

Ms. Elaine Lowe
Ms. Jackie Marati
Mr. Gerry Perez
Mr. Jay Peter Roberto
Annette M. David

Folks before I call the first individual to testify I'm gonna ask everyone because of the issue on time here I think all of us are in agreement that cigarette smoking is bad, it's unhealthy, it's not good for you . I don't smoke... unfortunately my wife smokes, but with that I know you have some issues and you want to speak about banning smoking in general or in particular but I'd like to keep that as brief as possible and focus on the bill as is okay. So with that I like to call Ms. Elaine Lowe.

Elaine Lowe:

Thank you Mr. Chairman and thank you... just had to cut my performance in half but that's ok because a lot of...

Chairman Calvo:

You know what we want to do, obviously the bill, there are certain issues here on the bill that have been brought up and whether it's definitions on bar, restaurants or whether it should be expanded or not. That's why, if we can focus a lot of that on the details of the bill, but please go right ahead.

Elaine Lowe:

Thank you, good morning. Thank you for the opportunity to provide you with information that may assist you in your deliberation of Bill 16. As you all may know the American Cancer Society's mission is to eliminate cancer as a major health problem by preventing cancer, saving lives, and diminishing suffering from cancer through research education advocacy and service. We were to educate our local community about cancer, what causes cancer, how to prevent certain types of cancer, and how to deal with this terrible disease. One of our largest program areas focuses on tobacco control and we are concerned about the effects of smoking on our community and that is why we support any legislation that is supportive of tobacco sensation and reduces the risk of tobacco use... so essentially what we are saying is that we support this bill should it be an amended, as is, simply because second-hand smoke is dangerous to our community. You've heard the testimony from other folks this morning highlighting those so I'm not going to reiterate those issues but essentially medical experts, OSHA, has declared that it is a carcinogen and there are the experts when it comes to saving work places so obviously second-hand smoke is unhealthy for workers as well as the

patrons of any restaurants or bar or office or anywhere that permits smoking in an enclosed area and so basically that is what we advocate... we advocate for any kind of legislation that supports tobacco control in any way, shape, or form.

Senator Calvo:

Thank you very much Elaine. Ms. Jackie Marati.

Jackie Marati:

Buenas yan Hafa Adai, honorable senators my name is Jackie Arriola Marati. I support Natasha's Bill and I appear before you as a concerned citizen and also as a Human Resource and Marketing administrator for the Bank of Guam. Medical benefits are an increasing cost of doing business and smoking adds to that cost whether it's sick leave, hospitalization and lost productivity. Smoking adds needless expense to our economy. Money is lost to cigarettes and medical cost, money which should be allocated to more productive and profitable ventures. Smoking is bad business. The establishment of smoking and no-smoking areas in our restaurants is ludicrous. Many of us have to pass through smoking areas to get to our non smoking seating. Smoking and non smoking areas in restaurants are mere figments of one's imagination. To those who say Guam will lose Japanese tourist, Hawaii banned smoking in its restaurants a few years ago and tourists did not flee as opponents had warned. In fact the national restaurant association showed a 3% increase in restaurant revenues in 2003 after smoking bans in Oahu, Maui, and Kawai took effect even in notoriously cigarette friendly Japan healthy habits have caught on and no smoking areas have been set up in Tokyo. I am a former smoker. I've smoked up to 2 packs of cigarettes a day. I quit twice and swore I would not smoke again after the physical pain I endured during the withdrawal process. Every inch of my body was in pain. I quit because my then husband and I were going to start a family and I wanted to rid my body of what I knew to be poison that would affect that baby. I quit cold turkey I haven't smoked in 20 years you and I can count many friends, family members and colleagues killed or being killed by smoking. The value of those lives lost is incalculable. As a citizen I'm here to speak before you on behalf of children and on behalf of Natasha who are unable to speak out for themselves. We are entitled to the most basic of needs, clean and fresh air... let's start now please ban smoking in restaurants. Thank you.

Chairman Calvo:

Thank you very much, Mrs. Marati. Gerry Perez signed in to testify but unfortunately I think he is out, but he has left written testimony for the Committee and with that I'd like to also call next on the list is J. Peter Roberto, Annette David, Randall Workman, and Karen Cruz.

J. Peter Roberto:

Thank you very much, Mr. Chairman, and members of the Committee. My name is J. Peter Roberto, I'm the Director for the Department of Mental Health and Substance Abuse. I come before you today representing Guam's single state agency for substance abuse treatment prevention and control... as a single state agency we are mandated to operate based on sound evidence. The scientific evidence clearly demonstrates that sensations programs work to combat nicotine addiction. The evidence also shows that to effectively reduce tobacco consumption, we need a comprehensive approach that includes environmental strategies as well as individual interventions... for these reasons I come before you today to welcome Bill 16 as a positive step towards a comprehensive approach to counter Guam's tobacco epidemic...with the bill further strengthened... and I would like to submit to the Committee that based on the evidence and consultations with our tobacco control consultant that the department has had, Dr. Annette David, that these... are really a positive step towards a comprehensive approach toward this bill. I would like to just go ahead and highlight the bullet points and should there be questions we could entertain them.

- 1.) That we remove bars from the exemption list.
- 2.) Where designated smoking areas are allowed... mandate that the same set of evidence based on requirements... consistently.
- 3.) Spell out responsibilities.
- 4.) Strengthen an enforcement provision.
- 5.) Strengthen provision for penalties for non compliance.
- 6.) Retain the non retaliation provision.
- 7.) Retain the severability provision.
- 8.) Protect the rights of business owners... to adopt stronger policies.

I believe as a department we have taken a lot of effort to ensure that we make tobacco control a priority. The department has acquired the professional services of a consultant who has spent the last 2 years with the department looking at the evidence not only from a local but an international level with the World Health Organization. We've taken a lot of effort to look and respond to the issues not only from a point where we are just looking at it as it would come to us on the surface but also to back it up with solid evidence. The work that we've done we hope that it is something of a substantive nature to allow the Committee to make its own decision toward strengthening a more comprehensive approach toward this proposed bill. So with that I thank you Mr. Chair.

Chairman Calvo:

Thank you, Mr. Roberto... before I get to the next person to testify. The last budget bill, \$150,000 was appropriated, specific is this... what...

J. Peter Roberto:

Yes, that's what I'm referring to... the \$150,000 with the Healthy Future Funds... these are the funds that I used towards addressing some of the substance abuse programs.

Chairman Calvo:

Will there be a final report compiled? As a result... again you're establishing a program?

J. Peter Roberto:

Yes... we do have reports that come in, in terms of how we use the dollars and those reports come in to explain what progress has been done.

Chairman Calvo:

If you could furnish the Committee, again...

J. Peter Roberto:

I'll be more than happy to.

Chairman Calvo:

Thank you so much... Ms. Annette David.

Annette David:

Good morning senators and thank you for having me here. I'm here also because as a teenager and a young adult I suffered from chronic respiratory allergies from second-hand smoke exposure from my mother and from my boyfriend who then became my husband. I'm proud to say I nagged him so he is now a non smoker. I still have to work on my mother. I'm a physician... I deal with facts and evidence and in the debate regarding smoke free policies we have to separate the facts from the fears. I would like to highlight four basic facts.

- 1.) Second hand smoke is an established human health hazard. I would like to submit for the Committee's consideration... a 54 page bibliography of studies from sources that have shown that second hand smoke is linked to health effects.
- 2.) Even breath exposure is harmful... we now have studies showing that even 30 minutes of exposure can cause measurable abnormalities and heart function in young healthy males... this is from Japan... we also have studies that show that casual exposure such as what could happen in a restaurant or bar can lead to measurable amounts of tobacco related carcinogens in the urine of young women and also recently another that showed that even low levels of exposure can cause learning disabilities that are permanent in children .
- 3.) Smoke free policies are effective in reducing second-hand smoke exposure. I would like to submit also for your consideration two very recent studies that have looked at air quality in those cities that have smoke free laws verses cities that do not and also in one particular state. The State of Delaware before and after the implementation of a smoke free ban and in both studies clearly the levels of dangerous indoor air pollutants were reduced remarkably after a smoke free ban was in place and those areas where smoking was allowed and this was in restaurants and bars. The levels of these dangerous air pollutants exceeded the safety levels set by OSHA by four times.
- 4.) Smoke free laws do not hurt businesses. In fact in many cases they actually help to improve business. The best and most reliable design studies and I would like to submit to you a collection of these studies... have shown that there is either no impact or a positive impact on the hospitality business. The only studies in the world that report a negative impact are all studies that have been funded by the tobacco industry. Finally... and I know there are lawyers in the room so I hope they are listening. Smoke free laws also provide another benefit to the business owner. They protect owners from liability and I submit another paper on law suits on second hand smoke. To date there have been over four hundred and twenty cases in the United States involving second-hand smoke exposure. In recent years the judicial system has increasingly awarded these cases in favor of the litigant... indeed food service workers are among those at the highest risk for second-hand smoke exposure and they are also the least protected. Bill 16 is a good first step towards reducing the public's help from this hazard. I would say, I would like to support this bill provided it is strengthened and I endorse the solutions that were presented by the director of the Department of Mental Health. Finally... today you will hear many testimonies coming from diverse perspectives. The question is what will sway you good senators the facts or unfounded fears. The facts are clear... a comprehensive smoke free law is

good health and good for business. The fears will come from those who are either ignorant of the fact or from those who profit to the sales of distribution of tobacco. How you vote on this bill will demonstrate to this island what you consider more important, safe guarding the health of the people or safe guarding business interests particularly those of the tobacco industry. We need leaders who put people first, who will refuse to protect business interest at the expense of the public's health and safety. We need you to put in place a strong and comprehensive smoke free law for Guam Thank you.

Chairman Calvo:

Thank you very much, Dr. David. I just want to make sure our Committee gets all copies of your testimony. Thank you so much. Mr. Randall Workman.

Randall Workman:

Thank you. I'm a retired professor from the University of Guam and a member of the Coalition for a Tobacco Free Guam. The mission of the coalition for a tobacco free Guam is a committee-based association of professionals from public agencies, non profit organizations, and individual citizens and it is active to achieve a healthier community by reducing death and disease associated with tobacco use through education and advocacy programs. Many of our members are the people that have testified here and that are working in the professional field of various programs of Health and Social Services and this testimony is being presented in their name, it was routed around the group and approved for submission . I want to focus on the key points of concern from the coalition which have already been voiced here. You've heard it from the business community itself as well as the other professionals and individuals who have come in here and testified. The coalition's main concern is that... as written... Bill 16 needs to be strengthened to extend its smoking... to include all enclosed public spaces for an example... it gives an exemption to businesses who call themselves bars. The law needs to be equally and fairly applied across the board in all business establishments. There should be fewer exemptions to Guam's amended clean indoor air act which can be achieved by the following: remove the bar exemption by deleting line 3 page 5 of §5 and renumbering the remaining sections. As the evidence in supporting this, your committee has several legitimate government objectives for protecting the public health and the work place, environment, and air quality which would be achieved by this action. By not exempting bars... the government of Guam will reduce the social acceptability of smoking in certain indoor public areas and declare that is not allowed for adults to smoke in any indoor public place even if those places are restricted to adults only. This will help the majority of adult Guam smokers who want and are attempting to quit smoking every year. To the extent more adult smokers quit... not only will their health improve but in turn it will help reduce smoking among Guam's

youth. Local research shows that living with an adult smoker is a major determination of youth smoking... remove the exemption for sports arenas and conventions halls by deleting the phrase except in designated smoking areas... with adequate and effective ventilation which removes smoke and purifies the re-circulated air this is found in lines 11-13 on page 6 of §5. We would like that removed... also to remove the exemption of sports arenas and convention halls. By not allowing smoking in designated smoking areas of sports arenas... the government of Guam will reduce the social acceptability of smoking and its association with being a cool popular adult at commercial sporting and spectator events. Smoking at sporting and convention events intensifies the image promoted by tobacco advertising and images that encourage Guam's youth to smoke for example... and images that make youths believe that by smoking you look like an adult. Smokers have more friends and or smokers look cool and fit in when doing adult only exciting behaviors... we have the research based on the youth tobacco survey and on the youth behavior survey. Over half of Guam's youth believe smokers have more friends compared to just little under half of all youth who have never tried cigarettes, this is a real clear distinction in regard to youth choosing to smoke. One third of Guam's youth who smoke believe smokers look cool and fit in, compared to only 17% of those youth who do not smoke. By reducing the social acceptability of adult smoking in adult places, the government of Guam can halt or reverse the increasing numbers of middle school youth who start smoking, which has risen in the last 3 years from 1999. The youth behavior survey only showed 18% of middle school youth starting to smoke... it is now up to 23% almost one in four children in our middle schools are beginning to smoke. By reducing the social acceptability of adult smoking in adult places, the government of Guam can also halt or reverse the increasing number of high school youth who are regular smokers with daily habit, this has risen in the last 3 years... it is now up to 40% of high school youth smokers to over half... it is now 53% in 2003, further coalition members are concerned that bill 16 does not fully address enforcement issues (which you've heard already). Who is gonna show them the responsibility of enforcement? There are citations or fines to be levied by non compliance. Is the smoker and or the establishment owner the one to pay the fine? Part of the concern is that the only enforcement is tattling by customers or in essence persons assigned by our public agencies. Unfortunately our agencies have no money to assign people to go out and address this issue. Therefore, it ends up not being enforced. Children are the most vulnerable than all of us to the harmful effects of second-hand smoke. They however do not have the right to vote until they become of age and therefore have no voice. We need to protect children... if the above amendment does not become law and restaurants are not allowed to designate smoking outdoor areas or bar areas with family seating sections... then a provision should be adopted at least to make it illegal to seat a minor child in such smoking sections. Guam's clean indoor air act should also be extended to protect children from other non extended smokers from exposure to second-hand smoke. We thank you for your consideration of this information and appreciate your efforts to address the need to take action to improve

the health in the community. As attachments I do have for those who are concerned with having to read much we have pictures and graphs in regard to the Guam data that is part of the attachments here showing some of this information. Thank you.

Chairman Calvo:

Thank you very much, Mr. Workman. Ms. Karen Cruz.

Karen Cruz:

Good morning senators. I'm here as Karen Cruz representing the testimony of the Guam Nurses Association and the Commission on Nursing Leadership. We are in support of Bill 16 which will amend the clean indoor air act of 1992 and eliminate smoking in restaurants. We fully support the responsible action of the bill to protect people, especially children from the dangers of second hand smoke... this is a step in the right direction. However, we ask the legislature further consider changes in the bill that would make all work places in Guam smoke free. We think it is prudent to make all the work places smoke free thereby treating all businesses establishments and employees the same. Employees and customers are exposed to second hand smoke in every establishment that allows smoking and are therefore subject to the subsequent health and safety risks that come with exposure to second hand smoke. There would also be economic benefits in that smoke free work places would reduce potential liability for unprotected employees, hazard pay demand, or obligations, higher health and fire insurance costs and lost of work days due to smoking related acute and chronic illnesses, long term economic benefits could be realized by keeping employees healthier and productive longer, thereby, contributing to the tax days and to the economic support of their families, making all establishments smoke free would recognize these benefits and send a consistent message to the general public as well as employers and employees... thank you.

Chairman Calvo:

Thank you very much, Ms. Cruz.

Andrew Dames:

Good morning Senator Calvo, Senators. My name is Andrew Dames, I'm a student at St. Paul, an active youth leader in my school and community and it's the first day of Easter break, so I have nothing better to do. I thought I'd come out here. I know you guys heard a lot of testimony this morning regarding a bunch of things, so I was editing my speech before I got up here. I'm here today to tell you why I believe Bill 16 will greatly aid our island. Everywhere you turn someone is smoking a cigarette on Guam,

I'll be blunt with you in that cigarette smoking is a disgusting habit that puts many people into unhealthy and deadly situations. I'm sure all of you have heard the statistical information and facts about second-hand smoking. There is not one argument that second-hand smoking is not harmful and that smoking is beneficial. Every action has a consequence: one puff, one cigarette, and one ban can make all the difference. Businesses may say they will lose money, they will lose revenue and customers, maybe they will, maybe they won't. I have always been taught to value a person's life. I ask you today senators... will you value the dollar over a person's life, or over a person's health? Will you allow businesses in Guam who are worried about not making that extra grand, fill your thoughts with ridiculous arguments, a person's life is so much more valuable than a dollar sign. Due to the media or how I like to say the fourth branch of government... smoking has been popularized and people smoke without thought or consideration to the people around them. If we make a stance and ban smoking in restaurants then we are showing to the next generation that we stand for Guam's health, that we want a healthier island. Senators you have been blessed with the opportunity to be the leaders of our island, to be our ambassadors. Will you use this position to help our people and make a positive impact? Bill 16 is a great bill. It will help to ensure the protection of innocent citizens who may be at risk. It will help the state of our island's health and I believe it will encourage a no smoking island. I hope you pass this bill and prove that you are standing in a gap for this island. Ask yourselves of all the dangers of second-hand smoking. What dangerous harm will a ban do? As I mentioned earlier every action has a consequence; take action and pass this bill and you will see the healthy, happy, and positive benefits to come... thank you.

Chairman Calvo:

Thank you very much, Andrew.

Niki Blas:

My name is Niki Blas. I am speaking as a private business owner... also of a restaurant. Although after today, I don't feel like I should be allowed to testify because I am a smoker. However, just to clarify as far as I know there is no law in place that restaurants have to provide a smoking area. Is that correct?

Chairman Calvo:

Yes, there is a law.

Niki Blas:

That they have to provide a smoking area?

Chairman Calvo:

No... they don't have to, but again you're allowed for smoking or non smoking areas.

Niki Blas:

You do not have to make sure that you have to accommodate smokers as well?

Chairman Calvo:

If there is to be smoking in the restaurant, then you can put an area for accommodation.

Niki Blas:

Ok, you can become a smoke free facility on your own.

Chairman Calvo:

Sure.

Niki Blas:

Ok, alright.

Chairman Calvo:

A restaurant owner can do whatever they wish to do. If they wanted smoke free, though it's not in the law... you can wish if you choose to have a smoke free restaurant.

Niki Blas:

I think Mr. Artero should be informed of that because if his feeling towards the restaurant on how he should manage his restaurant; then he is free to provide a smoke free facility. After reading Bill 16 in its entirety then again maybe not, I would like to start of by defining establishments, my definitions of establishments mentioned in the bill. Restaurants, privately owned businesses, free enterprise, and an establishment that provides food and beverage usually with a dining area for its patrons to eat in, a business where people can choose to patronize or not. A luxury to the general to the public not a necessity, a federal or government building is a public building where everyone at some point in time will have to visit by law. A bar a privately owned business... free enterprise establishment who's sole purpose is the sale of alcohol and

beverages and may provide food as an additional sale item, a business where people can choose or choose not to patronize. A luxury to the general public provided you are 18 years of age or older according to Guam law. I feel that it is a violation of a privately owned business' right to accommodate guests who choose to indulge in a legal product while dining out. I feel that privately owned businesses have the right to determine their own free will, whether or not they would like to serve as a smoke free facility or not. The government in my opinion has no right to impose on the private sector the preference of some over the other... one debating a product that remains legal today. The mere fact that they are eating establishments does not classify them as public domains such as a government or federal building where at some point the general public will have to enter into and they should not have to be subjected to second hand smoke if that is their preference. However, a restaurant is again a luxury and not a necessity. People have the right to choose whether or not to patronize a certain establishment. A business should also have the right whether or not to entertain smokers. There is no law that I'm aware of that imposes on the private sector to provide a smoking section in that sense where they have to have smoking, it was left where it should be in the hands of the business owner. The other issue is that I do not understand why do you feel it would be ok to allow smoking in bars and not restaurants? I suppose people who do not smoke don't drink either. What is the difference between the two if a bar can allow smoking why can't I open up a strictly smoking restaurant? The government should not serve as the iron fist on behalf of some on this issue. I feel that there are many different avenues that could be taken to create a win-win situation, however we've chosen the monkey-see and monkey-do attitude. The fact that California or Maine etc. have chosen the same path have not persuaded me to hand over to the government yet another right to choose. People seem to give so little power to the choices they have and make every day... every person has the right to choose which restaurant they will patronize. If it doesn't meet your standards don't support it, but don't try to enforce your beliefs or feelings on the private sector by having the government take away one right to appease your preference. I fully understand that the non smoker would prefer a totally smoke free area, just as much as a smoker would appreciate a smoking section, stop declassifying smokers as second class citizens and that their right to smoke in an area provided by a private business is some... how your business to take away. The desire to smoke is just as strong as yours is... to eliminate it, make a difference yourself, you still have some rights. The right not to patronize a business that does not give you a separate smoke free area. The right to persuade individuals that your idea to provide a smoke free facility may benefit them in the long run. The right to open up your very own restaurant and make it smoke free. The right to inform people on the possible hazards of smoking, but trying to give away our rights to satisfy your preference. If it wasn't about preference then why are we here trying to ban it in certain facilities that are privately owned? Why don't we just ban it in its entirety from entering our borders? Then it would be illegal and there would be no further discussion. Remember sitting

down in a restaurant to be served a hot meal is a luxury not a necessity and if that restaurant chooses to service the smoker, practicing his right to smoke so be it, and if that restaurant chooses to serve as a smoke free establishment more power to them, they still have the right to make that decision regarding their business without the government imposing it upon them. To eliminate any confusion and to help people make informed choices... I would be in support of the idea to have all businesses post in their entrances what type of facility they maybe. They maybe a smoke free facility, so they would have to post that on their front entrances. They may offer smoking and non-smoking... they may have individual smoking and non smoking sections as in totally separate where the air does not go into the other room where the non smokers would like to be in so forth... or there can be an all smoking facility. Life is full of choices... be responsible for yours and make it work for you. I would also like to add that... you know I'm not going to argue that smoking is healthy and you know everyone go out and just grab a cigarette and I think its great, but I will argue it is legal and it is either legal or not legal and it is legal for anyone over 18 to smoke now if we're going to you know, basically don't pussy foot around it, you know put it, put it if you want to put it up on a vote for an election and say should we ban smoking in its entirety... then let's do that, but as long as it's still legal . I think to go in and tell a private business owner that you can only accommodate this one person or these certain people and put the other people somewhere else in the back of the bus, in another room outside to me is just totally unfair, you are totally discriminating against a smoker, you either set it as illegal or not, but don't say it's illegal but you don't count. You cannot go and have a hot cup of coffee and smoke your cigarette. I totally understand the right for a non smoker to want to enter a building and have a smoke free air breathing place. I'm not arguing with that, but there are other ways that this bill could have been done or can still be done to satisfy both people so long as smoking is still legal. If I get to do what I want to do in my next restaurant that I get to open, my dream for it basically is to offer two absolute separate areas with glass, you know where they feel like they are totally separated but it doesn't bother a non-smoker and it still allows a smoker to smoke. If the issue is of children, I am also in agreement that you could also find other ways to make this bill still work in a way, but allow it for adults only and allow children in the smoking area, but to just ban smokers from every place onsite but still say it's legal just looks like nothing but total discrimination against a smoker. The incentives you could do... to offer to business, if you want them to go the smoke free way that you would like them to go, maybe you could offer them the money that they might spend in renovating their building to accommodate both sections that maybe you would double the tax write up, something that pushes our gears to what you want without still saying hey, you know were going to step in and were gonna tell you how were going to do this. Because you still have it as legal, so I just think that it is not right and there are a lot of other ways to fix this bill, make everybody happy and I'm not sitting here concerned about the dollar signs. I'm concerned about people's rights and I feel that you know, its kind of sad that the only thing we seem to be talking about was either the

right of the non smoker totally or a business dollar sign and every one else forgot that every one had there own rights and to just pass it on like it was meaningless is just really sad and that's all I have to say.

Chairman Calvo:

I want to thank you very much for your testimony.

Niki Blas:

And by the way, you know if we keep doing this we might have to put a certain general wording on Pepsi, that there is a lot of sugar and if you're diabetic it's not good for you.

Chairman Calvo:

At least I'm drinking diet pepsi that doesn't have the sugar. I want to thank you for your testimony. I think that concludes the testimony section here. Mr. Ramirez we've had your testimony, sir I want to remind you that there were questions that were brought forth from my collogues in terms of asking questions to Mr. Jackson, I will turn the microphone over to my collogues and see if any one of them requests or is looking towards a question to you Mr. Ramirez, but with that I would first like to look to my colleagues and I'll start to the way left and I'll move my way forward here if there is anyone that would like to make a comment or question. Senator Klitzkie would like to make a comment or question.

Senator Klitzkie:

I would just commend the last witness on her courage coming forward this morning, Mr. Chairman I don't know that I agree with her but certainly the essence of a public hearing is for everyone to come forward and express their views. Thank you.

Chairman Calvo:

Thank you very much, Senator Klitzkie. Senator Brown.

Vice-Speaker Brown:

Thank you very much, Mr. Chair, unfortunately I was not able to ask Mr. Artero a question because I was at his restaurant the other evening and certainly had a very good dinner but I recognized as he pointed out some of the challenges that you face when you do eat in public places and restaurants in particular while your sitting waiting to be seated and because there are a lot of people there and it's not uncommon

that there are a lot of people at Lone Star, you're sitting there near the smoking section at the bar and so you end up having to sit there while you're waiting, breathing cigarette smoke. I just want to let most of the people in the audience know most of the members of the Guam Legislature are non smokers. I in particular am a very adamant non smoker, my father is an 11 year survivor of lung cancer and I know his is a very small percentage of people that are walking around that actually get lung cancer if it is caught early enough. If your one of the lucky people and it's caught early enough in your life you're very, very, very blessed. So for myself... I would be very supportive of this particular bill because I do see the advantages we will gain. I was just recollecting with my good colleague, Senator Klitzkie here, number of years ago when former Senator Dr. Espaldon introduced the law that required segregation of smoking within restaurants between smoking and non smoking there was a lot of talk at the time, because Dr. Espaldon didn't get re-elected that he didn't get re-elected because of the smoking bill and certainly for those of us younger members that's the thing we remember of Dr. Espaldon not any other piece of legislation he may have done in the time he was in office , but simply on the smoking bill and then the thought came up: what would happen now if we were to simply ban smoking? This is very good the testimony that we're hearing on both sides, but I'm gauging it's more pro-banning smoking in public places and banning smoking in restaurants. When I was in California a number of years ago I walked into a restaurant... it's a habit to ask for non smoking seats and normally I'm able to stroll by and people don't think I don't live there, normally you can get away with it in most cases every time... I try, but then the first thing the attendant said to me was... you're from out of state aren't you and I said yah... I am... I didn't tell him how far out of state because they banned smoking in restaurants throughout California... So this is not an uncommon thing... my view is and because I have such very strong feeling about anti smoking and my colleagues who do smoke know that because I point it out. I don't allow smoking in meetings that I'm sitting in. I prefer not to be surrounded by it, because unless you want to walk around with the smoke and only the smoker is the one that smells the smoke and inhales the smoke that's fine with me but for me as a non smoker and have to be exposed to it then I feel I'm being discriminated against because I choose not to smoke and that's my choice and I do agree with Vicky when she brought up earlier, you know your ability or where your rights end... where it starts affecting me I guess from how far my fist will be to your nose. As long as it doesn't hit your nose... and so my feelings are very strong on this from the health aspect and also the evasion of space and that needs to be looked at. If you choose to consume something and you choose to drink Pepsi then that's your choice to drink Pepsi. I'm not adversely affected by your choice to drink Pepsi. I would be adversely affected by your choice to smoke in my presence in a confined space and in a restaurant... I know some people are chronic smokers, it's almost that eating and smoking are simultaneous for some people. They need to do it. I don't particularly really care for it , I would prefer that in public places it not be there and so I think my points are fairly clear on where my support will be for this bill and I

certainly do commend the author the introducing it. Even if I know that there is some degree of controversy... but you know we talk about health care and trying to improve the health of our community, Mr. Chairman, there are enough studies to show the dangers of cancer and yes you could be the healthiest person and still get cancer. You could exercise, follow your diet and not survive the day and those are very, very real possibilities, but at the same time we know as a community that we increase the percentage of mortality because of a certain practice. I think one of the best things we probably can do to encourage a healthier life style in our community is actually set a public policy that encourages that and I think Mr. Jackson who I expected from the Hotel and Restaurant Association to give us a different position, actually from his testimony seems to encourage banning it also in bars and I wouldn't mind being able to go out even though I don't do it very often, to a bar and a karaoke lounge and be able to sit through that experience and not smell like a stack of smoke when I leave. That would be very nice so I certainly do support this legislation. I do appreciate every one from both sides of the aisle on this issue that have come up to provide testimony cause I think this it's gonna have far reaching effects and I'm hoping Mr. Chairman it's gonna be a positive one for the health and welfare of our community. Thank you.

Chairman Calvo:

Thank you very much, Senator Brown. Sen. Palacios do you have anything?

Senator Palacios:

Thank you, Mr. Chairman... I share the observation of the last speaker. I see this really as not health vs. money. Actually health is a moral issue and of course money is an economic issue and you cannot compare health vs. the economics. She brought up a good point which I want to share with you that the only way really that we can see this in a perspective is health vs. freedom. I don't smoke I quit the habit in 1969 but the smokers who enjoy smoking while eating... these are the people against whom this bill is really... who's right might be infringed upon and who's rights might be infringed upon and that's, I give that a thought because this is more than economics. This is due process equal protection of the law. This bill protects those who do not want to be exposed to smoke. I have yet to see a law that mandates a restaurant to have a smoking area for the smokers and I like to share that observation. Thank you.

Chairman Calvo:

Thank you very much, Senator Palacios.

Senator M. Cruz:

Niki I think that was a great testimony. It's very brave of you as Senator Klitzkie said to come up in the midst of all the anti-smoking people to be able to speak like that. Unfortunately, I agree with you in that I think there should not be a discrimination and I think that we need to work towards a comprehensive smoking ban, but unfortunately we cannot allow cigarettes to be illegal unless we make a law that says that we can no longer have cigarettes here. The problem is, we're going to need to protect people and Senator Palacios said earlier when he was questioning Mr. Jackson was, give me some convincing arguments. Well you know as a physician I see those convincing arguments almost every day. In the last two weeks I've diagnosed lung cancer in at least two patients but one of them from years and years of smoking and unfortunately the other one didn't smoke at all but the husband did and now has not only lung cancer but has now spread to her brain. So just let me give you some convincing arguments. The convincing arguments are cancer obviously. Dr. McNinch basically stated that cancer does not care if you are democrat or republican, but unfortunately does care if you're a smoker or a non smoker and to go even further... cancer does care if you're breathing second hand smoke. It does care it picks you and unfortunately others that are innocent bystanders to that second hand smoke that is hitting you. I've gotten a lot of hits because this bill was re-referred out of my Committee on health and I don't necessarily agree with that. I think it is a health issue bill but it does affect the business and it does discriminate against certain businesses and that's why I think that we should look for a comprehensive smoke free law but let me give you the one last convincing argument. You know what that convincing argument is, it is Andrew Dames, Pia Weisenbeger, Amanda Shelton, Natasha Perez, because if we can't do it for ourselves... I was telling Senator Calvo that you know we don't need to hear anymore arguments about whether smoking is bad or not. That's obvious, right... we all agree. I think the world agrees if that's the case. The convincing argument is we can't do it for ourselves as adults then let's do it for our children, because there is one big category of health or diseases that we don't even discuss. Cancer yes we know cancer is related to smoking but you know what is a bigger part actually that were dieing here on Guam more of is heart disease. You know how much heart disease is affected by smoking? So we cannot do it for ourselves then let's do it for our children. That's the convincing argument, that's why this bill is name appropriately Natasha Perez because she is a child and we need to look to that future. This bill comes short of one thing. I think there should be a smoking ban in all public areas and smoking ban in working places, sporting arenas, in bars and any place. So that is going to be the push... that I'm going to be pushing for as the health care chair. Thank you.

Chairman Calvo:

Thank you very much, Senator Cruz.

Senator B.J. Cruz:

I'm hoping Mr. Chairman that both you and the retiring speaker will get together and substitute this bill to include the testimony that has been presented to us today. That we expand the coverage of this bill to a complete smoking ban in all public areas. I know when we initially discussed this bill in December with a caucus we thought we'd just start in the restaurants and we had full intention on moving on to bars and then making it a full ban, but first we wanted to put our feet in the water and see whether or not some alligator bit it off or whether or not it will get support and I was very heartened to see that the community turned out in support and I was very heartened to see the Hotel & Restaurant Association say that they were in favor of a clean work environment and even as in response to Senator Lou Leon Guerrero's question about banning smoking in hotels rooms. The one thing I hate is being stuck in a room to have been formally inhabited by a smoker because I never smoked. I can smell it every where and it makes me crazy. So I'm hoping the two Chairs will get together and take the testimony that's been provided to us. Expand the coverage of this bill and make the Natasha Perez Protection Act be a complete ban on smoking in public areas. Thank you.

Chairman Calvo:

Thank you very much, Senator Cruz.

Senator Leon Guerrero:

Thank you very much Mr. Chair and I would also like to thank the people who testified and also applaud Niki for bringing out the side of the rights of the smoker and unfortunately the government is also obligated to protect the public's health. There are lots of mandates that do that, the seatbelt law, speeding and so my comment to that would be I think the rights of the smoker end when they inflict harm and danger to other people just like the rights of a driver to drive a car when they become drunk and kill people and that's the basic thinking I think that needs to be looked at when we talk about rights of people. The other comment I wanted to make Mr. Chair is I know there have been people here that say it hasn't gone far enough, there is no violation and penalties and there is in the clean indoor air act certainly if an individual is violating the law they are fined. If a business entity is violating the law they are also fined, maybe the fines aren't that stringent and that's what people are talking about but there are violations and penalties and so forth in the bill, in the law currently now as it is being applied. I'd like to just end by saying that I appreciate the comments of my colleagues

here and I appreciate the time that the people have come to give us both sides of the issue and I'm certainly even more excited that the Guam Hotel & Restaurant Association is taking also the lead in making Guam a smoke free environment . I think that's very admirable of the GHRA and certainly I take all the comments and all the ideas for the improvement to make this bill a little bit stronger and will work with the Chair of the Finance Committee to a introduce or put in a substituted version of the bill to take into consideration the comments that are made to make it a stronger bill and truly a smoking ban throughout the island. So with that I thank all of you and I thank Mr. Chair again for your quick response to hearing this piece of legislation.

Chairman Calvo:

Thank you very much Senator Leon Guerrero again... in closing I would like to thank all those who have testified this morning and up to this afternoon. All those both in favor of Bill No. 16... and also those who were not in favor of Bill No. 16. This is a democracy and that's why for all of us folks... no one should feel bad about an issue this is what makes Guam a part of the United States and as part of a democracy. When bills are introduced or enacted into law, there is participation from the public as to where we... the policy makers... can then be guided in moving forward and it has been a contentious issue. The majority of the individuals here that were testifying were testifying in favor of Bill No. 16 and there is some very good reasons and whether it was a health issue or an issue about the fairness of how this law is applied, in fact some voted against it or were opposed to it because they thought of maybe some issues in regards to discrimination and then of you, Niki, which is very, very important you focused on the rights of the individual and the business and with that, that is what makes it such a contentious issue. Senator Palacios may have mentioned as to why other states may not have this type of law... again if what you and what Senator Leon Guerrero brought up is that if it is a health issue that has an impact on the members of the community... then that is where certain laws are enacted to protect the health of the individual. We have many different life styles, every one of us has a different life style, some of us go to the gym in the morning and eat healthy foods, don't smoke and don't drink. They make a choice to do that and of course they live with either the advantages or the disadvantages for that type of life style. Other folks have a different type of life style, they may drink... they may smoke, they may eat fast food, they may drink diet Pepsi or Pepsi and with that they have to live with the consequences of those actions. Now I would suppose and not looking at the history of this with all this legislation of laws that have been enacted in the recent years regarding banning I would assume, is with again some of the research that had been done in regards to second hand smoke, with the advent of discussion and research on second hand smoke it was then that it was considered that this second hand smoke would also be detrimental to the health of folks surrounding that individual smoker. This is going to be an issue that this Committee will move forward and I'm going take in testimony from all those that have

been heard both those that have been looking at expanding the legislation as well as testimony from those folks that are concerned about their rights being taken from them. The rights and the choices of individuals or businesses we are going into other issues as this legislature moves forward and Senator Lou Leon Guerrero's bill is not the only controversial bill. I've introduced legislation dealing with the banning of partial birth abortion and again there is an issue there in regards to choices and where the choices are and whether they have an impact on that individual or whether that has an impact on another individual, again I have a personal opinion about when life starts. With that again, there is no need to be apologetic for where you stand on issues these are critical issues and this Committee will look on all sides and with that and I will make that pledge this Committee will move forward and though it is a minority-sponsored bill... this bill has been heard and will be moved forward in going through the legislative process and let's hope that all the members of the Committee as well as the legislature with the testimony that has been brought forth today can move forward in a bill that will satisfy both the author of the bill and all those who have also testified. I want to thank you so much. I'm going to have a 2 minute break before we get into our next round of hearings and I want to thank you all for coming this afternoon.

III. COMMITTEE FINDINGS AND RECOMMENDATIONS:

The Committee on Finance, Taxation and Commerce finds that reasonable regulations and a comprehensive approach to cigarette smoking within public and private establishments are needed. There is a compelling need in assuring a balance towards the preservation of an individual's inalienable right to good health and clean air; as well as, the right of an individual to patronize non-smoking establishments or establishments that provide accommodations for smokers; and, the property rights of individuals and businesses.

The Committee finds that cigarette smoking is a health hazard and the exposure to secondhand smoke to a non-smoker, is an invasion of that individual's right for clean air space. The Committee also finds that regulations, restrictions and societal attitudes

about public smoking differ substantially around the world. In some places, smoking is virtually unrestricted. In others, substantial restrictions govern where adults can smoke.

The Committee agrees that the government must regulate smoking within enclosed public facilities and private establishments where non-smokers and especially children, may be exposed to second hand smoke. Consideration of indoor smoking restrictions include many factors, including: (1) the role of public health officials to implement effective educational programs that exposure to secondhand smoke causes health problems and disease; (2) the principle that the public should be able to choose whether or not to be in places where smoking is permitted; (3) the type of venue (office, restaurant, bar, public transportation); (4) the ability of business owners - particularly in the hospitality sector - to retain some flexibility to determine the smoking policy for their establishment; and (5) the fact that a sizable proportion of adult residents and visitors are smokers.

It is the Committee's view that regulations to minimize secondhand smoke or to ban smoking are appropriate in many public places. Individuals should be able to avoid being around secondhand smoke in places where they must go, such as public buildings, many areas in the workplace and public transportation. At the same time, any such regulations should also permit businesses to provide adult smokers a comfortable place in which to smoke. In places where smoking is permitted, business owners should have some flexibility in deciding how best to address the preferences of non-smokers and smokers through separation, separate rooms and/or high quality

ventilation. Also, where smoking is permitted or partially regulated, business owners may also decide to completely ban smoking within their establishment. These bans are appropriate in such establishments as in schools and day care facilities where children are present. The Natasha Protection Act as amended by the Committee attempts to strike that balance.

Therefore, The Committee on Finance, Taxation and Commerce, to which Bill Number 16 (LS) was referred does hereby submit its findings and recommendations to *I Mina' Bente Ocho Na Liheslaturan Guåhan* TO DO PASS Bill Number 16, as amended by the Committee on Finance, Taxation and Commerce, ***“AN ACT TO AMEND §90100, §90103, §90105 §90107 OF AND ADD A NEW SUBSECTION (6), CHAPTER 90, DIVISION 4, OF TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO THE REGULATION OF SMOKING ACTIVITIES, TO BE KNOWN AS THE “NATASHA PROTECTION ACT OF 2005.”***



March 17, 2005

Confirmation and Public Hearing Agenda

1. **Bill 16 (LS):** "An Act To Amend § 90100, § 90103, § 90107, And Add A New Subsection (6) To § 90105, Chapter 90, Division 4, Of Title 10, Guam Code Annotated, Relative To The Regulation Of Smoking Activities, To Be Known As The "Natasha Protection Act"
2. **Bill 74 (EC):** "An Act Authorizing *I Maga'lâhen Guåhan* To Borrow Or To Arrange For A Line Of Credit Not To Exceed Ten (10) Million Dollars With Locally Licensed Financial Institutions, Government Of Guam Autonomous Agencies, Or Government Of Guam Instrumentalities"
3. Appointment of Mr. Carlos E.P. Bordallo, Jr. to serve as the Director of the Bureau of Budget Management and Research
4. Appointment of Mr. Edward John Calvo to serve as a Member of the Guam Economic Development and Commerce Authority Board

Individuals wishing to submit verbal/written testimonies, please sign your name on the sign-in sheet available at the Legislative Staff Table.

Committee on Finance, Taxation, & Commerce
Office of Finance and Budget

Senator Edward J.B. Calvo, Chairman

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TESTIMONY - SIGN IN SHEET

March 17, 2005 Public Hearing

BILL NUMBER 16 (LS): "An Act To Amend § 90100, § 90103, § 90107, And Add A New Subsection (6) To § 90105, Chapter 90, Division 4, Of Title 10, Guam Code Annotated, Relative To The Regulation Of Smoking Activities, To Be Known As The "Natasha Protection Act."

<u>NAME</u>	<u>DEPT./ORGANIZATION</u>	<u>ORAL / WRITTEN</u>	<u>CONTACT NO.</u>
<i>[Signature]</i>		✓, /	<i>[Signature]</i>
GENEVIEVE GARCIA	PARENT	✓, ✓	
Nicki Gayer	Public	✓, /	734-2229
DEWITT JACKSON	GHRA	✓, ✓	649-1447
BRIAN ARTERO	GHRA	✓, /	696 6061
Frank Kenney	Jamaica Grill	✓, /	642-1935
PHOENIX ISHIZAKI	CITIZEN	✓, ✓	789-0011
RON McINICH	citizen	✓, /	734-5515
Michael Liberatore	Citizen	/, ✓	735-2053
<i>for Danny Ducenas</i> JOHN A. CUNHAO	Sanctuary	/, ✓	475-7101
Elaine Wong	American Cancer Society	✓, ✓	477-9451/2

Testimony for Bill 16
American Cancer Society – Guam Unit
March 17, 2005

Good Morning Senator Calvo and members of the 28th Guam Legislature. Thank you for the opportunity to provide you with information that may assist you in your deliberation of Bill 16, and specifically, the issue of banning tobacco use in restaurants. As you may know, the American Cancer Society's mission is to eliminate cancer as a major health problem by preventing cancer, saving lives and diminishing suffering from cancer, through research, education, advocacy and service. We work to educate our community about cancer, what causes cancer, how to prevent certain types of cancers, and how to deal with this terrible disease. One of our largest program areas focuses on Tobacco Control, and we are concerned about the effects of smoking on our community. We support any legislation that is supportive of tobacco cessation and reduces the risks of tobacco use.

Most everyone knows about the dangers of smoking. The ill-effects of tobacco use has been linked to a variety of diseases and ailments including cancer, heart disease, high blood pressure and diabetes. However, not everyone may know about the dangers of secondhand smoke, also known as environmental tobacco smoke (ETS).

ETS is a mixture of 2 kinds of smoke from burning tobacco products: SIDESTREAM SMOKE, smoke that comes from a lighted tobacco product and MAINSTREAM SMOKE, smoke that is exhaled by a smoker. Non-smokers, by virtue of their proximity to smokers in restaurants or other public places, become involuntary smokers, or passive smokers. Non-smokers exposed to ETS absorb nicotine and other

dangerous compounds just as smokers do. The longer a person is exposed to ETS, the greater the level of these harmful compounds in their body.

ETS is so dangerous that the US Environmental Protection Agency (US EPA) has classified this smoke as a Group A Carcinogen, which means that there is sufficient evidence that it causes cancer in humans. The US National Toxicology Program classifies tobacco smoke as a "known human carcinogen." Furthermore, secondhand smoke meets the criteria to be classified as a potential cancer-causing agent by the Occupational Safety and Health Administration (OSHA), the federal agency responsible for health and safety regulations in the workplace. This is for good reason as secondhand tobacco smoke contains over 4,000 chemical compounds, more than 60 of these are known or suspected to cause cancer.

Secondhand smoke can be harmful in many ways. In the US alone, each year about 140,000 people die from smoking-related causes. In addition, children of parents who smoke have more frequent respiratory infections and slower development of lung function as the lung matures. For individuals with compromised respiratory systems such as asthmatics and the elderly, the risks of exposure to secondhand smoke are also increased.

Everyone is vulnerable to secondhand smoke exposure in public places. Of greatest concern to us is ETS exposure in public places where children may go. As adults, we can choose where we eat or where we spend our time. Our children however, often have no such choice. Because there are no safe levels of secondhand smoke, it is important that any such policies be as strong as possible.

Non-smoking sections in restaurants and other public places do not provide adequate protection from second-hand smoke. Sitting in a non-smoking section for 2 hours can be equal to smoking one and ½ cigarettes. A non-smoker sitting behind a smoker for 2 hours breathes in the equivalent of 4 cigarettes.

Merely legislating ventilation systems is not adequate. Ventilation systems to remove the poisons of second-hand smoke out of the air would have to employ typhoon force strength. The American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE) states that there is no system that can eliminate all toxins of second-hand smoke. The most effective and least expensive way to stop second-hand smoke exposure is to eliminate it.

Just as laws protect us from being poisoned by contaminated food, similar laws should protect us from contaminated air and the dangers of second-hand smoke. Health and safety standards for both employees and patrons should not be voluntary. While some would argue that non-smokers are able to choose whether or not to eat at a particular restaurant, the employees of that establishment often do not have that same choice. Some individuals consider their roles in the service industry to be their primary livelihoods – many of them holding down 2 of 3 similar jobs. Forcing them to choose between their jobs and their health is unfair.

All of the death and disease caused by smoking and other tobacco use in this country places a huge emotional and economic burden on all of us. According to Cancer Facts & Figures 2004, smoking caused approximately \$157.7 billion dollars in annual health-related costs in the US. This may translate to our spending approximately \$7.18

per pack for medical care due to smoking - \$3.73 in productivity losses and \$3.45 for medical care.

We advocate for this type of tobacco control legislation because we believe in rights for all individuals. If an individual, despite all verified research, chooses to continue smoking – that is their right. However, it is NOT his/her right to subject the non-smoking population, our employees, our customers and our loved ones to second-hand smoke – a substance that medical experts, the Surgeon General, and even the US EPA and OSHA have acknowledged to be dangerous to our health. As members of an organization that works to ensure a cancer-free world for future generations, we encourage you to seriously consider the merits of Bill 16.

For more information on tobacco use and second-hand smoke, please refer to attached documents; also please visit the American Cancer Society's Website at www.cancer.org



Studies that Measure the Economic Impact of Smoke-free Policies on the Hospitality Industry

An extensive body of literature shows that smoke-free laws have no negative effect on the hospitality industry. The results of 22 studies involving 12 states are summarized below. The first two review the smoke-free literature in its entirety. The next 20 sources, organized alphabetically by author, look at specific cities or regions of the country and specific sectors of the hospitality industry where smoke-free ordinances have been implemented. Each study is coded to show whether it addresses the effect of smoke-free policy on specific areas of interest, such as restaurants, bars, hotels, revenues, sales tax, employment, tourism, gambling, air quality, and/or public opinion. Much of this research, highlighted in bold type, has appeared in scientifically-published, peer-reviewed journals. State health departments, public universities, and private think tanks have also contributed to the smoke-free literature. After analyzing ordinances from various parts of the country during different economic cycles, these studies have consistently shown that smoke-free laws have not hurt the hospitality industry, and in fact, may even be good for it.

Source	Region	Sector	Results/Description/Conclusion
Scollo, Michelle and Anita Lal (2004). Summary of Studies Assessing the Economic Impact of Smoke-free Policies in the Hospitality Industry. Melbourne: VicHealth Centre for Tobacco Control. http://www.vctc.org.au/tc-res/Hospitalitysummary.pdf.		Summary/Compilation of Smoke-Free Studies	A comprehensive review of scientifically sound studies shows that smoke-free ordinances had no negative effect on the hospitality industry. Researchers examined 145 studies that claimed to analyze the economic impact of smoke-free policies on the hospitality industry. 21 studies were methodologically sound (using objective measures such as sales receipts, controlling for outside factors and trends, using appropriate statistical tests, and including data prior to and following implementation of the smoking ban), and showed that smoke-free policies did not adversely affect the economic health of restaurants and bars. Studies showing a negative economic impact were based on subjective, unverified data and estimates, were methodologically flawed and largely funded by the tobacco industry.
Scollo, M., A. Lal, A. Hyland, and S. Glantz (2003). Review of the Quality of Studies on the Economic Effects of Smoke-Free Policies on the Hospitality Industry. <i>Tobacco Control</i> 12: 13-20.		Summary/Compilation of Smoke-Free Studies	A comprehensive review of scientifically sound studies shows that smoke-free ordinances had no negative effect on the hospitality industry. Researchers analyzed 97 studies that focused on the economic impact of smoke-free laws on restaurants, bars, recreational venues, hotels, and tourism. Reviewers assessed these studies based on their overall quality, which included the use of objective data, a pre-/post study design, and statistical methods. The paper concludes that lower quality studies (which used subjective data, received tobacco industry funding, and were not subject to peer-review requirements) were more likely to find a negative association between smoke-free laws and the hospitality industry. In contrast, well-designed, high quality studies found either no impact, or a positive association between smoke-free laws and the hospitality industry's overall sales and employment.

Source	Region	Sector*	Results/Description/Conclusion
Bartosch, W.J. and G.C. Pope (2002). Economic Effect of Restaurant Smoking Restrictions on Restaurant Business in Massachusetts, 1992-1998. <i>Tobacco Control</i> 11(Suppl II): ii38-ii42.	Massachusetts Amherst, Andover, Arlington, Attleboro, Bedford, Belmont, Brookline, Chicopee, East Longmeadow, Easthampton, Foxborough, Greenfield, Holden, Holyoke, Lee, Lenox, Lexington, Longmeadow, Medfield, Montague, Northampton, Norwell, Plainville, Plymouth, Reading, Sharon, South Hadley, Southampton, Stockbridge, Sunderland, Tewksbury, West Springfield	R, S B, RV	Smoke-free laws do not affect overall restaurant sales in the Massachusetts communities included in the analysis. This is a follow-up to a 1999 study and uses additional data to examine the economic effects in cities and towns with and without smoke-free ordinances between January 1992 and December 1998. Seasonal changes and changes in county population and per capita income are the only factors shown to have an effect on restaurant and alcohol revenue.
Bartosch, W.J. and G.C. Pope (1999). The Economic Effect of Smoke-Free Restaurant Policies on Restaurant Business in Massachusetts. <i>Journal of Public Health Management Practice</i> 5(1): 53-62.	Massachusetts Amherst, Andover, Arlington, Attleboro, Bedford, Belmont, Brookline, Chicopee, East Longmeadow, Easthampton, Foxborough, Greenfield, Holden, Holyoke, Lee, Lenox, Lexington, Longmeadow, Medfield, Montague, Northampton, Norwell, Plainville, Plymouth, Reading, Sharon, South Hadley, Southampton, Stockbridge, Sunderland, Tewksbury, West Springfield	R, S B, RV	Smoke-free laws do not cause a significant change in communities' overall meal and alcohol revenues. Only seasonal changes and changes in a community's population were shown to have an effect on restaurant and bar revenues. Researchers compared aggregate restaurant receipts in 32 Massachusetts communities that adopted smoke-free restaurant and/or bar policies between January 1992 and December 1995 with the receipts of 203 communities that did not.
Centers for Disease Control and Prevention (2004). Impact of a Smoking Ban on Restaurant and Bar Revenues—El Paso, Texas, 2002. <i>Morbidity and Mortality Weekly Report</i> 53(7): 150-152.	El Paso, TX	R, B, S, RV	Mixed-beverage revenue analyses indicate that sales of alcoholic beverages were not affected by the El Paso smoke-free ordinance. Researchers from the Texas Department of Health (TDH) and the Centers for Disease Control and Prevention (CDC) examined restaurant and bar revenues 12 years before and 1 year after El Paso, Texas enacted its smoke-free ordinance on January 2, 2002. Restaurant, bar, and mixed-beverage revenues varied by quarter (and were found to be highest between the October-December quarter).

Source	Region	Sector*	Results/Description/Conclusion
<p>Dai, Chifeng, et al. (2004). <i>The Economic Impact of Florida's Smoke-Free Workplace Law</i>. Gainesville: Bureau of Economic and Business Research, Warring College of Business Administration, University of Florida.</p>	<p>Florida Daytona Beach, Ft. Lauderdale, Ft. Myers, Gainesville, Jacksonville, Lakeland, Melbourne, Miami, Orlando, Pensacola, Sarasota, Tallahassee, Tampa, West Palm Beach</p>	<p>R, B, T, RV, E</p>	<p>Florida's smoke-free law did not negatively impact revenues and employment. Using data from January 1990 to April 2004, the study looks at the economic effect of Florida's smoke-free law on restaurant and bar sales and employment levels within the state's leisure and hospitality industry. Among the six economic measures, three—retail sales from restaurants, lunchrooms and catering services; employment in drinking and eating establishments; and employment in the leisure and hospitality sector—increased after Florida's smoke-free law went into effect. The other measures—retail sales from taverns, night clubs, bars and liquor stores; retail sales from recreational admissions; and employment in accommodations—experienced no change after the law went into effect.</p>
<p>Dresser, J., S. Boles, E. Lichtenstein, and L. Strycker (1999). <i>Multiple Impacts of a Bar Smoking Prohibition Ordinance in Corvallis, Oregon</i>. Eugene: Pacifica Research Institute.</p>	<p>Corvallis, OR</p>	<p>B, G, S, RV</p>	<p>Corvallis, Oregon's smoking ban appears to have no economic impact on most bars, with an increase in nonsmokers offsetting a loss in smokers. On July 1, 1998, Corvallis, Oregon required all bars to go smoke-free. Using four data sources (distilled spirits sales, malt liquor sales, video poker sales, and alcohol sales), researchers find that Corvallis' smoke-free ordinance had generally no economic impact on bars. However, the evidence suggests that establishments catering to video poker players did experience a decline in sales. Overall, there appears to be a loss of some smokers to bars outside Corvallis, however, this migration effect was offset by an increase in non-smoking patronage.</p>
<p>Glantz, S.A. (2000). <i>Effect of Smokefree Bar Law on Bar Revenues in California</i>. <i>Tobacco Control</i> 9(Spring): 111-112.</p>	<p>California</p>	<p>B, RV</p>	<p>Glantz concludes that (1) California's smoke-free restaurant law increased retail sales of eating and drinking establishments, with a larger increase following the enactment of smoke-free bars and (2) the smoke-free restaurant law had no effect on bar revenues for those businesses established solely for the purpose of drinking. Glantz investigates: (1) Whether California's smoke-free restaurant law harmed businesses that were both eating and drinking establishments and (2) Whether California's smoke-free bar law had negative effects on bar revenues. He compares revenues for eating and drinking establishments before and after January 1, 1995, when all restaurants were required to go smoke-free. He also compares bar revenues before and after January 1, 1998, when all bars were required to go smoke-free.</p>

Source	Region	Sector*	Results/Description/Conclusion
<p>Glantz, S.A. and A. Charlesworth (1999). Tourism and Hotel Revenues Before and After Passage of Smoke-Free Restaurant Ordinances. <i>Journal of the American Medical Association</i> 281(20): 1911-1918.</p>	<p>California, Utah, Vermont Boulder, CO; Flagstaff, AZ; Los Angeles, CA; Mesa, AZ; New York, NY; San Francisco, CA</p>	<p>H, RV, T</p>	<p>Smoking bans either increased or had no effect on hotel revenues and tourism. Researchers compared hotel revenues and tourism rates in 3 states and 6 cities. The authors found that smoke-free ordinances increased hotel revenues in 4 localities (Utah; Los Angeles, California; Mesa, Arizona; and New York City, New York), had no effect on revenues in 4 localities (California; Vermont; Boulder, Colorado; and San Francisco, California), and slowed the rate of increase in one city, Flagstaff, Arizona (which, at the time of the investigation, was expanding its hotel stock). Smoke-free ordinances were also shown to increase the number of Japanese tourists who visited California and the number of European tourists who visited New York City. As for the seven remaining locales, no significant changes in tourist rates were observed, either before or after the implementation of smoke-free policies.</p>
<p>Glantz, S.A. and L.R.A. Smith (1997). The Effect of Ordinances Requiring Smoke-Free Restaurants and Bars on Revenues: A Follow-Up. <i>American Journal of Public Health</i> (87)10: 1687-1692.</p>	<p>Colorado Aspen, Snowmass, and Telluride California Auburn, Beverly Hills, Bellflower, El Cerrito, Lodi, Martinez, Palo Alto, Paradise, Roseville, Ross, Sacramento, San Luis Obispo Anderson, David, Redding, San Luis Obispo, Tiburon, Shasta Co., Santa Clara Co.</p>	<p>R, B, S, RV</p>	<p>Smoke-free ordinances were found to have no effect on aggregate restaurant or bar sales. Researchers compared sales tax and total retail sales for 15 cities with smoke-free restaurant ordinances against 15 cities without. They also compared bar sales for the first 5 cities (Anderson, CA; Davis, CA; Redding, CA; San Luis Obispo, CA; Tiburon, CA) and 2 counties (Shasta County, CA and Santa Clara County, CA) requiring smoke-free bars with the bar sales of matched cities and counties that did not (Red Bluff, CA; Chico, CA; Healdsburg, CA; Sausalito, CA; Butte County, CA; and Alameda County, CA).</p>

* R=Restaurant, B=Bar, H=Hotel, RV=Revenue, S=Sales Tax, E=Employment, T=Tourism, G=Gambling, AQ=Air Quality, PO=Public Opinion
Bold Type Source = Peer reviewed

Source	Region	Sector*	Results/Description/Conclusion
Glantz, S.A. and L.R.A. Smith (1994). The Effect of Ordinances Requiring Smoke-Free Restaurants on Restaurant Sales. <i>American Journal of Public Health</i> (84)7: 1081-1085.	<p>Colorado Aspen, Snowmass, Telluride</p> <p>California Auburn, Beverly Hills, Bellflower, El Cerrito, Lodi, Martinez, Palo Alto, Paradise, Roseville, Ross, Sacramento, San Luis Obispo</p>	R, S, RV	This is the first study that used taxable restaurant sales to examine the economic impact of smoke-free laws on business as well as the first study to find that smoking bans generally do not harm restaurants. Researchers compared sales tax and total retail sales for 15 cities with smoke-free ordinances against 15 cities, similar in population, income, and smoking prevalence, where an ordinance was not in force. Among the 15 communities, the data show that restaurant sales from 1986 through 1993 remained unchanged as a fraction of total retail sales. There was some evidence that retail sales to restaurants increased in Bellflower and Martinez, but may have decreased in Roseville. When compared to cities without a smoke-free ordinance, sales also appeared to increase in Palo Alto but decrease in Paradise. It is not clear what factors may have driven these changes.
Glantz, S.A. and R. Wilson-Loots (2003). No Association of Smoke-free Ordinances with Profit from Bingo and Charitable Games in Massachusetts. <i>Tobacco Control</i> 12: 411-413.	<p>Massachusetts Communities that permitted charitable gaming between 1985 and 2001 (not listed in study)</p>	G, RV	Statistical analysis suggests that observed revenue declines in bingo were not related to community smoking bans. Using annual bingo receipts for the years 1985 through 2001, researchers found that net profits from charitable gaming in Massachusetts fell over time. This trend preceded the passage of local smoke-free ordinances in the state.
Goldstein, A.O. and R.A. Sobel (1998). Environmental Tobacco Smoke Regulations Have Not Hurt Restaurant Sales in North Carolina. <i>North Carolina Medical Journal</i> . (59)5: 284-287.	<p>North Carolina Craven Co., Halifax Co., Orange Co., Wake Co., Buncombe Co.</p>	R, RV	The authors conclude that there were no differences in restaurant sales among the ten counties studied in either the period (1990-1993) before smoking bans were implemented or in the period (1994-1997) after. Researchers compared the impact of smoke-free ordinances on restaurant sales in ten North Carolina counties—five which had a smoke-free ordinance (Craven, Halifax, Orange, Wake, and Buncombe) and five that did not (Rockingham, Brunswick, Cabarrus, Mecklenburg, and Davidson).

Source	Region	Sector*	Results/Description/Conclusion
Hayslett, J.A. and P.P. Huang (2000). Impact of Clean Indoor Air Ordinances on Restaurant Revenues in Four Texas Cities: Arlington, Austin, Plano and Wichita Falls 1987-1999. Bureau of Disease, Injury and Tobacco Prevention. Texas Department of Health.	Texas Arlington, Austin, Plano, Wichita Falls	R, S, RV	This study finds that smoke-free ordinances had either no effect or increased restaurant revenues across four Texas cities. Arlington, Austin, Plano, and Wichita Falls, Texas implemented smoke-free restaurant ordinances in July 1994, March 1996, August 1995, and July 1995, respectively. These four cities have different geographies in the state, as well as different economies. Researchers examined thirteen years (1987-1999) of restaurant and retail sales data to look at the effect of smoke-free ordinances on the economic health of these cities. For Plano and Wichita Falls, the smoking ban had no impact on restaurant revenues. For Arlington and Austin, the smoke-free ordinance was associated with an increase in restaurant revenues. With respect to restaurant revenue as a proportion of total retail revenue, the smoke-free ordinance was found to have no effect in Austin, Plano, and Wichita Falls. In Arlington, the smoking ban was shown to increase the city's restaurant sales as a proportion of total retail revenue.
Huang, P., et al. (1995). Assessment of the Impact of a 100% Smoke-Free Ordinance on Restaurant Sales—West Lake Hills, Texas, 1992-1994. <i>Morbidity and Mortality Weekly Report</i> 44(19): 370-372.	West Lake Hills, TX	R, RV	The study concludes that there were no adverse economic effects associated with West Lake Hills' smoke-free ordinance. On June 1, 1993, West Lake Hills, Texas implemented a smoke-free ordinance requiring all commercial establishments, including restaurants and restaurants with bars, to be 100 percent smoke-free. Researchers examined aggregate monthly sales from 7 restaurants before and after the ban.
Hyland, A. and J. Tuk (2001). Restaurant Employment Boom in New York City. <i>Tobacco Control</i> 10(Summer): 199.	New York City, NY (Bronx, Brooklyn, Manhattan, Queens, Staten Island) Nassau Co., Westchester Co., Rockland Co.	R, E	This study finds no decrease in restaurant employment following the passage of New York City's smoke-free ordinance. Researchers compared the number of restaurant employees per month between April 10, 1994, one year before NYC required all smoke-free restaurants, and April 10, 1999, four years after the law's implementation. In addition to looking at employment data for the city's five boroughs—Bronx, Brooklyn, Manhattan, Queens, and Staten Island—researchers also included the nearby counties of Nassau, Westchester, and Rockland. They conclude that more than 22,000 restaurant employees were employed in NYC four years post-ban; this was an 18 percent increase from 1990. While all five boroughs experienced an increase in restaurant employment, Bronx and Richmond counties outpaced other regions at 36 percent and 31 percent, respectively.

Source	Region	Sector*	Results/Description/Conclusion
Hyland, A. and K.M. Cummings (1999). Restaurateur Reports of the Economic Impact of the New York City Smoke-Free Air Act. <i>Journal of Public Health Management Practice</i> 5(1): 37-42.	New York City, NY Bronx, Brooklyn, Manhattan, Queens, Staten Island	R, PO	After randomly surveying 434 New York City restaurateurs, researchers determined that New York City's Smoke-Free Air Act had no effect on restaurant sales. 34 percent of smaller restaurants and 36 percent of restaurants with bar areas reported a decline in business compared with 35 percent of larger restaurants and restaurants without bar areas reporting similar results.
Hyland, A. and K.M. Cummings (1999). Restaurant Employment Before and After the New York City Smoke-Free Air Act. <i>Journal of Public Health Management Practice</i> 5(1): 22-27.	New York City, NY Bronx, Brooklyn, Manhattan, Queens, Staten Island Nassau Co., Westchester Co., Suffolk Co.	R, E	New York City's smoking ban was not shown to affect employment in or the growth of the city's hospitality industry. Researchers looked at the number of restaurants and restaurant employees in New York City (comprised of the five boroughs of Manhattan, Bronx, Richmond, Kings, and Queens), three nearby counties (Nassau, Westchester, and Suffolk) and the rest of the state using data from two years before and after the passage of New York City's Smoke-Free Air Act. Between April 1993 and April 1997, New York City, as well as the rest of the state, experienced increases in both the numbers of restaurants and restaurant employees. New York City's restaurant employment growth was found to be more than three times that of the entire state. Brooklyn was the only county to show a decrease in both restaurants and employment, however, Brooklyn also lost population during the study period, making a decline in overall restaurant and restaurant employees likely.
Hyland, A., K.M. Cummings, and E. Nauenberg (1999). Analysis of Taxable Sales Receipts: Was New York City's Smoke-Free Air Act Bad for Restaurant Business? <i>Journal of Public Health Management Practice</i> 5(1): 14-21.	New York City, NY Brooklyn, Bronx, Manhattan, Queens, Staten Island	R, H, S	Researchers conclude that New York City's smoke-free law did not change sale revenues at restaurants and hotels. This study measures the level of taxable sales receipts before and after the implementation of New York City's Smoke-Free Air Act on April 10, 1995.
New York City Department of Finance, New York City Department of Health and Mental Hygiene, New York City Department of Small Business Services, and New York City Economic Development Corporation (2004). The State of Smoke-Free New York City: A One Year Review.	New York City, NY Brooklyn, Bronx, Manhattan, Queens, Staten Island	R, B, S, E, AQ, PO	This study suggests that New York City's smoke-free law has not hurt the hospitality industry, and that New Yorkers approve of the ban. Researchers looked at the effect of New York City's Smoke-Free Air Act, enacted March 30, 2003, on the city's employment and its restaurant and bar sales. Since the law went into effect, employment in the city's restaurants and bars increased by 10,600 jobs while sales tax receipts increased 8.7%, or nearly \$1.4 million. While the number of restaurants and bars did not change, there was a 4% increase in the number of new liquor licenses issued. Moreover, 69% of registered NYC voters approved of the smoking ban.

Source	Region	Sector*	Results/Description/Conclusion
Sciacca, J.P. and M.I. Ratliff (1998). Prohibiting Smoking in Restaurants: Effects on Restaurant Sales. <i>American Journal of Health Promotion</i> 12(3): 176-184.	Flagstaff, AZ	R, H, T, S, RV	Flagstaff, Arizona's smoking ban had no effect on the city's tourism. The authors compared restaurant, motel and hotel sales data three-and-a-half years before Flagstaff's smoke-free restaurant law and one-and-a-half years after its enactment. In comparison to Prescott, Yavapai County, Yuma, Yuma County, and the state of Arizona, Flagstaff's motel and hotel sales did not change before or after the ordinance.
Styring, W. III (2001). A Study of the Fort Wayne (IN) Restaurant Smoking Ban: Has It Impacted the Restaurant Business? Indianapolis: Hudson Institute.	Fort Wayne, IN	R, S, PO	Fort Wayne, Indiana's smoke-free ordinance, enacted in January 1999, had no effect on food and beverage tax revenues. Styring, a researcher for a prominent, conservative think-tank, looked at the levels of Allen County tax revenue before and after the ban. He concluded that changes in Allen County Personal Income explained over 96 percent of the change in food and beverage tax collections. Styring followed up his statistical analysis with a telephone survey of 250 Allen County residents. Of the 238 residents who said they were aware of Fort Wayne's smoking ban, 164 (69%) said it made no difference in their decision to patronize a restaurant; 39 (16%) said the ban made it less likely and 35(15%) said the ban made it more likely that they would patronize a restaurant.

Policy Research
National Government Relations Department
September 2004



Smoke-Free Policies: Good For Business

The American Cancer Society supports local, state, and federal initiatives to stop public exposure to secondhand smoke. In 1993, the United States Environmental Protection Agency (EPA) released a landmark report, documenting the link between secondhand smoke, cancer and other chronic diseases. Since that time, many communities have decided to go smoke-free, protecting the health and lives of their residents.

Tobacco companies spent years trying to discredit the science regarding secondhand smoke...and failed. Now, they have turned their attention toward smoke-free initiatives. Hospitality business owners and workers are scared; they have been led to believe their livelihoods will end if their businesses go smoke-free. In an advertisement designed to educate the public about secondhand smoke, a leading tobacco company coined the slogan: "In any controversy, facts must matter."¹ Here are the facts:

FACT: Smoke-free Laws Do NOT Harm Restaurant Sales

- On March 30, 2003, New York City passed one of the strongest, and arguably, one of the most contentious smoke-free ordinances in the country. Fueled in part by the tobacco industry's propaganda machine, many restaurant owners believed their businesses would fail under the new ordinance. Yet, one year after the law went into effect, New York City bars and restaurants were booming. Data from the New York City Department of Finance show that tax receipts increased by 8.7 percent, or approximately \$1.4 million. Moreover, the New York State Department of Labor found no evidence that restaurants were closing as a result of the smoke-free law, and the rate of restaurant openings remained unchanged since the law went into effect.²
- Over the years, a number of studies have reached similar conclusions—that smoke-free restaurant ordinances do not harm restaurants' sales. These studies looked at smoke-free ordinances from various parts of the country during different economic cycles. They include communities in California, New York, Massachusetts, Texas, Arizona, Indiana, Wisconsin, and Florida.^{3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16}
- For example, researchers compared aggregate restaurant receipts of 32 Massachusetts communities that adopted smoke-free restaurant and/or bar policies between January 1992 and December 1995 with the receipts of 203 communities that did not. The study found that smoke-free laws do not cause a significant change in communities' overall meal and alcohol revenues. Only seasonal changes and changes in a community's population were shown to have an effect on restaurant and bar revenues.¹⁷
- Even in the tobacco growing state of North Carolina, where adult smoking rates are higher than the national average, researchers found that smoke-free restaurant ordinances did not impose economic hardships on restaurants or restaurant owners. Researchers compared the impact of smoke-free ordinances on restaurant sales in ten North Carolina counties—five with smoke-free ordinances and five without—and concluded that there were no differences in restaurant sales among the ten counties after the ordinances took effect.¹⁸
- Restaurant owners should also be interested to know that more people are demanding smoke-free establishments. In a June 2003 Zogby International poll of registered voters, 63 percent of New Yorkers approved of the state Clean Indoor Air Act (CIAA) in comparison to 35 percent who opposed the law. The poll showed greater support among New York City voters, with 69 percent overall support.¹⁹ A 2004 Zagat New York City Survey showed that 23 percent of those surveyed said they would patronize smoke-free restaurants on a more regular basis, which is nearly six

times higher than the four percent of survey participants who reported they would frequent restaurants less often than they did before the smoking ban.²⁰

FACT: Smoke-free Laws Do NOT Harm Bars

- No independent study has proven that smoke-free laws negatively affect the bar industry. Research looking at communities in California, Massachusetts, Oregon, Texas, New York, and Florida showed that smoke-free ordinances had no negative effect on bar sales.^{21,22,23,24,25, 26} In fact bar businesses are not more sensitive to changes in smoking behavior than other hospitality businesses.²⁷
- Researchers compared California bar sales for the first five cities and two counties requiring all bars to be smoke-free with bar sales of comparable cities and counties in the state that did not. Smoke-free ordinances were found to have no effect on aggregate bar sales.²⁸
- Since New York City's smoke-free law went into effect in 2003, the New York State Liquor Authority has issued more liquor licenses to the city's restaurant and bar establishments. Compared to 2002, there were a reported 9,747 active liquor licenses in the city in 2003, a net gain of 234.²⁹
- One of the most recent studies to look at the relationship between smoke-free ordinances and bar revenues was conducted in El Paso, Texas by the Texas Department of Health (TDH) and the CDC. Researchers concluded that the sales of alcoholic beverages were not affected by the El Paso smoke-free ordinance.³⁰ Similar results were found in the state of Florida, where retail receipts for taverns, night clubs, bars which serve food, and liquor stores, remained unaffected by the state's smoke-free law. Of particular note, the number of people employed in Florida's drinking and eating establishments increased by 4.53 percent after the smoke-free law went into place.³¹

FACT: Smoke-Free Laws Do NOT Increase Unemployment

- Opponents of smoke-free laws cite unemployment as another reason why smoking bans are bad. To examine the merits of this claim, researchers assessed the number of restaurants and the number of restaurant employees. What researchers learned is that restaurants were more profitable with a smoke-free ordinance in place.
- When New York City first made its restaurants smoke-free during the mid-1990s, the city experienced a boom in employment. Between April 1993 and April 1997, New York City, as well as its neighboring smoke-free communities, experienced increases in both the numbers of restaurants and restaurant employees. New York City's restaurant employment growth was found to be more than three times that of the entire state.³² By 1999, four years after the smoking ban in restaurants was put into effect, researchers found that more than 22,000 restaurant employees were employed in New York City—an 18 percent increase from 1990.³³
- Today, New York City's hospitality workers are doing exceptionally well despite claims that the smoke-free law would have a negative impact. Between March 2003 and December 2003, New York City reported 10,600 new jobs in its bars and restaurants.³⁴ In fact, despite the city's post-9/11 hardship, 164,000 workers are employed in the city's bars and restaurants—the highest number recorded in the last 10 years.

FACT: Smoke-Free Laws Do NOT Reduce Tourism

- Several studies have shown that smoke-free policies do not affect tourism or hotel/motel revenues.^{35,36,37, 38}
- One study found that smoke-free laws were associated with increased hotel revenues in four localities: Los Angeles, California, New York City, New York, Mesa, Arizona, and the state of Utah.³⁹

- Another study found that the number of tourists that visited California and New York also increased after the implementation of these states' smoke-free policies. The study also looked at seven other localities and observed no significant changes in tourist rates following the implementation of smoke-free policies.⁴⁰
- The state of Florida, known for its world-class theme and amusement parks, implemented its smoke-free law on July 1, 2003. The law prohibits smoking in most of the state's enclosed workplaces. Approximately one year after the smoking ban went into effect, researchers found that there was no significant change in the number of recreational admissions across the state. Moreover, the number of people employed in the leisure and hospitality industry increased almost two percent during the year the ban was in place.⁴¹

FACT: Smoke-Free Laws Save Businesses Money

- The EPA estimates the cost savings of eliminating secondhand smoke in the workplace (from reducing premature deaths and tobacco-related illness) to be between \$35 and \$66 billion a year.⁴²
- Allowing smoking in the workplace increased business owners' costs by \$1,300 per year per smoking employee.⁴³
- Other costs associated with smoking in the workplace are increased housekeeping and maintenance costs. The EPA found that businesses that implemented smoking restrictions could save between four and eight billion dollars a year in operating and maintenance costs.⁴⁴
- Some business owners have been found liable in lawsuits filed by sick employees seeking damages related to smoking in the workplace.^{45,46,47,48,49}
- By allowing smoking in the workplace, business owners unwittingly take on a variety of associated costs, including higher health, life, and fire insurance premiums, higher worker absenteeism, lower work productivity, and higher workers' compensation payments.^{50,51,52}
- A 2003 survey of air quality before and after the Delaware smoking ban was implemented concluded that the state's smoke-free law significantly reduced the risk of cancer, heart disease, stroke and respiratory disease among workers and patrons in the hospitality industry.⁵³
- New York is well on its way to improving the health of its residents, which could lead to a reduction in related health costs. Before New York City implemented its smoke-free ordinance, an air quality survey conducted by the New York State Department of Health found that air pollution levels in bars permitting smoking were as much as 50 times greater than pollution levels at the Holland Tunnel entrance during rush hour. Six months after the Smoke-Free Air Act was in force, the Health Department found a six-fold reduction in air pollution levels in the same establishments.⁵⁴
- A few months into New York City's smoking ban, 150,000 fewer adult New Yorkers reported being exposed to second-hand smoke at their place of employment. The New York State Department of Health found tremendous gains among the city's hospitality workers; cotinine levels—a byproduct of secondhand smoke exposure—declined by 85 percent among a sample of the city's bar and restaurant workers.⁵⁵ The city's Department of Health and Mental Hygiene already estimates that 30,000 premature deaths have been prevented since the smoking ban went into effect.⁵⁶

Conclusion:

After looking at the facts, it becomes clear that concerns about the business costs of smoke-free policies are unfounded. The facts are that smoke-free laws are good for businesses; they're good for the people who frequent them; and they're good for the people who work in them. Anecdotal evidence does not accurately gauge the effect of smoke-free laws on business activity. Research published in leading, scientific journals has consistently and conclusively shown that smoke-free laws have no adverse effects on the hospitality industry,^{57,58} and, in fact, can actually be good for business. The only negative effects

of smoke-free air laws are on the tobacco companies themselves, as evidenced by the following statement from a tobacco company executive: "If smokers can't smoke on the way to work, at work, in stores, banks, restaurants, malls and other public places, they are going to smoke less. Overall cigarette purchases will be reduced and volume decline will accelerate."⁵⁹

Finally, it must be taken into consideration that while restaurant and bar patrons can choose in which establishments they spend their time, workers do not have the same choice. The American Cancer Society believes that no one should have to choose between a job and good health. Therefore, the Society stands ready to work with our partners, both private and public, to implement legislative and regulatory measures that limit smoking in public places and work environments. Further, the Society opposes preemptive state legislation that restricts local authorities from regulating clean indoor air. The American Cancer Society urges policymakers and community leaders to support smoke-free efforts, so we can make life-saving progress that reduces and prevents death, suffering, and disease from tobacco.

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¹ Philip Morris, USA (1993). Were You Misled? Today, Read Another Side of the Story About Secondhand Smoke. Bates Number 947063108. Obtained online on 3 February 2004 from <http://legacy.library.ucsf.edu/tid/ivt90c00>.

² New York City Department of Finance, New York City Department of Health and Mental Hygiene, New York City Department of Small Business Services, and New York City Economic Development Corporation (2004). The State of Smoke-Free New York City: A One Year Review.

³ Glantz, S.A. and L.R.A. Smith (1997). The Effect of Ordinances Requiring Smoke-Free Restaurants and Bars on Revenues: A Follow-Up. *American Journal of Public Health* (87)10: 1687- 1692.

⁴ Glantz, S.A. and L.R.A. Smith (1994). The Effect of Ordinances Requiring Smoke-Free Restaurants on Restaurant Sales. *American Journal of Public Health* (84)7: 1081-1085.

⁵ Glantz, S.A. and L.R.A. Smith (1997). The Effect of Ordinances Requiring Smoke-Free Restaurants and Bars on Revenues: A Follow-Up. *American Journal of Public Health* (87)10: 1687- 1692.

⁶ Hyland, A., K.M. Cummings, and E. Nauenberg (1999). Analysis of Taxable Sales Receipts: Was New York City's Smoke-Free Air Act Bad for Restaurant Business? *Journal of Public Health Management Practice* 5(1): 14-21.

⁷ Hyland, A. and K.M. Cummings (1999). Restaurateur Reports of the Economic Impact of the New York City Smoke-Free Air Act. *Journal of Public Health Management Practice* 5(1): 37-42.

⁸ Bartosch, W.J. and G.C. Pope (2002). Economic Effect of Restaurant Smoking Restrictions on Restaurant Business in Massachusetts, 1992-1998. *Tobacco Control* 11(Suppl II): ii38-ii42.

⁹ Bartosch, W.J. and G.C. Pope (1999). The Economic Effect of Smoke-Free Restaurant Policies on Restaurant Business in Massachusetts. *Journal of Public Health Management Practice* 5(1): 53-62.

¹⁰ Huang, P., et al. (1995). Assessment of the Impact of a 100% Smoke-Free Ordinance on Restaurant Sales—West Lake Hills, Texas, 1992-1994. *Morbidity and Mortality Weekly Report* 44(19): 370-372.

¹¹ Hayslett, J.A. and P. Huang (2000). Impact of Clean Indoor Air Ordinances on Restaurant Revenues in Four Texas Cities: Arlington, Austin, Plano and Wichita Falls 1987-1999. *Texas Department of Health, Bureau of Disease, Injury and Tobacco Prevention*.

¹² Centers for Disease Control and Prevention (CDC) (2004). Impact of a Smoking Ban on Restaurant and Bar Revenues—El Paso, Texas, 2002. *Morbidity and Mortality Weekly Report* 53(7): 150-152.

¹³ Sciacca, J.P. and M.I. Ratliff (1998). Prohibiting Smoking in Restaurants: Effects on Restaurant Sales. *American Journal of Health Promotion* 12(3): 176-184.

¹⁴ Styring, III, W. (2001). A Study of the Fort Wayne Restaurant Smoking Ban: Has It Impacted the Restaurant Business? Indianapolis: Hudson Institute.

¹⁵ Dresser, L. (1999). Clearing the Air: the Effect of Smokefree Ordinances on Restaurant Revenues in Dane County. Madison: Tobacco-Free Wisconsin Coalition.

¹⁶ Dai, Chifeng, Denslow, David, Hyland, Andrew, Lotfinia, Babak (2004). The Economic Impact of Florida's Smoke-Free Workplace Law. Gainesville: Bureau of Economic and Business Research, Warring College of Business Administration, University of Florida.

¹⁷ Bartosch, W.J. and G.C. Pope (1999). The Economic Effect of Smoke-Free Restaurant Policies on Restaurant Business in Massachusetts. *Journal of Public Health Management Practice* 5(1): 53-62.

- ¹⁸ Goldstein, A.O. and Sobel, R.A. (1998). Environmental Tobacco Smoke Regulations Have Not Hurt Restaurant Sales in North Carolina. *North Carolina Medical Journal*. (59)5: 284-287.
- ¹⁹ New York City Department of Finance, et al. (2004).
- ²⁰ Ibid.
- ²¹ Glantz, S.A. (2000). Effect of Smokefree Bar Law on Bar Revenues in California. *Tobacco Control* 9(Spring): 111-112.
- ²² Bartosch, W.J. and G.C. Pope (1999).
- ²³ Dresser, J., S. Boles, E. Lichtenstein, and L. Strycker (1999). Multiple Impacts of a Bar Smoking Prohibition Ordinance in Corvallis, Oregon. Eugene: Pacifica Research Institute.
- ²⁴ CDC (2004). Impact of a Smoking Ban on Restaurant and Bar Revenues—El Paso, Texas, 2002. *Morbidity and Mortality Weekly Report* 53(7): 150-152.
- ²⁵ New York City Department of Finance, et al. (2004).
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- ²⁷ Dunham, J. and M.L. Marlow (2000). Smoking Laws and Their Differential Effects on Restaurants, Bars, and Taverns. *Contemporary Economic Policy* (18)3: 326-333.
- ²⁸ Glantz, S.A. and L.R.A. Smith (1997).
- ²⁹ New York City Department of Finance, et al. (2004).
- ³⁰ CDC (2004). Impact of a Smoking Ban on Restaurant and Bar Revenues—El Paso, Texas, 2002. *Morbidity and Mortality Weekly Report* 53(7): 150-152.
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The Facts About Secondhand Smoke

Secondhand smoke causes between 35,000 and 40,000 deaths from heart disease every year.¹ 3000 otherwise healthy nonsmokers will die of lung cancer annually because of their exposure to secondhand smoke.² These deaths occur because tobacco users are not the only ones who breathe smoke—all the people around them inhale it too. Unfortunately, non-smoking and ventilated public spaces cannot filter or circulate air at the rate necessary to eliminate secondhand smoke.³ Therefore, to protect those who choose not to smoke and to reduce the costs associated with treating tobacco-related disease, the American Cancer Society supports smoke-free air policies that restrict the places where people can light up.

What is Secondhand Smoke?

- Secondhand smoke is the combination of smoke emitted from the burning ends of a tobacco product (sidestream smoke) and the smoke exhaled from the lungs of tobacco users (mainstream smoke).⁴
- Secondhand smoke contains over 4000 substances, more than 60 of which are known or suspected to cause cancer.⁵ Some of the deadly substances in secondhand smoke and the cancers they cause are:
 - Arsenic, benzo(a)pyrene, cadmium, chromium, nickel, and NNK → lung cancer
 - Nitrosamines → cancers of the lung, respiratory system, and other organs
 - Aromatic amines → bladder and breast cancers
 - Formaldehyde and nickel → nasal cancer
 - Benzene → leukemia
 - Vinyl chloride → liver and brain cancer
 - 2-naphthylamine and 4-aminobiphenyl → bladder cancer
 - Lead → liver cancer
- Three of the above carcinogens -- arsenic, benzene, and vinyl chloride -- are regulated in the United States as hazardous air pollutants. Two of the bladder carcinogens -- 2-naphthylamine and 4-aminobiphenyl are banned for use in dye manufacturing.⁶
- The Environmental Protection Agency (EPA) has classified secondhand smoke as a Group A carcinogen, a substance which is known to cause human cancer.⁷

Who Is Exposed to Secondhand Smoke?

- Thirty-seven percent of adult nonsmokers have reported that they either lived in a home with a smoker or that they breathed secondhand smoke while at work.⁸
- Secondhand smoke has become an occupational hazard for many workers, including casino, restaurant, bar, and hotel employees. Although over three fourths of white collar workers are covered by smoke-free policies, just 43% of the country's 6.6 million food preparation and service occupations workers benefit from this level of protection.⁹
- Fifteen million kids, or nearly 22% of all children and adolescents, were exposed to secondhand smoke in the home during 1996.¹⁰

The Effects of Secondhand Smoke

- Secondhand smoke can cause many short-term effects, such as coughing and nasal and eye irritation.
- Nonsmokers exposed to secondhand smoke have been shown to have many of the same tobacco-related diseases as active smokers. Secondhand smoke has been shown to increase nonsmokers' risk of heart disease, stroke, and cancer.¹¹
- Before New York City implemented its smoke-free ordinance, an air quality survey conducted by the New York State Department of Health, found that air pollution levels in bars permitting smoking were as much as 50 times greater than pollution levels at the Holland Tunnel entrance during rush hour.¹²

The Impact of Secondhand Smoke on the Medically Underserved

- African-American, Hispanic and Native Americans are less likely to be protected under smoke-free workplace policies since they are more likely to work in occupation sectors that enjoy the least amount of protection from smoking in the workplace -- service, hospitality, and labor industries.¹³
- The CDC has found higher levels of secondhand smoke exposure among African Americans than for any other race or ethnic subgroup.¹⁴

Reversing the Harm to Health from Secondhand Smoke: *Smoke-free Laws*

- Public concern about the harmful effects of secondhand smoke and the need for smoke-free policies are high. A 2001 report by the CDC determined that high levels of public support exist, even among smokers, for smoke-free policies in many settings.¹⁵ Similarly, a 2001 poll indicated that over fifty percent of American adults believe secondhand smoke is "very harmful."¹⁶ This growing sentiment -- along with an increasing body of evidence about the detrimental effects of secondhand smoke -- has enabled many jurisdictions to successfully pass smoke-free laws and ordinances. And smoke-free laws have produced important improvements that lead to better health.
- **New York City:** New York City's comprehensive smoke-free ordinance is one reason for the city's 11 percent decline in smoking prevalence. Smoking rates declined in all five boroughs among all age and racial/ethnic groups for both men and women, meaning that 150,000 fewer New Yorkers are being exposed to secondhand smoke in the workplace and 100,000 fewer residents are being exposed to secondhand smoke in the home. Furthermore, six months after the Smoke-Free Air Act went into effect, the Health Department found a six-fold reduction in air pollution levels in bars that used to permit smoking.¹⁷
- **Helena, Montana:** During the six months (June 5, 2002-December 3, 2002) that Helena, Montana's smoke-free law was in effect, the number of patients admitted for heart attacks dropped significantly while areas where the ban was not in force observed no changes in their heart attack admission rates. When Helena's smoke-free law was overturned, the number of residents admitted to the hospital for heart attacks increased, suggesting that Helena's smoke-free law may be associated with a rapid decline for heart attack incidence.¹⁸
- **California:** A group of 53 bartenders, examined before and after California's smoke-free bar and tavern law went into effect, were found to have a 5-7 percent improvement in their overall pulmonary function just one month after the law's implementation.¹⁹
- **Delaware:** A 2003 survey of air quality before and after the Delaware smoking ban concluded that the smoke-free law significantly reduced the risk of cancer, heart disease, stroke and respiratory disease among workers and patrons in the hospitality industry.²⁰

American Cancer Society on Secondhand Smoke

The Society supports local, state, and federal initiatives to stop public exposure to secondhand smoke, including smoke-free laws, which are one key way to protect nonsmokers, children and workers from the deadly effects of secondhand smoke. Further, the Society opposes preemptive state legislation that restricts local authorities from enacting local smoke-free laws. The Society, together with its public and private partners, will work to pass legislative and regulatory measures to limit smoking in public places and work environments. This will ultimately help the Society achieve its goal of saving lives and reducing the death and disease caused by exposure to secondhand smoke.

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Clearing the Air: The Facts About Ventilation

Secondhand smoke is a public health hazard. Ventilation technologies do not sufficiently protect individuals from the harmful effects of breathing in secondhand smoke. Environmental, occupational, and public health authorities in the United States have all identified secondhand smoke as a health hazard.^{1, 2, 3, 4, 5, 6, 7} While ventilation or air purification systems are sometimes touted as a solution to the secondhand smoke problem, ventilation cannot purify the air at rates fast enough to protect people from secondhand smoke exposure. **The “most direct and effective method” for eliminating secondhand smoke is to exclude smoking from the workplace.**⁸ The American Cancer Society supports local, state, and federal initiatives to stop public exposure to secondhand smoke. However, the Society does not support ventilation, even as a compromise to secure smoke-free ordinances.

What is Ventilation?

Ventilation uses controlled airflow to control airborne contaminants.⁹ The tobacco industry has attempted to promote ventilation as a method to accommodate both smokers and non-smokers. There are two types of ventilation that are commonly used in commercial and industrial buildings.¹⁰

- **Local exhaust ventilation** attempts to trap pollutants at or near their source. It is geared toward environments with high pollution levels and requires low levels of air circulation. The theory is that pollutants are trapped at their source and are not diffused throughout the air.¹¹ Ventilated ashtrays are one example of local exhaust technology. Once a cigarette is placed into an ashtray, a filter would isolate any pollutants emitted from the burning tip. Canopy hoods are another example and work by filtering out any smoke that is exhaled directly above restaurant and gaming tables. In practice, local exhaust ventilation requires substantial maintenance, making the technology inefficient and costly for businesses to operate.
- **Dilution ventilation**, also known as general ventilation, involves saturating a room with clean, unpolluted air in an attempt to dilute airborne contaminants—in this case tobacco smoke—to safe and comfortable levels. The process requires high levels of air circulation and works best in environments with low pollution levels spread over a large area. However, exposure to secondhand smoke, at any level, is neither safe nor acceptable; the health consequences are immediate and can be life-threatening.* Because dilution ventilation allows tobacco smoke to travel throughout a room, it offers little protection from secondhand smoke exposure,^{12, 13, 14} and like local exhaust, it may be costly for businesses to install.

The Facts on Secondhand Smoke and Air Quality

Secondhand smoke is a major source of particulate matter, a type of air pollution. Particulate matter, of the size found in cigarette smoke, is easily and deeply inhaled into the lungs and can lead to death from heart disease and lung cancer.

- Between 90 and 95 percent of airborne pollution in Delaware hospitality venues was caused by smoking before the state’s smoking ban went into effect.¹⁵
- The pollution generated from three lit cigarettes in a room of 197 cubic feet was higher than the pollution generated from a diesel engine in a closed private garage.¹⁶
- Levels of cancer-causing pollutants were found to be 4 times greater than National Ambient Air Quality Standards (NAAQS) outdoor requirements in six Delaware bars, one casino, and one pool hall before implementation of a statewide smoking ban.^{17, 18}
- Pollution levels decreased 84 percent among 20 hospitality venues in western New York after the state’s smoke-free law was implemented on July 24, 2003.¹⁹

Ventilation is Ineffective and Costly

- No U.S. science agency has found that ventilation systems reduce occupational exposure to secondhand smoke to an acceptable level.^{20, 21}
 - Local exhaust technologies, such as ventilated ashtrays or canopy hoods over restaurant and gaming tables, are ineffective, according to the Occupational Safety and Health Administration and American Conference of Governmental Industrial Hygienists (ACGIH) experts.²²
 - In theory, “smokeless” ashtrays may have the most potential to reduce levels of sidestream smoke—smoke exhaled from the lungs of tobacco users; however, government and industry experts believe the placement and maintenance required by local exhaust systems would pose operational challenges to the hospitality industry largely due to recurrent cleaning requirements of internal filters, ducts, and hoods.²³
- “[T]ornado-like levels of ventilation” would be needed in restaurants, bars, and gaming establishments to protect hospitality workers from secondhand smoke.²⁴
 - Before Delaware’s smoking ban, it was estimated that a hospitality worker in a *ventilated*, full occupancy space where smoking was permitted was still exposed to cancer-causing pollutants at 2.6 times above the NAAQS outdoor requirements – despite the ventilation.²⁵
 - A ventilation system in a smoky Delaware bar would need to circulate air at an unrealistic ventilation rate – 4.4 times greater than recommended standards for outdoor air quality.²⁶
 - Placing hoods over gaming, restaurant and bar tables to filter secondhand smoke would require “impracticably high” minimum airflows in excess of 300 cubic feet per minute per hood. (cfm/hood).²⁷
- Even manufacturers and sellers of air filtration technologies admit that their products do not protect consumers from the health risks imposed by secondhand smoke.²⁸
 - Wein Products, Inc. states, “No air filtration or air purification system has been designed that can eliminate all the harmful constituents of secondhand smoke.”²⁹
 - Allergy Control Products, Inc. “does not claim that air cleaners offered in [their] catalog will protect people from potential health risks associated with secondhand smoke.”³⁰
- Ventilation is expensive.
 - Implementing the American Society of Heating, Refrigeration, and Ventilation Engineers (ASHRAE)-recommended ventilation rates is expected to cost businesses between \$1 and \$2 per minute per cubic foot per year (cfm-y).^{31, 32}
 - The U.S. Surgeon General determined that cost-effective technologies for filtering tobacco smoke from the air are currently unavailable.³³
 - Cost pressures and lax enforcement may be responsible for businesses under-ventilating their buildings.³⁴

Conclusion:

Ventilation systems would need to simulate windstorm conditions in order to meet air quality levels that are acceptable to federal regulatory agencies. Smoke-free laws are “the most cost-effective, easiest-to-enforce, and lowest risk alternative” for reducing secondhand smoke exposure.³⁵ The Society is committed to saving lives and reducing the death and disease caused by tobacco. The Society opposes preemptive state legislation that restricts local authorities from regulating clean indoor air. Therefore, the American Cancer Society stands ready to work with our partners, both private and public, to implement legislative and regulatory measures that limit smoking in public places and work environments.

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*For more information on secondhand smoke, please see the American Cancer Society’s factsheet “The Facts About Secondhand Smoke.”

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