

March 4, 1991

EXECUTIVE SMOKING BAN EQUALS BAD POLITICS

The Administration is flirting with unnecessary political folly by banning all smoking in federal buildings via an Executive Order. Not surprisingly, the draft Executive Order emanates from HHS Secretary, Louis Sullivan and is being brokered by OMB on a very fast track, to wit: On February 25, OMB directed Cabinet Level Agency heads to comment by March 5 on a federal smoking prohibition contained in a draft Executive Order lest the agency be recorded as "not objecting" to the broad prohibition (see attached). At first blush, the HHS/OMB effort appears to accomplish a sweeping anti-smoking policy heretofore circumscribed by the federal courts.

The contemplated Executive action is an unwarranted affront to elements of the federal work force and organized labor; an untimely and premature policy statement likely to unduly influence pending OSHA and EPA examinations of environmental tobacco smoke; and, an unwelcome and unnecessary political albatross for the Bush Administration and their allies on the Hill. The latter concern is both subtle and real, to wit:

1. The proposed Order fails to recognize the rights of a distinct minority, the smokers in the federal work force, without recourse.
2. The proposed Order ignores the collective bargaining prerogatives of federal employee unions and obfuscates workplace parameters already defined by the federal courts.
3. The haste with which the Executive Order has been processed suggests that a premium is being placed on expedition at the expense of full and fair comment.

For the above reasons, the proposed Executive Order threatens both the Administration and its political party with a legacy that neither will covet.

Further, as a matter of practical politics the proposed action will be welcomed neither by "Tobaccoland" Members in Congress nor by a politically active tobacco industry. Offending the former should be viewed as particularly onerous. Recent history has proven that moderate tobacco state Members and their allies are often the critical "swing votes" for the Administration in legislative battles on the Hill. Such Members and their constituencies should not be needlessly embarrassed or offended by a process and policy designed to achieve an end that might otherwise be pursued.

Notwithstanding one's view on the merits of proposed Administration action, the resort to the Executive Order process absent full and fair comment will redound to the political detriment of the Administration; provide credence to the demagoguery of their foes; and, unnecessarily cripple the accommodation of potential Congressional allies and supporters.

The Administration would be far better served politically to pursue a federal smoking policy in the full light of the day.

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