

SMOKING PROHIBITIONS AND THE IMPACT ON INDIVIDUALS
IN OREGON

A WHITE PAPER

PREPARED BY
SAVERESE AND ASSOCIATES

TIOR 0023941

INTRODUCTION

Private sector costs of amending the Oregon indoor clear air law to constitute total prohibition include those associated with the employment of labor and, especially, those relating to establishments most affected by a ban, such as restaurants. While these costs have been estimated to be of extreme significance for the private economy of Oregon, other real inequities and, perhaps, outright discrimination is likely to result from the proposed legislation.

PROHIBITIONS AND DISCRIMINATION

Laws that are not supported by a majority of citizens are not and cannot be "laws" in any real sense. Due to a lack of support, the 55 MPH speed limit was, in most places, simply ignored. Law enforcement proved to be impossible under such conditions since most drivers did not obey the "law" and citizens did not support an increase in taxes to police it. Enforcement was selective.

Similarly, enforcement of a smoking prohibition is most likely to be selective in nature, since a clear majority of Oregonians (smokers and nonsmokers) do not favor proscription of indoor smoking in retail establishments or in the workplace. Given this set of preferences, and the fact that owner-managers must enforce the law with no policing powers, law-breaking will be institutionalized. Anti-smoking zealots cannot be everywhere at once. Failing a massive increase in law enforcement budgets of the state and local health agencies, cheating on a massive scale will take place. Without support of the overwhelming

majority, a law is not a law since it cannot be enforced. Further, and perhaps more damning, contempt is bred for all laws when any law is not enforced or when it is selectively and arbitrarily enforced.

A failure to weed out non-essential and largely non-enforceable laws also creates a climate for abuse and discrimination when enforcement does take place. One issue that Oregonians should be aware of is the fact that a preponderance of individuals charged with violating nuisance laws are minority or low-income individuals. Available evidence suggests that the probability of a minority or low-income person being cited for a smoking violation far exceeds that of a well-dressed "yuppie." The city of Chicago instituted a Smoker's Court to hear cases involving violations of the city's anti-smoking ordinances. About 90% of those arrested for violating Chicago's nonsmoking laws were from minority or low-income groups. In New York, more than 55,000 summonses were issued to persons who allegedly violated health code regulations such as the nonsmoking ordinance. Nearly 73 percent were issued to Blacks and Hispanics. Low-income individuals are, moreover, more likely to bear disruptions to their lives. In 1976, according to Chicago's Smoker's Court history, a woman was arrested for smoking on an elevated train. Unable to post bond of \$50, she was forced to spend the night in jail.¹ Most individuals would agree that the punishment was not adjusted to the crime and that the prime targets of such arbitrary enforcement would be the poor.

Data on the smoking habits of people in different occupations shows the unfairness of the proposed law.² There are

significant variations in smoking habits by occupation which mean that the actual impact of the prohibition of smoking will fall more upon some categories of workers than on others. Tables 1 and 2 (Appendix A) provide data on the incidence of smoking by males and by occupational categories. Garage workers, commercial cooks and house painters are three times more likely to smoke than electrical engineers and twice as likely to be smokers as lawyers, architects or accountants. Table 2 reveals that, among females, waitresses or shipping clerks are two and a half times as likely to smoke as elementary school teachers or librarians. These data indicate that the law will provide for clear discrimination against low-and moderate-income job holders.

Table 3 provides data from the National Center for Health Statistics to show the percentage of smokers by income nationwide. In virtually all age groups, except for people over 65 years old, the percent of smokers declines as income rises. For example, more than one half of 35 to 44 year olds who earn less than \$7,000 per year are smokers, while that percentage drops to about one third when income in this age group rises to \$25,000 and above. The highest incidence of smoking occurs in young- to middle-age groups 25 years old to 45 years of age. While we do not have data on the proportion of smokers by age in the Oregon population, the 25-45 age group dominates the population in that state. If it is correct to assume that Oregon smokers are similar in age and income characteristics to the national population as a whole, the heaviest discrimination will fall on the lowest income earning individuals, ages 25 to 45.

TIOR 0023944

This group comprises the largest percentage of the population in Oregon.

CONCLUSION

In summary, the proposed smoking prohibition in the state of Oregon will have a discriminatory and disproportionate impact upon low- and moderate-income working people. The age group 25-45 are the individuals most likely to be affected.

FOOTNOTES

¹

Drawn from the remarks of Dr. Theodore Gill, Provost and Dean of Faculty, John Jay College of Criminal Justice, before the First Annual Conference of the National Minority Council on Criminal Justice, Washington D. C., October 18, 1980.

²

T. Sterling and J. Weinkam, "Smoking Characteristics by Type of Employment," Journal of Occupational Medicine, 18 (1976), pp. 743-744.

TIOR 0023946

Table 1

PERCENTAGE MALE SMOKERS BY DETAILED OCCUPATIONAL CATEGORY

<u>Category</u>	<u>Percentage Smokers</u>
Garage Laborers	58.5
Cooks (Not Private Household)	57.5
Maintenance painters	56.3
Pressmen and Plateprinters	55.7
Auto Mechanics	54.6
Assemblers	52.7
Buyers, Store	52.1
Shipping and Receiving Clerks	50.0
Personnel, Labor Regulations	36.9
Draftsmen	34.2
Accountants and Auditors	33.3
Architects	32.3
Lawyers	30.3
Compositors and Typesetters	29.3
Engineers, Aeronautical	26.2
Engineers, Electrical	20.3

Source: T. Sterling, and J. Weinkam, "Smoking Characteristics by Type of Employment," Journal of Occupational Medicine, 18 (11), 1976, pp. 743-754.

TABLE 2

PERCENTAGE FEMALE SMOKERS BY DETAILED OCCUPATIONAL CATEGORY

<u>Category</u>	<u>Percentage Smokers</u>
Waitresses	49.6
Shipping and Receiving Clerks	48.5
Buyers, Store	46.5
Assemblers	43.6
Bookkeepers	38.6
Nurses, Professional	38.4
Laundry and Drycleaning Operatives	38.3
Secretaries	37.8
Accountants and Auditors	30.8
Stenographers	28.4
Payroll and Timekeeping Clerks	24.4
Technicians, medical and Dental	23.6
Elementary School Teachers	19.4
Librarians	16.4

Source: See Table 4.

TABLE 3
OREGON AGE DISTRIBUTION AND PERCENTAGE
SMOKERS BY INCOME (NATIONWIDE)

Age Group	Less than \$7,000	\$7,000 -\$14,999	\$15,000- -\$24,999	\$25,000+
17-19	30.1	27.9	23.0	17.2
20-24	37.8	40.8	30.5	33.4
25-34	45.9	41.9	36.3	29.0
35-44	51.4	41.8	37.2	35.0
45-65	40.1	38.8	35.8	31.0
65+	17.4	18.0	15.6	18.2

Source: Adapted from unpublished data from the National Health Interview Survey, National Center for Health Statistics, (from survey interviews that took place during the last six months of 1980).