the expert spokespersons available.

Institute staff will follow-up with phone calls and offers to further help the organization. Our consultants will be made available to present the written materials sent to concerned individuals or groups.

4. Use of business and mass media.

Consultants and their studies, listed under the Resources section, will all be assisted by public relations counsel to ensure maximum coverage of industry positions.

5. Lobbyist involvement in dealing with public agencies.

Lobbyists and field staff will communicate with members of legislative oversight and appropriations committees

521046171

when public agencies are considering voluntary restrictions.

In all cases, we will use the resources to increase the awareness of the range of problems that smoking restrictions can present and to persuade decision-makers that such restrictions are unnecessary and unfair.

521046172

BUDGET

<u>Acct</u>	<u>Item</u>	<u>Proposed</u>	
2800	Salaries:		
	Director, Corporate Relations	\$50,000	(p. 17)
	Secretary	<u>20,000</u>	
			70,000
3900	Travel and Expenses:		
	3 business conferences (3 days each)		
	airfare @ \$600	1,800	
	meals and lodging @ \$110/day	990	
	10 visits to corporate/union offices outside of D.C. area (2 days each)		
	airfare @ \$600	6,000	
	auto rentals @ \$100	1,000	
	meals and lodging @ \$75	1,500	
	General entertainment \$500 per month	<u>6,000</u>	
			17,290
4000	Conference Registrations:		
	3 @ \$200		600
5100	Postage/Mailings:		
	postage	20,000	
	mailing lists	<u>5,000</u>	
			25,000
5200	Printing and Reproduction:		
	Reprints of studies and articles	15,000	
	Executive Summaries		
	production	15,000	(p. 16)
	printing	<u>40,000</u>	
			70,000

521046173

7300

Consultants:

Study of Decision-Making	72,000	(p.6)
Dr. Lewis Solmon	50,000	(p.7)
Study of Financial Elements	60,000	(p.11)
Non-Smoker Insurance Discount Study	30,000	(p.12)
Architectural Study	40,000	(p.15)
Opinion Research (amount due in 1984 plus contingency)	25,000	(p.10)
Public Relations Counsel (\$20,000 per month)	240,000	(p.17)
Contingency (including costs of consultants testifying/meeting with corporations)	50,000	
	<hr/>	<u>567,000</u>
		<u>749,890</u>

521046174