

NON-SMOKERS RIGHTS ACT OF 1985

Joseph A. Califano, former Sec'y of HEW

HEARINGS

BEFORE THE

SUBCOMMITTEE ON CIVIL SERVICE,
POST OFFICE, AND GENERAL SERVICES

OF THE

COMMITTEE ON
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

NINETY-NINTH CONGRESS

FIRST SESSION

ON

S. 1440

TO RESTRICT SMOKING TO DESIGNATED AREAS IN ALL UNITED STATES
GOVERNMENT BUILDINGS

SEPTEMBER 30, OCTOBER 1 AND 2, 1985

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vocates of smoking restriction policies. We will also hear from the tobacco industry as well as from Federal union representatives.

Designated smoking area policies have proven self-enforcing. Violations of Minnesota's Clean Indoor Air Act, which has been in place for 10 years now, or of the State of Alaska's law, or of municipal ordinances in places like San Francisco, or of Boeing or Pacific Bell's policies, are virtually nonexistent. No city, State, or industry which has implemented a smoking restriction policy has ever needed to repeal it.

These policies work because they have the support of both non-smokers and smokers. As I announced last week in the Congressional Record, I will move to delete section 8(c)(1) of S. 1440, which calls for a fine for violation of the designated smoking area rule.

I believe the threat of a fine is irrelevant to the success of the designated smoking area policy.

Again, I want to thank you for being here. Just as a side note, I would remind you that this committee room was closed to smoking before this hearing was even thought of. That was a decision made 3 years ago. So I would remind you of that. The designated concept has already started.

Our first witness is my good friend, Joe Califano, who I think has spoken out ahead of most people on this subject. We are happy that you took the time to come see us today.

**TESTIMONY OF HON. JOSEPH A. CALIFANO, DEWEY,
BALLANTINE, BUSHBY, PALMER & WOOD**

Mr. CALIFANO. Mr. Chairman, thank you very much for the invitation to testify.

I appreciate the opportunity to appear before this committee on the Non-Smokers Rights Act of 1985. Mr. Chairman, this bill, which you have introduced—by requiring that all Federal agencies restrict to limited areas any smoking in their buildings—will help propel us into a second major phase in the Nation's progress to a smoke-free society.

Twenty-one years ago, Luther Terry issued the first Surgeon General's Report on Smoking and Health. That report found cigarettes guilty of murder and mayhem by cancer, heart disease, emphysema, and chronic bronchitis.

The evidence in that first report has grown to an avalanche of data, detailing with grisly precision the toll of cigarette smoking. It causes at least 360,000 deaths each year, 170,000 from heart disease, 130,000 from cancer, and 60,000 from chronic lung diseases, including: 80 to 85 percent of all deaths from lung cancer; 40 to 60 percent of bladder cancers among men, and 25 to 35 percent among women; up to 84 percent of cancer of the larynx; up to 90 percent of the deaths from chronic lung disease; and 40 percent of the deaths from coronary heart disease. Smoking is a major factor in cancer of the mouth and esophagus and has been related to kidney cancer and cancer of the cervix.

The total financial cost of cigarette smoking is about \$65 billion each year—more than \$2 for every pack of cigarettes consumed. The cost in personal anguish, suffering and needlessly lost lives is incalculable.

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As the damage that cigarette smoking does to our health has
 become clear, the proportion of adult smokers has gone down.

In 1965, more than half of the adult men in this country smoked;
 today, it is just over one-third. The proportion of women who
 smoke has also declined, although not nearly as rapidly, from 34 to
 29 percent. Smoking among teenagers has dropped dramatically
 since the late 1970's.

Per capita cigarette consumption has been falling steadily since
 1978. For the first time in 2 decades, total cigarette consumption
 fell 2 years in a row in 1982 and 1983. These declines have taken
 place in spite of the tobacco industry's record-breaking levels of ad-
 vertising, which reached more than \$2.5 billion in 1983.

Now, Mr. Chairman, a new wave of evidence is revealing the
 dangers of involuntary secondhand smoking—dangers that require
 a new set of Government responses. Studies in Japan, Germany,
 Hong Kong, Greece, Scotland, and the United States point to a
 clear relationship between exposure to other people's cigarette
 smoke and lung cancer. Just this month, the American Cancer So-
 ciety reported that when a woman's husband smokes a pack of
 cigarettes a day, she doubles her chances of getting lung cancer. A
 study sponsored by the National Institute of Environmental Health
 Sciences found evidence that nonsmokers exposed to the smoke of
 others have an increased risk not only of lung cancer, but of breast
 cancer, cervical cancer, and leukemia, as well.

Mr. Chairman, there is tremendous fear in this Nation about
 AIDS, and it is a very grave problem. We have not yet found a cure
 for this terrible disease, but we have no excuse where smoking is
 concerned. Because we deny people smoke-free space, cigarette
 smoking is turning cancer into America's top and most deadly con-
 tagious killer. Tobacco smoke breathed by nonsmokers is already
 killing 5,000 people each year, according to Environmental Protec-
 tion Agency researcher James Repace, far more than the combined
 deaths from all industrial emissions regulated by the EPA.

Last year, U.S. Surgeon General Dr. C. Everett Koop wrote that,
 "There is all the medical evidence necessary," to protect the non-
 smoker against "the irritation and potential harm that comes from
 other people's smoke."

Dr. Koop noted that "pollution from tobacco smoke in homes, of-
 fices, other worksites and in certain public places can reach levels
 which exceed contaminant levels permitted under environmental
 and occupational health safety regulations. Because Dr. Koop is
 concerned about the increasing evidence "that environmental to-
 bacco smoke can bring about disease, including lung cancer, in
 healthy persons, including infants and children," Dr. Koop advises
 nonsmokers "to avoid exposure to cigarette smoke wherever possi-
 ble" and particularly urges that children and infants be protected
 from involuntary smoking.

The number of States that have overcome the well bankrolled ef-
 forts of the tobacco lobby and restricted smoking in public places
 has been steadily rising, as you have noted, Mr. Chairman. Twenty-
 eight States now limit or ban smoking in health facilities; 17 States
 restrict smoking in public buildings; 14 in restaurants; 11 in gov-
 ernment workplaces and 8 in private workplaces. Scores of towns,
 cities, and counties have enacted such laws even in States which

have not yet moved to restrict smoking in enclosed places. The self-serving advertising campaign of the Reynolds Tobacco Co. against smoke-free space attests to the impact of such policies in reduced smoking.

The issue is not smokers' rights; the issues are whether we intend to protect nonsmokers from involuntarily breathing tobacco smoke, whether we care enough about our fellow human beings who smoke to encourage them to stop killing themselves, and whether we are serious about the billions of dollars in health care costs smoking causes. Cigarette smoking is slow-motion suicide. It is tragic when people do it to themselves, but it is inexcusable to allow smokers to commit slow-motion murder.

As Secretary of HEW, I issued an order requiring that each employee's right to smoke-free space be recognized. After a few shake-down weeks, all employees, smokers and nonsmokers alike, not only lived with it, they reported they were much happier than before.

In April 1984, Malcolm T. Stamper, president of the Boeing Co., established a corporate policy to create a smoke-free workplace. As an initial step, Boeing prohibited smoking in common areas throughout the workplace such as hallways, restrooms, lobbies, libraries, and computer rooms. When Stamper first put this policy in place, he expected resistance from workers and the union. Instead, he got acceptance and appreciation. Many companies have strictly limited smoking to designated areas. Workplace nonsmoking policies make health and business sense, because smokers are significantly less productive and far more accident and illness prone. The short-term costs to business of smoking employees are estimated at \$300 to \$350 per year, with long-term effects on productivity, absenteeism and premature death raising this to about \$1,000 per smoking employee per year.

Mr. Chairman, I have one suggestion for your consideration as you continue deliberations on this legislation: I suggest you stipulate that when disputes arise from policies established under the act, that the rights of the nonsmoker take precedence. This has been effective in a number of State and local statutes.

Surgeon General Koop has called on Americans to create a smoke-free society by the year 2000. Passing this legislation will send a powerful signal through every Federal courthouse, through every one of Social Security's 1,300 field offices, through every House and Senate hearing room and throughout 30,000 post offices—that the health hazards of secondhand smoke are real and require protective measures. It will ensure a healthier Federal workplace and a safer, more pleasant atmosphere for our citizens who visit Federal offices.

Mr. Chairman, let me conclude by congratulating you on your courage and your commitment to the health and safety of our people in sponsoring this bill and holding these hearings.

Thank you, Mr. Chairman.

Senator STEVENS. Thank you very much, Mr. Califano. You are with Chrysler Corp, aren't you?

Mr. CALIFANO. Yes; I am.

Senator STEVENS. What are you doing about smoking?

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Mr. CALIFANO. We have begun to put in a smoke-free place
policy. We have also started to provide our employees with incen-
tives to quit smoking, for example, financial incentives. Last year,
the life insurance policy premiums for smokers was raised to 75
percent above that over the life insurance policy premiums for non-
smokers, and we are mounting a campaign in all our publications
to encourage our people to stop smoking.

Senator STEVENS. We appreciate your testimony. I know you are
counsel for the Postal Service Board of Governors. Some people
have urged us to exempt the Postal Service from this bill. As you
know they are, unless we specifically include them, according to
the advice of our counsel.

Do you see any reason why they should be exempted?

Mr. CALIFANO. No. Indeed, I am surprised. The Postal Service
has regulations relating to employee workspace which limit smok-
ing in employee workspace. I would think that they should accord
the public the same kind of protection they accord their own work-
ers.

So I would urge that they be included.

Senator STEVENS. Let me ask you just a general question. You
followed the whole development of this trend in the country and
started it, really, when you were Secretary of HEW.

Do you know of any instance where a concept like that suggested
in my bill has ever been reversed?

Mr. CALIFANO. No. Indeed, I know of no instance. In the State
and local areas, where it has passed, this legislation has not been
repeated.

Senator STEVENS. Many areas have been designated. I was in a
hotel of a major chain just 2 weeks ago, and I was very pleased to
see when I went in the morning, to the breakfast room that there
were a designated smoking and nonsmoking areas. It is done by
company policy without regard to State law.

But I don't know of any instance where, this step having been
taken, there was any pressure from smokers or from people affect-
ed who said, "This is not a good thing." That has reversed; they
want the designated concept—the designated smoking and non-
smoking areas that have been put into effect. It has worked.

Mr. CALIFANO. It has worked, and at HEW, as I said, we had
praise from both smokers and nonsmokers alike. It has worked in
restaurants. I notice that the Mayor of New York asked that the
restaurants in New York now voluntarily establish smoke-free
places.

I think the only objections have come from the tobacco industry,
and I think the reason is that when these policies are put in place,
people have frequently quit smoking, and they smoke less.

Senator STEVENS. Staff has indicated to me that if people who
smoke one cigarette less a day for a year, that is 22 billion fewer
cigarettes that would be smoked in this country, and that is big
bucks for tobacco magnates and tobacco companies. I think that is
why they are the last holdout in opposing this policy.

We appreciate your taking the time to be the leadoff witness in
these hearings. I commend you on your pursuit of the same goal.

Mr. CALIFANO. Thank you very much.

Senator STEVENS. Thank you very much.