

NEW YORK CITY COUNCIL

Hearing on Smoking

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Testimony by

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Good morning. My name is Brennan Moran, and I am assistant to the president of The Tobacco Institute, an association representing major American cigarette manufacturers.

Along with a broad spectrum of New York City business people, labor, the entertainment and tourism industries, and representatives of minority communities in New York City, we strongly oppose adoption of the anti-smoking bill before you

There are several compelling reasons for our opposition to the proposed bill which would ban smoking in most indoor public areas and severely restrict it in restaurants, stores and offices.

- o The scientific evidence simply does not support conclusions that environmental tobacco smoke (ETS) represents a health hazard to nonsmokers.
- o Right now, without the City Council enacting another law, business people, working with employee representatives, are free to establish any smoking/no-smoking set up they see fit in their places of business.
- o Such a law would carry a price tag of hundreds of millions of dollars annually for New York City taxpayers and private sector interests.

While proponents of this proposed law state that the "evidence" indicates that ETS is a "public health hazard," we, along with much of the scientific community, disagree.

Three international scientific conferences -- convening more than 50 eminent scientists -- have concluded within the past five years that the scientific evidence is not adequate to support the contention that ETS poses a health risk to the nonsmoker.

Despite the emotional nature of the debate on ETS, the following statement remains valid and sound advice, and should be of particular interest in your deliberations:

"Should lawmakers wish to take legislative measures with regard to passive smoking, they will, for the present, not be able to base their efforts on a demonstrated health hazard from passive smoking."

That was the assessment of a panel of scientists convened in Vienna, Austria, in 1984, in cooperation with a variety of international health bodies, including the International Green Cross.

ETS has been discussed more recently with varying objectivity and differing conclusions. One on hand, last November, the National Academy of Sciences reported its review of the current ETS science -- making no findings about ETS in the workplace or other public places. Of note was the Academy's resounding emphasis on the need for more and better science on ETS.

The Health and Human Services-funded Academy report frankly acknowledged that the available scientific evidence does NOT demonstrate that smoking on the job or in public places -- such as restaurants -- jeopardizes the health of nonsmokers.

By contrast, another report funded by the same federal department, issued last December by the Surgeon General, seeks to support segregation of smokers. Like the Nation Academy report, the Surgeon General notes the lack of evidence that exposure to ETS has a relationship to non-lung cancers or cardiovascular disease.

Yet, while the Surgeon General admits that less than half of the available studies have found a statistically significant relationship between ETS and lung cancer in nonsmokers, the report ends with a firm conclusion that is simply not scientifically justified.

Other groups of eminent scientists have concluded that ETS has not been shown to cause or increase the risk of lung cancer among nonsmokers.

Refutations of the premise that exposure to ETS causes adverse health effects in nonsmokers were also recorded in a February 1986 report in Medical World News review which concluded that

"[s]olid scientific evidence of passive smoking's health risks to nonsmokers is as elusive as the smoke itself."

Yet another study in the July 1986 edition of the British Journal of Cancer concludes that environmental tobacco smoke

"carries no significant increase in risk of lung cancer, bronchitis or heart disease."

Serious weaknesses in ETS investigations cited by the Surgeon General have been noted by prominent, independent scientists. The scientific community continues to point up the flaws in interpretation as well as some research methodologies applied. Respected German biostatistician K. Oberla, in a 1987 review of the evidence published in the International Archives of Occupational and Environmental Health stated:

"The volume of accumulated data is conflicting and inconclusive. The observations on nonsmokers that have been made so far are compatible with either an increased risk from passive smoking or an absence of risk. By applying the criteria proposed by the IARC (International Agency for Research on Cancer) there is a state of inadequate evidence."

In a guest editorial in the June 1987 issue of American Review of Respiratory Diseases, two noted Harvard Medical School professors, expressing their opinions against active smoking and in support of the Surgeon General's Report stated:

"The health impact of exposure to [ETS] at work, except for its irritation, is largely unknown. The report is on its weakest ground scientifically here."

The Surgeon General's latest report must be viewed in appropriate context: as a seriously flawed misrepresentation of science. City Council members, it is clear that the smoking law before you today is not warranted on health grounds.

As a further matter of scientific fact, exposure to ETS in normal, every day, environments is extremely low. A recent study for the Institute, using sampling methods developed by the Harvard School of Public Health and analysis established by the National Institute for Occupational Safety and Health (NIOSH), indicates that a nonsmoking employee in a typical New York City office would have to work nonstop for almost 24 days -- more than 550 uninterrupted hours -- to be exposed to the nicotine "equivalent" of one cigarette.

Just as ETS does not represent any established health hazard to the nonsmoker, it should not be an irritant to the average nonsmoker, assuming ventilation equipment is properly installed and maintained, and is functioning according to established indoor air quality standards.

Indeed, a recent NIOSH study of 203 buildings found only two percent of those structures had indoor air quality problems attributable to high concentrations of ETS, while half of the problems were related to poor or inadequately maintained ventilations. Experts understand that ETS is a symptom -- not a cause -- of poor indoor air quality.

In the most recent report of the National Academy of Sciences, "Policies and Procedures for Control of Indoor Air Quality," the emphasis is placed not on ETS, but rather on the complex nature of indoor air quality. In fact, ETS receives little mention in this unemotional presentation of the facts.

The January 1987 issue of the Journal of Occupational Medicine contains a review of a large number of investigations and concludes

"prohibition of smoking has not been shown to have any measurable effect in either indoor air quality or associated health and comfort symptoms of sick building syndrome. Ventilation required to remove indoor contaminants produced by the occupants themselves . . . will also remove the constituents of ETS."

These findings are consistent with those of the nation's leading private indoor air quality research firm, ACVA Atlantic of Fairfax, Virginia. We respectfully suggest that ACVA's numerous investigations and broad experience with major office buildings is directly relevant to the proposed city smoking law. It would seem prudent for the City Council to conduct such inspections before adopting a sweeping law and essentially missing the heart of the indoor air problem.

It is just as clear that if this law is adopted and enforced, the costs to the taxpayers and the private sector in New York City will be astronomical.

An economic impact study for the New York State AFL-CIO in 1987 shows the cost associated with the measure then pending in New York City would cost in excess of \$265 million, with 90 percent of that sum being incurred year, after year, after year. Productivity losses are conservatively estimated at more than \$140 million for New York City.

Labor and business leaders share our concern about these costs, and others -- like the cost to personal freedom and private business autonomy -- that cannot be measured in dollars but are of the highest significance.

Today, you will hear again from different sectors of the business community, each providing you with their opposition to the proposed law. However, we think it important for everyone to remember that -- right now, without another law -- business people, working with employee representatives, are free to establish any smoking/no smoking policies they see fit.

In fact, the most reliable data indicates that just over one-third of private business have taken the approach of formalizing smoking policies for their offices. Restaurants are now free to implement creative and responsive setups that meet their customers desires.

Private business in New York City does not need to be shackled with a law that determines the configuration of their business. Those private businesses -- be it an office, a restaurant, or a hotel -- in the city must be responsive to the needs of their clients. Conversely they must have the flexibility that comes only whenever government does not dictate solutions to determine their needs and devise smoking arrangements, when necessary, that best suit their unique situation.

It is doubtful that the citizens of New York City would want the manpower and resources consumed and diverted by attempts to enforce smoking rules -- which, importantly, belong in the hands of private business -- at the expense of vital City services.

The tobacco industry stands with many allies against this rush to judgment. Business people -- from restaurant owners, to chamber of commerce officials, to hoteliers -- oppose this measure.

We believe the proposed regulation should be rejected as unnecessary, unwanted, economically burdensome and a threat to the personal liberty of millions of New Yorkers.

Thank you.