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**The Economic Impact of Smoking Bans in Ottawa,
London, Kingston, and Kitchener, Ontario**

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The Economic Impact of Smoking Bans in Ontario

Executive Summary and Conclusion

Smoking bans have been imposed upon numerous jurisdictions in Ontario over the past several years. This study analyzes the impact of these bans on sales and tax receipts at bars and pubs in Ottawa, London, Kingston, and Kitchener. The analysis for Ottawa is based on separate calculations for the main downtown area, the remaining downtown area, the West side residential area, and the East side residential area.

The results are striking. After the imposition of the smoking ban, sales at bars and pubs were 23.5% lower in Ottawa, 18.7% lower in London, 24.3% lower in Kingston, and 20.4% lower in Kitchener, than would have been the case with no smoking ban.

Statistical analysis was used to determine the economic impact of the smoking bans and generate these results. In all cases, the ratio of sales or tax receipts at bars and pubs to total retail sales in the area are a function of the smoking ban, various economic variables, and seasonal dummy variables. Data for bar and pub sales and tax receipts for these regions were obtained from the Ministry of Finance under a Freedom of Information request, as discussed below.

The economic variables that were significant include the value of the Canadian dollar relative to the U.S. dollar, the index of industrial production, and the rate of unemployment. These data were obtained from Statistics Canada and other standard sources.

Over the past decade, anti-smoking activists have prepared a series of papers purporting to show that smoking bans have no negative impact on sales at eating and drinking establishments. These papers are seriously flawed by several errors, which have been corrected in this study. Some papers measured the impact of the ban only in the month in which it was imposed; we show that the effect is phased in gradually over several months. Other papers failed to treat different types of restaurants separately and have not separated bar and pub sales; we were able to accomplish this through the FOI request. Still other papers either ignored economic variables completely or used simplistic trends; we have used a variety of economic variables and included them with the proper lag structures. As a result, our findings are statistically accurate and econometrically robust. Smoking bans materially reduce sales at bars and pubs.

1. Overview and Methodology

Smoking bans in restaurants, bars, and pubs have now been implemented in hundreds of jurisdictions in Canada and the United States. For many of these jurisdictions, studies have been undertaken to determine the economic impact of these bans – in particular, how sales have been affected. At least so far, the results have generated far more heat than light. Restaurant and bar owners are convinced that their business has suffered, while anti-smoking activists claim to be just as convinced that restaurant and bar sales have not been hurt. Even with increasingly sophisticated methodologies, it was previously not possible to reach a consensus view.

In sifting through the welter of studies, several tenets have emerged that would serve to eliminate bias in either direction. These include the following:

1. Studies should be based on statistical regression models, not surveys. Surveys can be biased depending on who is asking the question, how it is asked, and who is being questioned. For example, restaurant and bar owners who have suffered a loss of business might be much more eager to release this information to a survey-taker, while those who had no loss or even a gain in business might decline to participate in the survey. Survey participants might give one answer to someone from an anti-smoking organization and a different answer to someone from a pro-smoking organizations; government surveys presumably do not suffer from this type of bias. For these reasons, data should be taken from official government records rather than collected from survey participants.
2. Changes in sales after the imposition of a smoking ban often explain very little and cannot be used as a basis for rigorous analysis. The question is not whether sales rose or fell after the imposition of a smoking ban, but whether they rose or fell relative to what would have otherwise occurred. Thus, for example, sales might rise after the imposition of a smoking ban because the economy was moving from recession to boom; or alternatively, they might fall because of an economic downturn. The only reasonable test is to compare changes in restaurant and bar sales with changes in total retail sales, taking into account changes in the overall economic environment. That can best be accomplished using multiple regression analysis.
3. Not all smoking bans are created equal. For example, a partial smoking ban in restaurants in warm-weather climates that still permits smoking at patio tables would be expected to have a far smaller impact than a total smoking ban for all tables and seats in the establishment. Failure to distinguish among different types of smoking bans often vitiates any meaningful comparison.
4. Most other studies have assumed that the impact of a smoking ban is immediate. In some jurisdictions, that might indeed be the case. In general, however, it is more likely that the impact of the smoking ban occurs over several months, as customers decide not to patronize eating and drinking establishments where they are no longer permitted to smoke. Indeed, the negative impact of a smoking ban might be spread out over several months or even quarters as eating and drinking establishments are forced out of business and others do not reopen, hence reducing the choice for patrons. At a minimum, that assumption should be systematically tested.

5. Different types of eating and drinking establishments respond differently to smoking bans. In general, it has been found that "neighborhood eateries" are more likely to suffer a loss in sales than upscale "event style" restaurants. Also, and of particular importance to this study, bar and pub sales are more severely impacted by a smoking ban than restaurant sales. Previous studies failed to make this distinction.

All these points are specifically addressed in this study. The econometric approach has been used throughout. All equations are estimated using the ratio of sales (or taxes) to total retail sales in that jurisdiction. Overall economic indicators that are used where appropriate include the value of the Canadian dollar, the index of industrial production, and the unemployment rate. In all jurisdictions considered in this study, a total smoking ban was imposed. Most of the time, the impact of the smoking ban was phased in over several months, and the economic variables also occurred with both lagged and unlagged values.

Most of the studies purporting to estimate the economic impact of smoking bans on restaurant and bar sales have been undertaken for the U.S. However, KPMG of Canada recently undertook a study to estimate the impact of the Ottawa smoking ban. They were unable to find any impact one way or the other. According to their report, "It is very difficult to isolate any effect the smoke free by law may have had on restaurant and bar sales". Instead, they point out, declines may have been due to the decline in tourism after 9/11, the recession, the massive layoffs of high-tech workers in the West End, or other economic factors.

Taken together with other anti-smoking studies from the U.S., these represent almost a classic case of disinformation. When the economy is booming, and hence sales at bars and restaurants do not materially decline, then the smoking ban must have no effect – leaving aside what one might have thought would be the obvious fact that sales grew much less rapidly than would have otherwise been the case. However, when the economy is declining and sales at eating and drinking establishments decline at double digit rates, why then of course it must have been the economy; the smoking ban could not possibly have been the reason.

One often sees the distortion of facts where "politically correct" causes are concerned, but unlike complicated issues where a plethora of complicated forces may influence the results, there are no great mysteries here. The correct method of approach is to compare sales at bars and pubs (or restaurants, or whatever specific type of retail establishment is being studied) to total retail sales, and then determine whether this ratio is rising, stable, or decreasing **taking into account other changes in the overall economic environment**. Of course sales would rise in booms and fall in recessions, other factors being equal. The methodology of any competent study should measure the behavior of the ratio of sales to relevant economic conditions. It is never sufficient simply to look at sales and say they went up or down without considering these other factors.

2. Brief Discussion of Data and Statistical Methodology

It has long been claimed by those in the restaurant, bar, and pub business that smoking bans have a greater negative impact on sales in bars and pubs than is the case for restaurants per se. There are two major reasons for this. First, many other studies that have been undertaken to measure the economic impact of smoking bans, "restaurants" includes fast food chains, where relatively few people eat on premises but overall sales receipts are fairly large. Second, and more relevant to this particular study, restaurants, bars, and pubs have all been combined in a single category. For this study, data were obtained from the Ministry of Finance under the Freedom of Information Act for sales and tax receipts at bars and pubs separately; previous studies failed to make this distinction. The results show significant negative impacts of smoking bans on bar and pub sales for several jurisdictions within Ontario.

Specifically, we requested monthly data for sales and retail sales tax for 100 food service and drinking establishments for the City of Ottawa. This list of establishments was prepared by Geospace Research Associates (GRA), which provides the Ontario Ministry of Finance with the postal codes and street addresses of the selected establishments in Ottawa. Four separate geographical regions of Ottawa were chosen, as discussed below, all of which contained more than 10 establishments in order to insure confidentiality of data. The establishments selected all met the following criteria:

- Located in an Urban Forward Sortation Area as defined by the Canada Post Corporation.
- In business continuously at the same address since January 2000.
- Identified in city business directories or telephone directories from 2000 through 2004 as pubs, bars, taverns, lounges, roadhouses, nightclubs, or billiard halls.
- Not a national chain establishment.
- Not identified solely as a restaurant, grill, or café.
- Not a private, recreational, or service club.
- Not a Canadian legion.
- Not a sports, educational, cultural, or other institutional facility.
- Not a bingo or other gaming establishment.
- Not located in a hotel or motel.

One additional criterion was used for selection: establishments were on the Fall 2001 Brewer's Retail List of the top beer accounts in the Ottawa area. This was simply used as an additional check; all the 100 establishments chosen based on the above criteria were on the Brewer's Retail List of 300 licensees.

We requested data on both sales and tax receipts at bars and pubs. One would ordinarily expect that the tax rate – tax receipts divided by sales – would be relatively constant, showing only small fluctuations due to differences of timing and possible lags in the reporting or collection of receipts, in which case a dip one month would be followed by a surge the next month. However, that was not the case. As can be seen from the detailed data shown in Appendix A, which lists all the data used in the regression equations, the ratio of taxes to sales rate would sometimes dip suddenly, falling from (say) 8% to 5% in any given month, and then returning to 8% the following month. Ministry of Finance personnel were unable to supply any reason for these data anomalies.

Since no apparent reason for these discrepancies is readily available, we have reported the results of our regression equations for both sales and tax receipts data at bars and pubs. In most cases, the measured economic effect of the smoking ban is larger for the sales data than the tax receipts data.

The Ministry of Finance was able to supply comparable data only for the period from January 2000 through December 2003. Data for 2004 were not yet available, and the figures for 1999 and earlier years were on a completely different basis and often varied by an order of magnitude. For this reason, our study has been restricted to the four year period 2000-2003, although we would have preferred to include earlier years in our sample period. Also, since London and Kingston imposed smoking bans in mid-2003, it is quite possible that the phase-in effect extended into 2004; this hypothesis can be tested as soon as further data are available.

A variety of economic data are used in these equations. Standard sources were used for macroeconomic data: the value of the Canadian dollar relative to the U.S. dollar, the index of industrial production, and the overall unemployment rate. The patterns of these variables over the sample period are shown in Figures 1-3. These graphs show the time series for these three variables from 1999 through 2003, since some of these variables are lagged in the regression equations).



As of April, 2005 the following went out of business in the city of

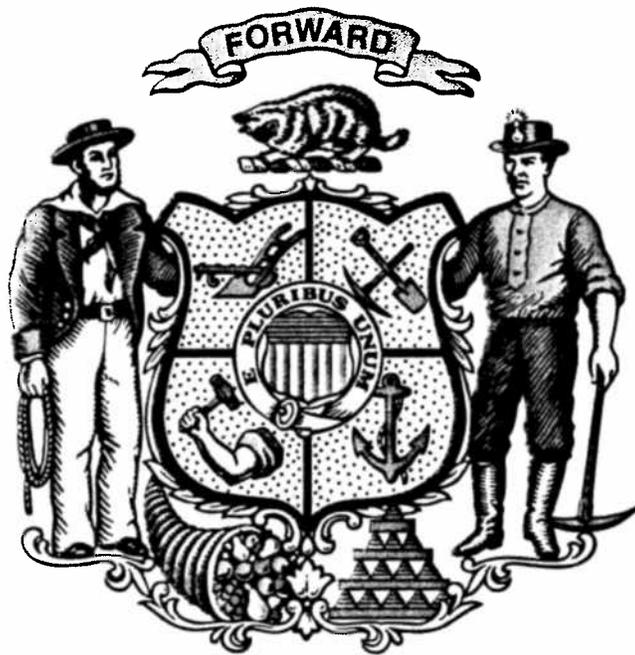
Appleton

- JukeBox Johnny's
- Muldunes Pub
- Bourbon Street
- Vegas Lounge
- Polly's
- Raven's
- Mongo's
- Trim B's

As of May 1, 2005 the following went out of business in the city of

Madison

- Buckeye Inn
- Runway Pub
- Rick N Ole's
- • Green Room
- Hammer Time
- Capital Grill
- Madhatters
- Bennett's on the Park
- Ray's Bar & Grill
- Kimia Lounge
- Bru's Anchor Inn
- Union House
- Fyfe's bistro
- JT's Friendly
- 4th Quarter
- CJ's on Atlas – reopened as Mexicali Rose, and then they closed as well.
- Sim's Bar – only open 2 days a week, will be closing for good soon.



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Smoking ban not Austin spirit; hurts business

By: Marc Duchon

Posted: 5/3/05

Smoking is a vile, smelly, self-destructive habit. I am not a smoker, and I've never smoked a single cigarette - it has no allure to me. Accordingly, I should be the poster-child for the American Cancer Society, which is leading the charge, one ordinance at a time, to ensure no one ever smokes in Austin again.

But I'm not.

Instead, I'm passionately urging voters to turn out to the polls and reject the ACS-led citizen referendum that would strengthen Austin's already robust smoking ordinance. The ban advocates have cleverly miscast the debate as a public health issue and, playing to their strengths, happily offer a deluge of numbers and statistics proving smoking is harmful (in case we missed the first memo, I suppose). The anti-ban group, led by local bar and club owners, mistakenly responded by framing the discussion as a matter of choice and personal freedom. Both groups miss the obvious - that at its core, this is about a lousy, onerous piece of legislation that threatens both the economic vitality and spirit of this town.

The most frightening aspect of the proposed ordinance is that, once enacted, it places a two-year moratorium on changing the ordinance. So, even if scores of businesses go bust and the live music scene disintegrates, nothing can be done to revert the smoking ban until the two years are up - and by then it will be too late to rescue either the businesses or Austin's live music reputation. It is alarming to see so many Austinites take up their torches and pitchforks against CAMPO over the toll road plan because of a lack of public debate, input and commissioned studies, but the same people don't mind that this ordinance is rammed through despite no economic impact studies or the outcry of bar and club owners and employees whose livelihoods are threatened.

The circumstances which placed the ban on the ballot should also raise some questions. Last year, an ordinance with the same language came before our City Council, which voted to maintain the status quo - our current ban which allows about one-third of bars and clubs to allow smoking. Undeterred, the ACS and anti-smokers immediately began collecting signatures to circumvent the Council's decision. It is bitterly ironic to witness the same progressives who lamented the subversion of representative democracy in California two years ago with the Gray Davis recall are now "subverting" democracy themselves.

And where have the bar and club employees been in this smoking debate? Ostensibly, they're the people the ordinance is trying to "save," since they're exposed to the second-hand smoke found in the clubs and bars which employ them. If these workers are so persecuted, why didn't they, instead of the ACS, spearhead the charge to strengthen the ordinance? Why aren't they even participating in the debate? Their silence smacks of that all-too-common progressive pitfall: paternalism. And what happens when, as in the case of Beerland, one of the clubs in the ban's crosshairs, 80 to 90 percent of the employees, musicians, and patrons smoke? Who exactly is being "saved" here?

Certainly not the small businesses which everyone in Austin claims to enthusiastically support. People in this town worship at the altar of small businesses, citing them as the source of most local economic and job growth, and howl when the city gives tax-abatements to large corporations. But when there's an opportunity to actually defend 200-odd small businesses from an onerous ordinance, they're content to sacrifice them.

Finally, after the ban-advocates unload the usual battery of statistics - number of carcinogens, lung cancer deaths, etc. - they point to comparative city studies which supposedly show no economic downturn among bars and restaurants when smoking bans were implemented in places like San Francisco and New York (even though no study actually breaks down the key difference between music venues and restaurants). But the comparisons miss a crucial point: that New York, or San Francisco, or any other city didn't, 15 years ago, pass a resolution dubbing itself the "Live Music Capital of the World" and then enact policies to nurture that reputation. If we no longer care about making Austin's music scene competitive vis-à-vis our larger neighbors which have no smoking bans - Houston, San Antonio, Dallas - then perhaps we no longer deserve our unique epithet.

Beyond hurting local businesses and our live music reputation, this smoking ban strikes at the spirit of Austin itself. Do we live in the kind of embracing town that tolerates people of all backgrounds, elects gay state representatives, allows Leslie, Jennifer Gale, and any yahoo Libertarian to run for any office they like, and fosters the arts and small, locally-owned businesses? Or do we live in a town on a slippery slope, where paternalism has replaced choice and personal responsibility, where after smoking is outlawed zealots will come after your booze and french fries and anything else that may be some kind of nebulous public health concern?

You decide.

- Marc Duchon is a UT graduate and former Daily Texan editorialist

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2005-2006 legislative session**Wisconsin Restaurant Association
Assembly Bill 414 Comment History**

- 6/24/2005:  Amendments in ASA 1 address most of WRA's concerns. We now view the bill as positive for the foodservice industry.
- 6/17/2005: 
- 5/23/2005:  Takes away the right of private businesses to set their own policies. Market forces should be allowed to operate here, as they are already reducing smoking in restaurants.
- 5/11/2005: 

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MEMORANDUM

DATE: June 23, 2005
TO: All Assembly offices
FROM: Pete Hanson, Director of Government Relations
RE: Wisconsin Restaurant Association Supports ASA 1 to AB 414

The board of directors of the Wisconsin Restaurant Association voted last week to support an amended version of Assembly Bill 414 and Senate Bill 202, the "Smoke Free Dining Act."

WRA opposed the bill as originally drafted, citing concerns that the bill could cause economic hardship for a large segment of our membership, and create a competitive advantage for taverns by banning smoking only in restaurants.

The substitute amendment that has been introduced by Representatives Krawczyk, Van Roy and Fitzgerald (ASA 1 to AB 414) addresses most of WRA's concerns.

Three changes are accomplished with ASA 1:

1. Restaurants with 50 seats or less will maintain their current-law exemption.
2. Separately-ventilated rooms will be exempted from the ban.
3. The ban will apply to dining areas in restaurants and taverns equally.

The WRA Board believes that, as amended, the bill contains more positive provisions for the foodservice industry than negative provisions. AB 414 now appears to be a reasonable compromise among all parties involved.

As amended, AB 414 represents the first significant expansion of the Clean Indoor Air Act in nearly two decades. It will promote smoke-free dining areas more evenly across the state, eliminating a hodgepodge of local smoking bans that have resulted in an uneven playing field for our members from one municipality to the next.

On behalf of Wisconsin's foodservice industry, WRA would like to respectfully encourage you to support the Krawczyk-Van Roy-Fitzgerald substitute amendment, and then passage of AB 414.



CONTINUED FROM PAGE 1A

Smoking ban

Continued

of the ban, which went into effect March 31. Proceeds dropped from \$8.7 million in April and May 2005 to \$6.5 million for the same months in 2006. Because full-tables are mainly sold in bars, that revenue often is seen as an indicator of how well the establishments are doing.

Officially, the board is neutral on the remaining ban's policy, but we have seen the support," said Tom Barrett, executive director of the state Gambling Control Board.

Valentine said he had to endure the double whammy of a road construction project and the smoking ban, all while fighting the effect of his wife's loss. But just weeks from the border of West St. Paul, where patrons can smoke.

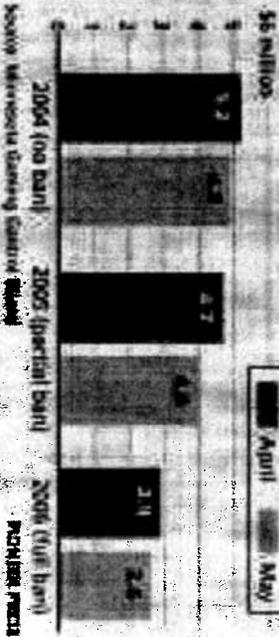
To stabilize the bottom line, he let a waitress and bartender go, he said. To bare back again, he asked the price of beer and wants to hold an outdoor deck.

"To just try to get people in the damn door," Valencio said.

But many say that aside from the steep decline this year, revenue from full-tables, bingo halls, meet-and-greet and similar events, the operations has been struggling for some time. For example, the city collects a 15 percent tax on gambling

City's charitable gaming revenue dropping since smoking ban

Here's a look at charitable gaming revenue from full-table sales in St. Paul bars. It compares the first five months of the city's full smoking ban with the same months the previous two years.



Source: Minnesota Gaming Control Board

revenue. In April 2006, it collected \$6.5 million. By April 2005, the amount dropped to \$8.1 million.

But the fund, which also decided not to charity, took a further hit than April when it collected just \$2.6 million. That means, who oversee, would gambling for the city's Department of Licenses, Inspection and Environmental Protection, said that was caused partly by the closure of two of St. Paul's last three bingo halls.

Bob Moffitt, spokesman for the American Livery Association of Minnesota, said his group has looked into claims that smoking bans hurt charitable gambling and concluded that, not only has it been on the decline for years, but a very small percentage of the money ends up in the hands of charities. Thus, that's beside the point, he said.

"Money is not our joint concern. They keep trying to bring it back to that. This is a public health issue," Moffitt said.

A spokesman for Mayor Chris Coleman said it was unfortunate that charitable gaming revenue is dropping, but seconded Moffitt's position that a ban is in the line for some time.

Any assertion that the ban has had a negative effect on these revenues is speculative at best and contradictory to the vast majority of evidence on this issue. Providing workers a safe environment to work remains our priority, said Mayor Coleman. Moffitt said a strong supporter of a local twin both in St. Paul and elsewhere.

Home said. Her concern, contacted by the Pioneer Press, seemed to be a permanent smoking ban and before that a statewide ban would help level the playing field. An effort to find the ban to a citywide vote was withdrawn

after polling showed that voters to repeal the ban could fail in the ballot box. Ron Johnson owns Socrates Bar on Jackson Street. Before the ban went into effect, he hoped to launch it out, but he has now put the place up for sale and wants to open a pizza place across the border in Wisconsin. "Trouble is, he can't find a buyer." "Not only have they ruined my business, but they've ruined my real estate value as well because I can't sell," Johnson said.

Others report similar difficulties. Ken Havel, owner of the downtown music venue, Artie's Quarter, said the opposite of the proverbial smoke just didn't last. "Wedding will end. If there's a break in a set, all the customers head outside for a cigarette instead of ordering drinks." "I don't smoke. I like the idea being smoked and not having my clothes smell like someone who's just done. But I'm heading out tomorrow," Havel said.

Mr. Havel is neither dining, he had said that a positive impact. The number of outdoor parking has increased in response to the smoking ban, with several bars and restaurants looking for ways to get outside to handle them since the ban went into effect. Several more are under construction.

Even more bars have plans under review or have asked for reconsideration from the city on immediate plans.

Alison Hoopes can be reached at alison.hoopes@pioneerpress.com or 612-267-1100.

Smoking ban might have hurt charities

Bars cite low state gambling revenue, but some say drop is just part of long trend

By JASON HOFFER
Pioneer Press

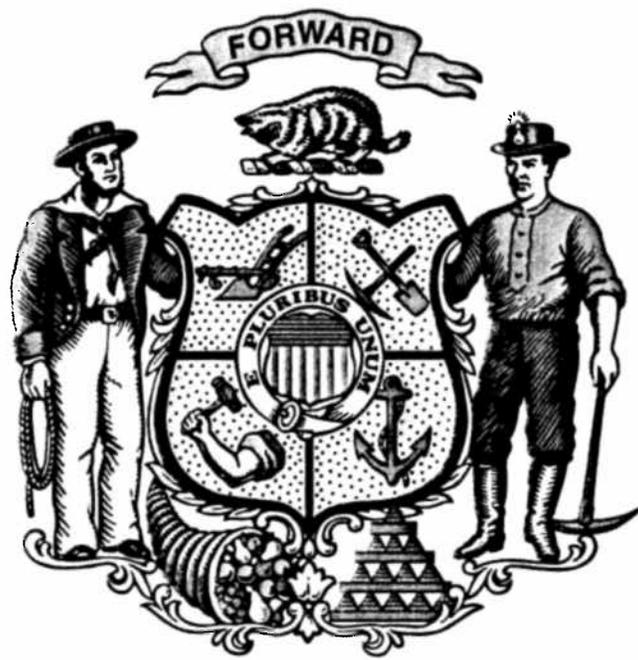
Winners' Bar & Restaurant marks the fifth birthday today. Exon Valencio, owner of the local local haunt on St. Paul's West Side, hopes it isn't the last.

The bar's future is uncertain, and Valencio believes the city's remaining ban, without just a TV to happy, will now harm years' to come.

Though opinion polls show support for St. Paul's smoking ban, bar owners — particularly those with working-class neighborhoods — where they respect businesses in key, and consumers have each other's backs — have organized since Day 1 that the ban is killing them.

Now there are many who say they may back their way, although bar supporters don't agree. According to the Minnesota Gambling Control Board, charitable gaming revenue — a source of which comes from payoffs — was down 36 percent during the first four months

of the ban.



Churchill Downs: Smoking ban will hurt track

United Pro Smoker's Rights ^ | September 20, 2006 | Joseph Girth

Posted on 09/22/2006 2:01:03 PM PDT by SheLion

Churchill Downs could be hurt financially if it is forced to go completely smoke free, a company official said Wednesday.

Kevin Flanery, Churchill Downs Inc.'s vice president for national public affairs, told a Louisville Metro Council committee considering a new, tougher smoking ban, that the race track is already facing heavy competition from Indiana and from computer and telephone betting services.

And he said the company's experience at a Florida track shows some people will stop betting when a smoking ban takes effect.

But the former head of the Greater Louisville Medical Society testified that his group favors a complete ban on smoking in public buildings, saying there is no safe level of exposure to second hand smoke.

The debate came as the council prepares to consider a tougher smoking ban that would prohibit smoking in the vast majority of public buildings and workplaces in the city.

Under the latest proposal, Churchill Downs would be exempt under the tougher ban. However, some councilors have said they would like to see smoking banned at the race track.

A committee vote could come as early as Oct. 4 but isn't likely, said Council member Mary Woolridge, chairwoman of the council's Health and Human Services Committee.



The Effect of Smoking Bans on Bars and Restaurants: An Analysis of Changes in Employment

Scott Adams, *University of Wisconsin-Milwaukee*
Chad D. Cotti, *University of South Carolina*

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A **BEJEAP Contributions¹** article.

Abstract

Many communities and several states prohibit smoking in bars or restaurants. Using county-level data on employment from across the US, we find that communities where smoking is banned experience reductions in bar employment compared with counties that allow smoking. **Smoking bans have a larger detrimental impact on bars in geographic areas with a high prevalence of smokers.** The relative effect on restaurant employment is neutral or mildly positive. The positive effects are concentrated in areas with fewer smokers. We also find that bans have a positive effect on restaurant employment in warmer regions of the country, especially during the cooler winter months, and in the summer in colder regions. This suggests the prevalence of outdoor seating might influence the policy's effect.

Submitted: June 5, 2006 · **Accepted:** February 5, 2007 · **Published:** February 8, 2007



Bars rebel against smoking ban

By ANTHONY LANE THE GAZETTE

March 1, 2007 - 12:43AM

Several Colorado Springs bar owners are rebelling against the statewide smoking ban, inviting their customers to openly defy what they call an "illegal law."

Bruce Hicks, owner of Murray Street Darts, met with nearly two dozen other bar owners and managers Wednesday, encouraging them to join a "civil disobedience" protest that calls for businesses to collect \$1 from each smoker for a "get out of jail fund."

The businesses will go to court to fight tickets they are issued for violating the smoking ban and use the fund to pay fines, Hicks said. The fines are \$200 for a first offense, \$300 for a second and \$500 for any others written within a year.

The eight-month-old smoking ban has cost him 25 percent of his business since it went into effect, Hicks said. He began allowing smoking in the bar three weeks ago, he said, which has "brought back my 25 percent."

Hicks said eight businesses had agreed to join the rebellion last week. Owners of three — the Adam's Apple Lounge on Austin Bluffs Parkway, DJ's Bar and Grill on East Fillmore Street, and Hicks' bar on Murray Boulevard — confirmed their involvement to The Gazette.

Hicks said if business owners vigorously fight the tickets in court, prosecuting the cases will be more of a burden than the fines.

"It's going to take the state of Colorado \$6,000 to collect \$200," Hicks said. "How long do you think the public will allow that?"

Colorado Springs police are investigating two businesses suspected of openly violating the ban, according to spokesman Lt. Rafael Cintron. He would not say if the businesses are among the bars vowing to defy the ban, but said the department will take "enforcement action" against any business found to be in violation.

"As we become aware of those places, we are going to investigate," Cintron said.

When it went into effect July 1, the ban made it illegal to smoke in any indoor public place except casinos, the smoking lounge at Denver International Airport, cigar/hookah bars, tobacco shops and businesses not open to the public that have three or fewer employees. The only bar in Colorado Springs that has qualified for the exemption is longtime downtown cigar bar 15C in an alley off Bijou Street.

The Legislature is considering a bill, approved Wednesday by the House, that would eliminate casinos' exemption.

One local bar, the Dead Ant Tavern on Montebello Drive, has shown its opposition to the ban even before it went into effect by hanging a sign outside reading, "My business, my customers, our choice!"

Although the ban has cost him 20 percent to 30 percent of his business, owner Neil Hager said, he isn't planning to join those defying it.

"I would join them if I thought it would do any good," Hager said.

Rep. Michael Merrifield, D-Colorado Springs, a supporter of the ban, called the protest "pretty much useless."

"Civil disobedience has been used for much greater causes," he said Wednesday. Business owners who have lost business because of the smoking ban "should look at ways to appeal to nonsmokers."

During the meeting at Joe's Bar with the other bar owners and managers, Hicks said the idea of a protest came to him when his wife told him that for the second time in a month, they could not afford to pay themselves a salary.

"That morning, I said, 'Something's got to be done,'" he said.

Hicks said he is aware of only one ticket written at a business participating in the protest.

Charlene Runyan, owner of Joe's Bar, said one of her bartenders received a ticket Friday because a customer was smoking inside the bar.

Customers were allowed to smoke that night, she said, but she doesn't plan on defying the law along with Hicks.

"It's been very, very devastating for all of us," Runyan said of the ban.

Linda Picarillo, co-owner of the Adam's Apple Lounge, said she let customers smoke last week. Since then, she said, business has picked up.

"People are sitting in here and they are staying," Picarillo said. She called the law inconsistent, particularly with the exemption for casinos.

"If it's a health issue, why aren't they protecting them?" Picarillo asked.



Founding fathers would have rebelled over ban on smoking

3/11/07

When Paul Hovere and Patrick Henry got together with the Sons of Liberty to talk about revolution over ale and a pipe, they met at the Liberty Tree Tavern or the Green Dragon in Boston.

Nearly 240 years later, a similar crowd gathered around a bar on the East Side of Cincinnati in late February, to talk about government tyranny. The conversation was as spirited as the drinks. Smoke filled the air, and not all of it was from Marlboros and Winstons.

They came from Al's Roast-house, Old-Father's Sports Bar, the Wag on Wheel, Annie's, Rustie Tavern, Head First Sports Cafe and Deer Park Inn.

They own taverns, sports bars, saloons, neighborhood bars - whatever you call the little watering hole down the street where you can count on good food, cold beer, no ferns and plenty of smokers.



Peter Bronson

And they shared the same story. They say business is down 40 percent for bars that enforce Ohio's smoking ban so most are ignoring or defying the law. And if they don't throw it overboard like tea in Boston Harbor, business will go down the drain like spilled beer.

"Ninety-five percent of my customers are smokers," said Barbara Wolf, who bought Brother's Cade in Silveston 29 years ago. "Everyone who comes in is concerned, asking, 'Am I allowed to smoke?' It's going to hurt. It's going to hurt a lot. I just feel like they have taken the rights of bar owners away."

Backers of the voter-approved ban insist that bar business has actually improved because more non-smokers are coming out. Don't tell them that bar business has actually improved because more non-smokers are coming out. Don't tell them that bar business has actually improved because more non-smokers are coming out.

'(B)usiness is down...for bars that enforce Ohio's smoking ban, so most are ignoring or defying the law. And if they don't throw it overboard like tea in Boston Harbor, business will go down the drain like spilled beer.'

Deer Park Inn. "Working people come to our places. It's a different group. And they won't come if they can't smoke."

As a former smoker, I know it's true. Smoking and drinking go together like hamburgers and Hank Williams. Given a choice to shiver in the cold for a smoke, or stay home and be your own behavior boss, it's no contest.

George U. Sirkin said, "They didn't listen to us. 'Tegenkamp said, 'They just said we have to get used to it.'"

But he says not. Tegenkamp has filed a lawsuit, and his lawyer is well-known civil liberties crusader Louis Sirkin, who says the law has prohibitions.

He argues that it infringes on the rights of business owners in the same way eminent domain takes property. "As a businessman, I ought to be able to make my own decisions," he said. "The First Amendment includes free association there are all kinds of uninterfere

consequences, which is one of the weaknesses of legislating by ballot initiative. Even the originators of the petitions may not have anticipated some of the problems."

Paul Hovere anticipated problems like this, either. "What did the founders believe? I'll bet a helluva lot of 'em smoked, and a helluva lot of 'em made their fortunes on tobacco," said Sirkin, a former smoker.

"Our founding fathers wanted the right to be left alone. Now we have the smoking patrol and e-cigarettes on street corners. Big Brother is everywhere."

I don't agree with Sirkin on much, but he's right on this: Bar owners and customers should have the liberty to choose smoking or non-smoking - without the Tobacco Kedscoats.

Paul Bronson@prnquirer.com or call 513-768-8301.



WEDNESDAY, MARCH 14, 2007

Take your smoking ban and ...

Hawaii has one of the toughest smoking bans in the United States. Bars and restaurants are flat-out forbidden to decide for themselves whether they'll permit their customers to smoke. Maybe the totalitarian nature of the law made it inevitable that a rebellion would brew -- and that many bar owners would simply refuse to comply.

Customers continue to light up in some Hawaii bars and bar owners are getting increasingly bold in their efforts to challenge and overturn Hawaii's three-month-old anti-smoking law.

Bar owners are taking advantage of an only-in-Hawaii bureaucratic complication that has stopped the state Department of Health from citing violators: while the law bans indoor smoking, the administrative rules giving the state the authority to actually ticket anyone are still being drafted.

As elsewhere, many bar owners cite lost business as the spark to their defiance -- despite the insistence of ban advocates that little or no business will be lost. But other business owners get to the core issue: Choice. They say it's their right to decide on policies for their own businesses, and the government shouldn't intrude.

Anti-smoking crusaders often insist that the ban is for the good of bar and restaurant employees, so they don't have to work in a potentially unhealthy environment, but their intended beneficiaries aren't as grateful as they might hope. In fact, many bar workers prefer working in establishments where smokers are welcome to practice their vices -- and to tip accordingly.

Hawaii's anti-smoking law originally was designed to protect employees and the public from exposure to secondhand smoke. But some employees say it should be left to them to decide what type of environment they want to work in.

"It should be up to the worker if they want to work in a nonsmoking bar or a smoking bar," said Michael Ellis, the manager of Pigskins. "Basically, my tips dropped dramatically. Say I was making \$200 a night in tips, now that's down to \$50."

So hats off to the tobacco rebels. Here's hoping the rebellion continues to smolder.





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April 2, 2007

Wiggie's Inc.
David Wiganowsky
1901 Aberg Avenue
Madison, WI 53704

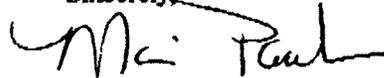
Mr. Wiganowsky,

This letter is to inform you that the extension you built onto your property located at 1901 Emil Street, is in violation of several Madison General Ordinances. Specifically you are in violation of Madison General Ordinance Section 29.06 regarding the building permit that was issued for the construction work. The plans you submitted to the City of Madison Building Department to not accurately depict the work that has occurred. You were granted a building permit and your submitted plans were approved. However, what was constructed was not what was depicted in your submitted plans.

Your establishment is also in violation of Madison General Ordinance Section 23.05 for permitting smoking in a tavern. Smoking is not permitted inside a tavern, it is however, permitted on any part of the licensed premise that is outdoors. What is considered to be outdoors has been defined in the attached document.

You are hereby directed to comply with all Madison General Ordinances by June 1, 2007. Failure to comply will result in a prosecution action ensuing. If you have questions about compliance with the Building Code please contact Mike VanErem at 266-4559. If you have questions about compliance with the Smoking Ordinance please contact Doug Voegeli at 294-5338.

Sincerely,



Marci Paulsen
Assistant City Attorney

enclosure

cc: Attorney Dennis Sieg
Douglas Voegeli, Health
Mike VanErem, BI



Restaurant group wants government to do dirty work on smoking ban

Mark Belling, Milwaukee Post

April 4, 2007

The Wisconsin Restaurant Association is pushing hard for a statewide ban on smoking and the Wisconsin Tavern League is pushing equally hard against it. The tavern league's position is easy to explain. Bar owners feel they will lose business if customers can't smoke and they are especially worried that much of their business will go to Indian casinos (which aren't covered by the ban because they sit on sovereign land). The restaurant association's position is harder to explain because it is riddled with hypocrisy.

The restaurant association is adamantly opposed to smoking ordinances in individual communities. But it is equally adamantly supportive of a statewide ban. In other words, the association isn't going to bother itself with any principles here. The restaurant owners are convinced operators lose business to adjacent communities if one community bans smoking. That's why they support a statewide ban. If everyone is forced to ban smoking, they hypocritically reason, then there's no business to lose.

Lost in the restaurant association's position is any sense of right and wrong. Smoking bans are inherently wrong because they strip from property owners the right to set policies for their own businesses. Smoking is not a right. But the decision whether to allow smoking ought to be. That's a principle. But the notion of taking a principled position is foreign to the restaurant owners.

You might think there's room for a compromise here. Since the restaurants support a smoking ban and the taverns oppose it, you could simply ban smoking in the restaurants and allow it in the taverns. But the restaurant group is wildly opposed to such a deal. It fears that if restaurants ban smoking but bars don't, that many smokers will simply eat at bars that also serve food. In fact, the restaurant association says if smoking isn't banned in bars, then it shouldn't be banned in restaurants.

Let's summarize. The restaurant association is for the smoking ban if it's statewide but opposed to if it's done in local communities. It supports the smoking ban if both bars and restaurants are covered but opposes the ban if it doesn't apply to bars. It's possible to shorten the convoluted restaurant association position down to one sentence. "We're a bunch of sanctimonious hypocrites who need the government to tell everybody else what to do but don't want to be told what we ought to do."

Restaurant association President Ed Lump says his group's board voted 36-2 in favor of the statewide smoking ban. Many of the "yes" votes were cast by owners who currently allow smoking in their establishments. Lump doesn't deny this. That means the pathetic restaurant owners are demanding that the state require them to do something they are fully capable of doing on their own. This is how liberty is lost. We demand that the government protect us from ourselves. What's lost when we ban smoking or regulate other behavior on private property are the individual freedoms on which this country is premised.

At least the restaurant association isn't alone in its unprincipled hypocrisy. We live in a society where it's a woman's "right" to abort her baby to death but illegal to carry a gun to protect yourself in a high crime neighborhood. It gets even better. Many of the people supporting a smoking ban are the same washed-up hippies who want marijuana smoking legalized.



Amy Ridenour's
NATIONAL CENTER BLOG

A PROJECT OF THE NATIONAL CENTER FOR PUBLIC POLICY RESEARCH

MONDAY, APRIL 16, 2007

SMOKING BANS HURT SMALL BUSINESS

Delaware's indoor public smoking ban cost one establishment 70 percent of its business and a \$350 fine from the state's health department.

Small Business in Financial Trouble After Delaware Smoking Law Forces Patrons Across State Lines

The Delaware legislature has outlawed smoking in all public enclosed indoor areas. This ban extends to bars, restaurants, nursing homes, prisons and all other publicly owned buildings.

The ban economically endangers many local establishments, such as Desiree Mulford's Breakers Bar and Billiards in Newark. Many of Mulford's customers have taken their business to neighboring states, where they can still enjoy smoking indoors. "I'm ten minutes from the Maryland line," said Mulford. "Not only do smokers go, but the nonsmokers go, too. They want to go where the crowds are."

While 25 percent of Delaware's population smokes, Delaware bar owners estimate that about 80 percent of their patrons do.

After a 70 percent decrease in business, Mulford decided to allow smoking at Breakers despite the new law. "For every one person I lost because there was smoking here, I gained ten," she said. But things changed after these practices were published in a newspaper article, and Breakers received a \$350 fine from the Delaware Division of Public Health. Mulford began to receive registered

letters from the state that described complaints it had received and unannounced visits state officials had made. The bar's previously-approved permits to construct a kitchen were revoked as a result of the decision not to enforce the ban. This compelled Mulford and her business partner to enforce it once more. After reinstating the ban, they lost more than 50 percent of their business and had to stop paying themselves just to keep the bar open.

The Delaware House of Representatives passed an amendment to their Clean Indoor Air Act in March of 2003. In an effort to help small businesses, this legislation would have allowed smoking in some bars. But strong campaigning by anti-smoking activists led to the bill's defeat in the state senate by a two-to-one margin. Delaware's Governor Ruth Ann Minner was also strongly opposed to the amendment despite the crippling effect the bill has had on some local businesses.

Dwindling crowds are making it difficult for Desiree Mulford's business to survive. She considered closing Breakers and opening a restaurant and nightclub in New Jersey, but New Jersey adopted a ban on smoking in public buildings, except gambling areas in casinos, in January 2006.

Sources: Desiree Mulford, Washington Post (July 7, 2003), Baltimore Sun (June 22, 2003), Associated Press (January 27, 2003), News Journal (April 9, 2003; June 1, 2003), The Record, Smokefreeworld.com

****Read this story and 99 other all-new outrageous stories of government regulatory abuse in the new fifth edition of the National Center for Public Policy Research's book, *Shattered Dreams: One Hundred Stories of Government Abuse*.**

Download your free PDF copy today here or purchase a print copy online here.**

Labels: Business, Government Power, Regulation, Regulatory Victims

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CIG BAN? WHAT CIG BAN?

CITY HOT SPOTS SMOKING AGAIN

By ANGELA MONTEFINISE



EXCLUSIVE

May 27, 2007 – While Mayor Bloomberg tries to make the world safe from greenhouse gases, his cigarette ban is going up in smoke.

Scores of trendy clubs and neighborhood pubs across the five boroughs have become smoking speakeasies, where bartenders and bouncers regularly ignore the prohibition launched in 2003.

The Post spotted scofflaw smokers openly puffing away in a dozen bars and clubs in Manhattan, Brooklyn, Queens and Staten Island during the past few weeks - including celebrity hangouts Bungalow 8, Tenjune, Butter, Marquee, Plumm and Guest House.

The violations The Post witnessed include:

* A bartender and 15 patrons smoking all night inside Doyle's Corner bar in Astoria on the rainy night of May 16. The same scenario was witnessed several weeks earlier.

* A half-dozen hipster patrons at Brooklyn Ale House in Williamsburg smoking openly at the bar and at back tables early Saturday morning.

* A bartender at Boat in Brooklyn saying, "It's 12:30. You can smoke now," as they passed out makeshift ashtrays last Wednesday night.

Earlier, she told a patron to stop smoking, but after her announcement, a number of patrons started up again and the bar was filled with smokers for another hour.

* Dozens of smokers puffing on the dance floor and in the VIP area at the Marquee club on back-to-back nights as security guards looked the other way last week.

* At least 10 people smoking in Chelsea's small, exclusive club Bungalow 8 Thursday night. A security guard walked past the smokers to tell The Post, "You can't take pictures in here."

* Half the patrons of the Annadale Inn in Staten Island lighting up in the wee hours after the bartender closed the window gate to keep out prying eyes several weeks ago.

* Several smokers blowing smoke in the small basement of Lit Lounge on Second Avenue last week.

"They used to" enforce the smoking ban, Brett, a Marquee regular, told The Post last week. "But they barely pay attention now."

Smoking has been prohibited in bars, nightclubs and restaurants since March 2003, after the Bloomberg initiative became law in the fall of 2002.

Establishments are responsible for prohibiting smoking indoors, putting up "no smoking" signs and eliminating all ashtrays. Smokers are not punished.

Fines of up to \$2,000 can be issued for every violation, and after three in one year businesses could lose their licenses. From April 2006 to March 2007, nine businesses were permanently shut due to smoking.

The city Department of Health said most businesses have been compliant, although there are violators. "We can't be everywhere all the time," a spokeswoman said.

Agency statistics show 199 establishments hit with 542 violations from April 2006 to March 2007, compared to 162 establishments getting 258 violations in the prior 12-month period. The number of complaints dropped from about 3,000 to 2,000 from last year to this year.

"It's a lose-lose," said an employee of a popular club on West 27th Street. "If we send people outside to smoke, people in the neighborhood got annoyed about the noise. If we let them smoke inside, we get hit with fines."

Allowing smoking indoors is "the lesser of two evils," he said.

Katie Browne, 26, a New Jersey paralegal and frequent clubgoer, said she has noticed a rise in smoking at nightspots over the past year.

"I hate it. My clothes are back to smelling like smoke, and it's gross," she said. "But there's no doubt about it - smoking's back."

Additional reporting by James Fanelli and Elizabeth Wolff





Club Home - Join - Newsletter - Events - Forum - Video Index - Comedy - Please Help

PRESS RELEASE

FOR IMMEDIATE RELEASE: June 11, 2007

The verdict is in: Smoking bans hurt the hospitality business.

David W. Kuneman, Director of Research of the Smoker's Club, Inc. originally became interested in the effect of smoking bans 4 years ago while reading an review article titled Review of the quality of studies on the effect of smoke-free policies on the hospitality industry. (1) That review article claimed that the "better quality" studies of smoking-ban effects always found no loss in the hospitality sector, and also claimed that of the studies found "none were funded by a source clearly independent of the tobacco industry."

"Yet, when bans pass, we always hear complaints from the hospitality sector," remarked Kuneman.

In 2004 Kuneman began researching actual government data from the US Department of Commerce and restaurant sales almost always suffered losses in states with statewide bans or even a wide proliferation of bans. (2) "This led me to strongly question the reliability of the antismoking groups studies" he said.

The "review..." article had claimed that all 21 "truly independent" studies (actually all studies funded or supported in whole or in part by antismoking lobby groups) found no negative impact on revenue. The unanimity of the results raised Kuneman's suspicions: "Considering that natural variability would predict at least some of these studies would show downturns in business for any number of reasons, it is very likely they were cherry-picking data and only reporting what they wanted lawmakers to hear."

On the other hand the studies referenced in the review article which were supported by the tobacco industry groups (basically any group with ties to the bar/restaurant industry was considered by the review article to be "industry related") usually showed economic loss from bans, but at least some of those studies reported that the bans had no detrimental effect in certain segments of the hospitality industry.

Overall, Kuneman found that the likelihood of economic loss is lower when the establishment is solely for eating and higher if the establishment is for socializing. Low, if the establishment does not serve alcohol, and high if it serves alcoholic beverages ... such as the case for bars and nightclubs. Low, if the jurisdiction had a low smoking rate and high if it had a high smoking rate. And finally, low if the jurisdiction is located in a mild weather climate where drinking, dining and smoking are allowed, and high in jurisdictions with cold winters or no patio smoking allowed. Employment loss followed these same patterns.

To date, all studies of betting establishments have reported losses when bans take effect.

Kuneman also noticed that many of the studies which claimed no loss, were actually done in jurisdictions where either not enforced or had many exemptions covering such things as limited or no food service, over o'clock provisions, or "hardship" waivers. According to Kuneman, "It's important for lawmakers to know that so-called bans were so mild that any reasonable person would not expect much economic loss to be surprising that groups sympathetic to bans selected the jurisdictions they did."

Finally, Kuneman did his own, slightly different "review" of all the economic loss studies available. He compared studies conducted by professional economists to economic studies conducted by medical researchers or lobby groups. He found that most of the economists' studies, including several published in peer-reviewed journals (3), found economic loss, which was sometimes quite severe. He also examined the subset of studies by the one group with no axe at all to grind except concern for the real economic profits and losses stemming from hospitality organizations and owners of businesses themselves. Those studies also were nearly unanimous in finding an extensive economic impact and loss due to smoking bans.

"The cat's out of the bag," according to Kuneman. "Let's face it and be honest about it. There have been jurisdictions which have enacted bans now for their ill-effects to be ignored. These owners are talking and communicating with owners yet to be subject to bans. Everyone now knows bans hurt business and as ban lobbyists claim, there are now solid and independent economic studies to back up that conclusion."

References:

(1) <http://www.tobaccoscam.ucsf.edu/pdf/ScolloTC.pdf>

(2) <http://kuneman.smokersclub.com/economic.html>

(3) **Economic impact examples:**

<http://ije.oxfordjournals.org/cgi/content/abstract/dyl258v1?ijkey=Xz91O4MDULuKEtr&keytype=ref>

<http://www.bepress.com/bejeap/vol7/iss1/art12>

<http://cep.oxfordjournals.org/cgi/content/abstract/18/3/326>

http://kuneman.smokersclub.com/PDF/Dunham_Marlow2003.pdf

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Smokers Rights Newsletter

Media Interview Requests

Media Interview Requests for David W. Kuneman



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Blue Chalk Club Will Close By September

Owner Ron Dobosenski Is Blaming Undercapitalization For The Close After Being Open For Just Over A Year.

Wisconsin State Journal :: BUSINESS :: E1

Thursday, August 16, 2007

By BARRY ADAMS badams@madison.com 608-252-6148

Just over a year after opening, the Blue Chalk Club in Middleton will close its doors at the end of the month.

Owner Ron Dobosenski said Wednesday undercapitalization is forcing him to close the \$3.25 million pool hall that he built in the Discovery Springs development.

When the business opened last year it had 41 employees. Now it has nine employees including Dobosenski. Hours were reduced last month after Dobosenski said he made the decision to close.

"I probably shouldn't have built such a big place," Dobosenski said from his McFarland home. "If I would have had better capitalization there's no doubt in mind that area could have supported it. The business area out there is still growing." Discovery Springs, at Highway 14 and the Beltline, features restaurants such as Quaker Steak & Lube, P.F. Changs and Abuelo's Mexican Food Embassy. A Ruth's Chris Steak House and a \$20 million, 200,000-square-foot office building for the UW Medical Foundation are under construction. A 136-room Courtyard by Marriott hotel opened last month and a 152,000-square-foot Costco warehouse store is planned.

"It's unfortunate for the owners that their dream didn't come to financial fruition but overall that area has done very well," said Van Nutt, executive director of the Middleton Area Chamber of Commerce. "It could become a night club, exercise facility. With the square footage alone it could be any number of applications." Dobosenski, who was critical of Madison's smoking ban, took over the Green Room on Odana Road in Madison in 2001. He said he was prepared to remodel the Green Room and do business despite the smoking ban but said he was offered an opportunity by developer John K. Livesey to move his business to Middleton.

"We were provided an opportunity," Dobosenski said. "I wasn't moving because of the smoking ban." The club was built around a billiard room that featured 26 world-class Gabriels pool tables with a European lighting system that Dobosenski said made it "one of the nicest high-end billiard establishments in the country." In addition to pool, the business

offered sandwiches, hamburgers, salads, appetizers and pizza and hosted wedding receptions.

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2>Fyfe's Corner Bistro Closing

The Restaurant Could Not Survive Construction, Competition And A Ban On Smoking, An Owner Said.

Wisconsin State Journal :: FRONT :: A1

Thursday, September 6, 2007

By BARRY ADAMS badams@madison.com 608-252-6148

One of the city's most visible restaurants and a popular spot for wedding receptions, rehearsal dinners and election night gatherings is going out of business.

Fyfe's Corner Bistro, 1344 E. Washington Ave., will close its doors in the next two months, co-owner Susan Breitbach said Wednesday.

Three years of road construction on East Washington Avenue combined with the city's smoking ban and a growing number of restaurants in the city all played roles in the 75-seat restaurant's demise, said Breitbach, who opened the business with Keith Blew in the summer of 1993.

"We tried to hang in there the last three years of road construction but at a certain point the overhead overwhelms the revenue," Breitbach said. "The banquet room has recovered from the road construction but the dining room and bar area had not."

The multimillion-dollar reconstruction of East Washington Avenue, one of the city's major corridors, started in 2004 and is scheduled to be completed in 2009. The work is being done in segments but Breitbach said because of Fyfe's location, her business was affected by the first three phases of the project.

Fyfe's, with 36 employees, is one in a string of locally owned restaurants that have closed in recent years. They include the Whitehorse Inn, Fitch's Chophouse & Spirits, Griglia Tuscany, Irish Waters, Wisconsin Cheesecakeery and the Casbah Restaurant & Lounge in Madison and Tallard's Station in Middleton.

The explosive increase in the number of restaurants, many of them chains, that have been added to Madison's Far East and Far West sides and in Middleton in recent years has siphoned business away from locally owned businesses in what is considered by many to be one of the most competitive restaurant markets in the Midwest, Breitbach said.

"The market share here didn't increase by enough people to support all the additional restaurants with enormous seating capacity," she said. "The perimeters of the city are out of control with restaurant

development."

Fyfe's is in a building constructed in the late 1800s that was home to the Fuller & Johnson Co., a wholesale hardware warehouse. In the 1930s, it served as a flop house for victims of the Depression, and later, CUNA housed a portion of its operation in the facility. Ohio Medical occupied the building from about 1950 to 1970.

Other restaurants that used the building, now owned by developer Jerry Mullins, included Cobblestone Station, the Annex Restaurant & Lounge and the Washington Host.

"As an independent restaurant (owner) I hate to see it go. They run a good business," said Paul Zach of the nearby Avenue Bar, 1128 E. Washington Ave. "It's a loss. I can feel for (Breitbach) and I feel for her employees. We're really disappointed."

Over the past 14 years, Fyfe's has hosted numerous election night parties including those for state Supreme Court Chief Justice Shirley Abrahamson, U.S. Rep. Tammy Baldwin, state Department of Public Instruction Superintendent Elizabeth Burmaster and less than a year ago, Dane County Executive Kathleen Falk's victory party in the Democratic primary for state attorney general.

Last year, readers of Wisconsin Bride Magazine voted Fyfe's as the best place in the state for a rehearsal dinner. Now Breitbach is faced with the task of calling brides and grooms (and others who have booked her 150-seat banquet hall) to tell them they'll need to find an alternative location.

Kaya Richmond, 29, and her fiance, Mike Freiman, 34, both of the town of Westport, had one of their first dinner dates at Fyfe's about 18 months ago and set a Dec. 22 wedding reception date for the restaurant's banquet room. Now they are scrambling to find another comparable Downtown spot for their reception.

"We're looking for other venues in the Downtown area that suit our party's size and has the warmth of Fyfe's. So it's a hard order," Richmond said. "We're just hoping to get our (\$400) deposit back."

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