New Jersey GASP
Group Against Smoking Pollution

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February 29, 2008

Contact: Karen Blumenfeld (908) 377-3900
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To: Senator Handley, Representative Sayers, and members of the Public Health Committee

From: Karen Blumenfeld, Esq., Director, Policy & Legal Resource Center, NJ GASP

Re: Senate Bill 419 –
An Act Prohibiting Smoking in Regulated Areas of Casinos

Thank you for the opportunity to present information to the Committee, on the trend of smokefree gaming, and to encourage and support safe and healthful workplaces for casino workers, and public places for gaming patrons.

My organization has been working on the smokefree gaming issue for several years, and today, I would like to share with you the most important highlights. More examples, along with supporting data, are in the handout that is provided to you.

First and foremost, the trend for smokefree gaming is growing. More than two dozen states regulate smoking in various types of gaming venues, and nine require 100% smokefree casinos. Just last week, Nebraska voted for its smokefree air law that includes all keno venues and racetracks, and it takes effect June 2009. In 2007, Colorado's legislature eliminated their casino exemption, and Illinois' legislature enacted a 100% smokefree workplace law that included the riverboat casinos. Both laws took effect on January 1, 2008.

Maryland's 100% smokefree air law includes its six racetrack facilities, and started on February 1, 2008. West Virginia's Kanawha County law starts in July 2008, which covers a slot racino, and Philadelphia's smokefree air law includes casinos that will be constructed within city limits.

Regarding Tribal Nations casinos, several in North America are 100% smokefree, and compact agreements are starting to include smokefree provisions. A Washington State compact agreement includes incentives for a 100% smokefree policy. The recent Massachusetts bill to allow casinos, includes a requirement that the applicant, whether commercial or tribal, agree to provide 100% smokefree casinos.

Smokefree gaming venues are successful in the Northeast, and smokefree poker rooms continue to be popular across the nation. The Surgeon General's report states it best: the Delaware smokefree air law had *no* significant effect on casino revenues, and that "*no* peer-reviewed study using objective indicators... found an adverse economic impact of smoke-free laws on restaurants and bars." (Ch. 10, p. 615-16).

That Report also stated that in Massachusetts, charitable bingo profits were not negatively affected by local ordinances that required these locations to be smokefree; those profits were already decreasing prior to these local ordinances taking effect.

This finding is consistent with Atlantic City's situation. Pennsylvania slot casinos started up in October 2006, sparking a decline in Atlantic City's slot revenues. It wasn't until April 2007 that the local Atlantic City ordinance took effect, that allows up to 25% of the gaming floor to be smoking permitted. Clearly, ordinance can't be to blame for a downturn that started six months earlier.

Additionally, table games revenues in Atlantic City for year-end 2007 remained stable, indicating that most likely, the partial smoking ban did *not* impact table game revenues. This is consistent with casinos finding it profitable to voluntarily make their poker rooms 100% smokefree, across the country.

Even Wall Street indicates that smokefree gaming is inevitable. In May 2007, the American Gaming Association stated that it will no longer oppose smokefree regulations. U.S.-based gaming corporations are buying smokefree casinos stateside and overseas, and are branding their names onto smokefree casinos.

It is reported that Foxwoods will invest over $560 million to build its South Philadelphia casino, which will be required to be smokefree by local ordinance.

The new Revel Entertainment casino resort in Atlantic City is slated to be 100% smokefree when it opens. Several billion dollars are reported to be invested in Atlantic City in the next five years. It comes as no surprise that an independent 2006 survey by ICR (based in Media, PA) predicted 1.5 million more visitors would come to Atlantic City if its indoor places are 100% smokefree.

Four out of five gamblers (80%) do NOT smoke, which mirrors the nonsmoking rate of the general population. Out of the 20% who do smoke, 70% want to quit, according to the Centers for Disease Control.

These figures are consistent with a 2001 Mohegan Sun Casino's customer survey result that the *number one amenity* that patrons would like is a smokefree gaming area, as reported by the Associated Press. We certainly appreciate the commitment to create smokefree policies in some portions of the Connecticut Tribal gaming facilities, and encourage these facilities to be 100% smokefree.

For some patrons and workers, however, 100% smokefree gaming venues are not just a requested "amenity", but a necessity. Those who are breathing disabled, or have lung disease or heart disease cannot enter these facilities without risking their health, and perhaps their lives. A few years back, a young nonsmoking waitress died from a fatal asthma attack, brought on by secondhand smoke in the bar she worked at in Michigan.

This month, a nonsmoking casino dealer in Atlantic City was awarded $150,000 in workers compensation. A table games dealer in Las Vegas reported in *Self* magazine that she "had to get sinus surgery, and co-workers are constantly suffering from bronchitis, sinus infections and allergies." *Self* ranks Las Vegas as the smokiest U.S. city to work and live in, in the USA, with 150,000 people working in casinos.

Regarding options other than going 100% smokefree, ventilation is not a sound solution, nor is offering separate smoking and nonsmoking sections in a casino. Both continue to expose workers and patrons to secondhand smoke. The World Health Organization and the U.S. Surgeon General concluded that ventilation does not clean the air of secondhand smoke hazards, and therefore, 100% smokefree policies are the only means to protect workers and patrons.

Even with a ventilation system, before the secondhand smoke is vented, its first line of attack is the face and lungs of the casino workers and nonsmoking patrons. Scientific air testing studies conducted in casinos in Rhode Island, Atlantic City, Illinois and Pennsylvania show just how serious the air quality is, due to secondhand smoke. Even though Rhode Island's casinos have separate gambling rooms for smoking and nonsmoking, the nonsmoking gambling rooms are still smoky, and both areas expose employees and nonsmoking patrons to a class A carcinogen.

Atlantic City's ordinance allows smoking in up to 25% of the open gaming floor. The obvious result is that smoke wafts into and permeates the nonsmoking gaming areas. Additionally, employee and patron complaints continue to persist. Smoking takes place in the nonsmoking gaming areas, especially when the smoking-permitted table games and slot areas are mixed in with, or next to nonsmoking table games and slot areas.

Casino workers also report that nonsmoking tables switch to smoking tables, and that the smoking-permitted areas can be smokier, since smokers tend to congregate in the smoking-permitted areas, regardless of whether or not they are gambling.

Separate smoking and nonsmoking sections create employee scheduling issues. Some Atlantic City casinos originally suggested a volunteer list, for workers to sign up for shifts in the smoking-permitted gaming areas. But once the ordinance took effect, to our knowledge, no volunteer lists were created, and employees were required to work in the smoking sections. One employee had no choice but to quit her job, after her employer repeatedly refused to accommodate her medical needs based on her physician's letter that she not work in the smoky section; the unemployment office deemed her leaving as a constructive discharge, and awarded her unemployment compensation.

Another employee with a cardiac condition had no choice but to take medical leave, due to the casino not accommodating him at a nonsmoking table area. In response to these types of worker complaints once the 75/25 ordinance took effect in April 2007, Atlantic City's City Council enacted a resolution, asking the state legislature to remove the casino gaming floors exemption, in part because creating smoking areas "place a greater burden on the employees who are forced to work in the smoking areas."

Smoking in a casino also raises the obvious fire safety concern for patrons and workers that require portable oxygen tanks. Manufacturers of portable oxygen tanks, and national fire prevention organizations, recommend that portable oxygen tanks not be used in a room and/or building where smoking takes place. Not providing a safe public place and workplace for these individuals is unacceptable, and most likely inconsistent with internal safety codes and standards.

100% smokefree casinos will encourage and support employees who try to quit smoking. A casino that offers an employee smoking-cessation program, yet doesn't provide for a smokefree workplace, undermines the integrity of their cessation program, and the employer's sincerity in supporting quit-smoking efforts by their employees.

Employers articulate that their employees are their most valued assets, and should be provided with safe, healthful and clean work environments. This message is in mission statements, employee handbooks, and codes of conduct. Establishing 100% smokefree casinos is the action that breathes life into this message.

Thank you and NJ GASP greatly appreciates your efforts on this important health issue.

KAB/ms
Attachments

Additional specific attachments:

- 85% of Connecticut residents support 100% smokefree workplaces, August 2004.
- 80% of adult population does not smoke; 70% of smokers would like to quit.
- Washington State compact excerpt re: 100% smokefree casinos incentive, February 2007.
- Massachusetts bill to establish casinos, requires 100% smokefree facilities, October 2007.
- Atlantic City City Council resolution that ordinance to allow 25% of gaming floors is not working for employees, June 2007.
- Pennsylvania slot casinos have impacted Atlantic City revenues for 13 months, Gaming Industry Observer, February 25, 2008.

MATCH

Protecting Children's Health

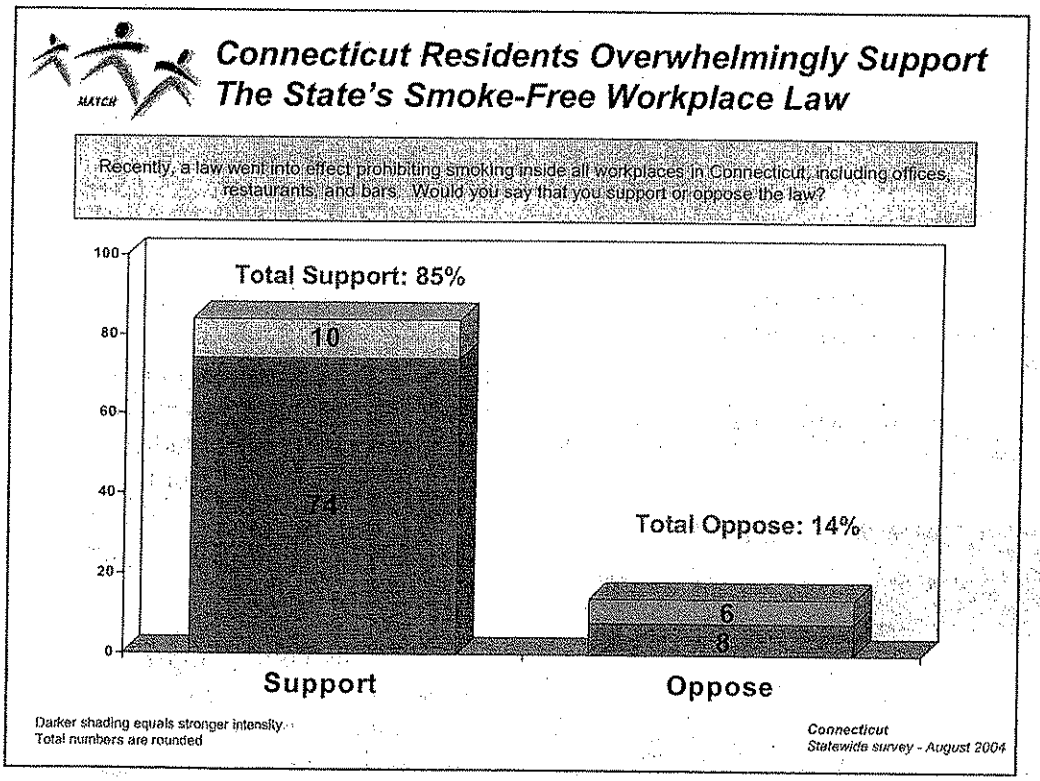
Connecticut Survey Results

August 2004

This memo reports the results from a recently completed survey of Connecticut residents. Global Strategy Group, Inc. conducted 400 telephone interviews among a random sample of Connecticut residents between August 28 and August 30, 2004. The margin of error for the sample as a whole is plus or minus 4.9 percentage points at the 95% level of confidence. For sub-groups of the population, the margin of error is higher. All total numbers are rounded to the nearest percentage.

Results of the August 2004 survey indicate that there is strong support for the law prohibiting smoking inside all Connecticut workplaces, including offices, restaurants and bars. An overwhelming majority of residents understand the health hazards of secondhand smoke, believe all Connecticut workers should be protected from it, and find restaurants and bars healthier and more enjoyable now that they are smoke-free.

Support For Connecticut's Smoke-free Workplace Law

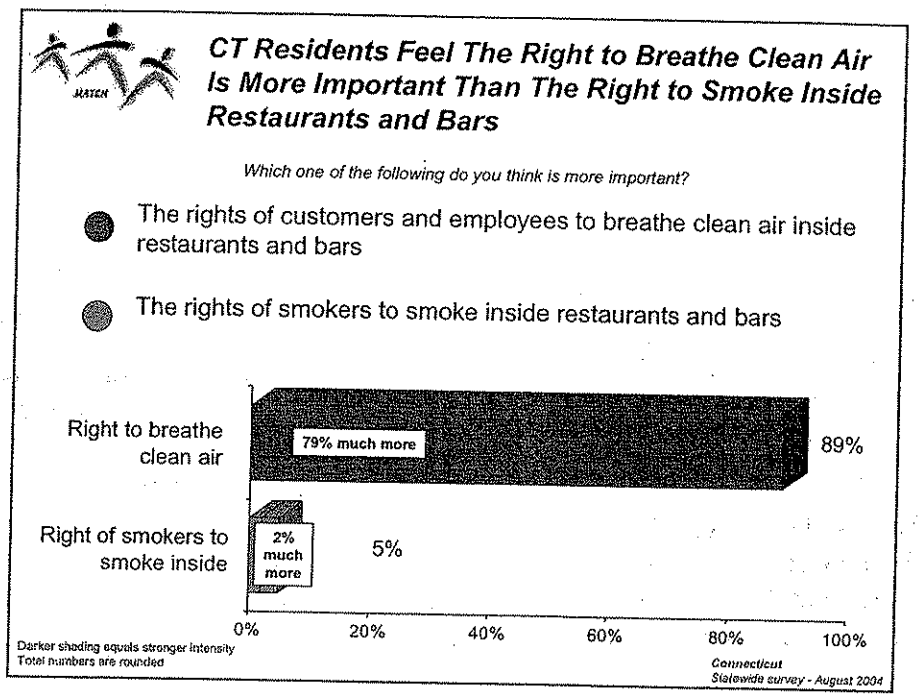


By more than a five-to-one margin (85 percent to 14 percent), Connecticut residents support the statewide law prohibiting smoking inside all workplaces, including offices, restaurants and bars. This support comes from a broad-based coalition of voters throughout the state, including 93 percent of Democrats, 84 percent of independents and 75 percent of Republicans.

The level of support is consistent across the state. Eighty-eight (88) percent of Hartford residents, 86 percent of Fairfield residents, 85 percent of New Haven residents and 79 percent of residents in the rest of the state support Connecticut's smoke-free workplace law.

Connecticut Residents Recognize the Benefits of Smoke-Free Public Places and Workplaces

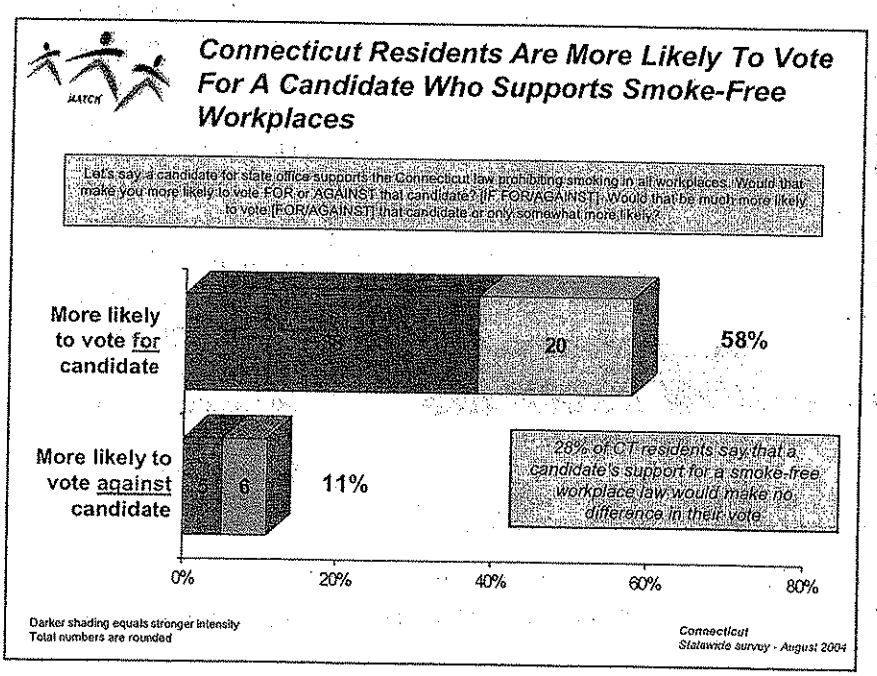
Eight out of ten residents (86 percent) believe that exposure to secondhand smoke is a serious (69 percent) or moderate (17 percent) health hazard. Nine out of ten residents (91 percent) agree that all Connecticut workers should be protected from exposure to secondhand smoke in the workplace.



These concerns translate to the very strong belief among residents (by a margin of 89 percent to 5 percent) that the right of customers and employees to breathe clean air in restaurants and bars is more important than the right of smokers to smoke inside these places.

Additionally, patrons of restaurants and bars in Connecticut indicate that these establishments are healthier and more enjoyable now that they are smoke-free. More than nine out of ten Connecticut residents (93 percent) believe that these places are healthier, and 90 percent feel it is really nice to be able to enjoy restaurants and bars in the state without smelling like smoke at the end of the evening.

Impact on Candidate Support



Finally, the survey shows that residents will express their support for the smoke-free workplace law at the polls. A strong majority of residents (58 percent) indicate that a candidate's support for the smoke-free law would make them more likely to vote for that particular candidate.

Twenty-eight (28) percent of Connecticut residents say that a candidate's support for a smoke-free workplace law would make no difference in their vote, while just 11 percent indicate that it would make them more likely to vote against a candidate.

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Survey finds most smokers want to quit

By Jonathan Lynch
CNN Medical Unit

ATLANTA, Georgia (CNN) --Most smokers say they want to quit, but their success rate varies markedly depending on race, education and age, according to a new study from the Centers for Disease Control and Prevention.

The study found that 70 percent of current adult smokers would like to quit, but only 41 percent had quit smoking for even as little as a day.

The odds of succeeding in quitting varied widely among ethnic and economic groups. Among whites, 51 percent of one-time smokers successfully quit. Only 37 percent of black smokers managed to quit.

Income groups showed a similar disparity: almost half of those above the poverty line were able to quit, but only a third of those below the poverty line were successful. Similar differences were seen based on education as well.

The report -- based on answers from 32,374 adults -- contends these differences are at least in part due to access to treatments or programs that make quitting easier, and it calls for new plans to ensure access to such interventions. Health officials hope to reduce the overall smoking rate to 12 percent by 2010.

Data from National Health Interview Surveys show that over a 35-year period, from 1965 to 2000, the percentage of adults who smoke steadily declined, from 42 percent to 23 percent. The decline encompassed all ethnicities and almost all age groups.

The one exception was adults ages 18 to 24, which reached a low point of smoking in 1991, and has since risen about three points, to hover around 26 percent. The group with the lowest percentage of current smokers is adults over 65, at only 10 percent.

According to the surgeon general's Web site, smoking contributes to about 430,000 deaths per year in the United States, making it the number one killer overall.

In an editorial note to the survey, the CDC said that although current smoking rates are declining in the United States, the decline is not sufficient to meet the goal of 12 percent by 2010.

The authors note that a comprehensive tobacco control program could help, and they call for physicians to make smoking cessation a part of regular patient treatment, for some public funding of smoking cessation treatments, and for stronger media campaigns to make smoking seem less attractive.

Find this article at:
http://archives.cnn.com/2002/HEALTH/07/25/cdc.smoking/index.html

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Spokane Tribe – Washington State Gaming Compact

February 16, 2007

Gov. Gregoire Signs Spokane Tribal Gaming Compact

Compact continues to limit gambling in Washington

Governor Gregoire has signed a compact for gaming on tribal lands, consistent with tribal, state and federal laws. The compact will be sent to Secretary of the United States Department of Interior for consideration, signature and publication.

The compact with the Spokane Tribe becomes the 28th gaming compact with Tribes in Washington. All others compacts, with the exception of the Colville Tribe, authorize each Tribe to operate 3,000 Tribal lottery machines. The Colville Compact authorizes 4,800 machines. This compact authorizes 1,500 machines for the first three years and 3,000 machines thereafter until further negotiations.

A tentative compact was reached in 2006, which would have allowed the Spokane Tribe to operate 7,500 tribal lottery machines. Governor Gregoire rejected this compact and sent negotiators back to the table.

"As I have made very clear, I don't like gambling. Under federal law, I am required to negotiate in good faith with the Tribes," said Governor Gregoire. "I am committed to honor the obligations made by the state in prior compacts and comply with federal law. This negotiation was approached in good faith by both the state and the Spokane Tribe."

This compact allows the Tribe to operate five casinos, as long as the casinos are at least 25 miles apart, which is the same number and requirements for the Colville Compact. All other Tribes are limited to two casinos.

Highlights of the Agreement

- The Tribe commits financial support to problem gambling and smoking cessation programs
- Resolves years of negotiations and litigation between the Tribe, State and Federal Government
- Strengthens the regulation of gambling in Washington
- Maintains the structure of Tribal-State Gaming Compacts in Washington
- Continues the approach of limiting gambling operations

- Acknowledges and continues the Tribe's contributions and investments to the community, which benefit both Tribal and non-tribal members
- Continues to provide a mechanism for the sharing of gaming revenue with other Tribes

Problem Gambling Contribution

The Spokane Tribe is the first Tribe to contribute 0.13 percent of its net win (gross receipts minus prizes paid) to problem gambling support services. This is the same percent other non-tribal gambling businesses contribute to problem gambling support services. The Tribe will make payments to the Department of Social and Health Services, Division of Alcohol and Substance Abuse, and will receive credit for any payments made to other organizations directly related to helping reduce problem gambling.

Smoking Cessation Contribution

In addition to its problem gambling contribution, the Spokane Tribe is the first Tribe to set aside 0.13 percent of its net win for contributions dedicated to smoking cessation programs. Contributions fund anti-smoking advertisements or nonprofit organizations with the primary purpose of discouraging tobacco use. However, if the Tribe operates all of its gaming facilities as smoke-free facilities, it will not need to make the smoking cessation contribution.

Community Investments and Contributions Benefit Tribal and Non-Tribal Members

The compact requires the Tribe to contribute 3% of machine revenues toward the health and welfare of the community by providing for programs that benefit everyone, such as law enforcement and governmental services, health care, job training, and public works. The Tribe may distribute Community Investments and Contributions directly to local jurisdictions or qualifying programs, and it will provide a report to the state of its distributions each year. These community investments may reach several million dollars on an annual basis.

Regulation of Gaming Activities

The compact brings all Spokane gaming operations under the regulations of the state Gambling Commission, consistent with all other Tribal compacts.

For Questions

Susan Arland, Public Information Officer, Washington State Gambling Commission
360.486.3466
SusanA@wsgc.wa.gov

HOUSE . . . . . No.

The Commonwealth of Massachusetts

EXECUTIVE DEPARTMENT
STATE HOUSE • BOSTON 02133
(617) 725-4000

DEVAL L. PATRICK
GOVERNOR

TIMOTHY P. MURRAY
LIEUTENANT GOVERNOR

October 11, 2007.

To the Honorable Senate and House of Representatives:

I am filing for your consideration the attached legislative proposal entitled, "An Act Establishing and Regulating Resort Casinos in the Commonwealth."

There is a growing need to spur economic development and job growth throughout the Commonwealth, and this innovative and responsible bill meets those demands. This legislation authorizes the creation of no more than three resort casinos to be built in different regions of the state. Establishing these resort casinos will result in tens of thousands of construction jobs, over 20,000 permanent jobs and billions of dollars invested in our economy. In addition to economic development and job creation, this bill provides that millions of dollars of additional revenue will be used annually to provide immediate property tax relief and to make badly needed road, and bridge and other transportation infrastructure repairs.

Further, this bill balances the Commonwealth's urgent economic development needs against its serious need to effectively mitigate any negative public health or safety costs related to expanded gaming. Specifically, this plan allots a high level of resources, to be funded by the resort casinos themselves, to meet any increased demand for social service and public health programs resulting from gaming. Additionally, this bill provides for the most comprehensive regulatory and enforcement system in the country. The Massachusetts Gaming Control Authority will have strong regulatory, oversight and enforcement powers, and violators will be aggressively fined and penalized.

Addressing the needs of regional economies throughout the Commonwealth, this bill takes a critical step toward expanding economic development and job creation. Along with the Life Sciences Initiative, the Readiness Project and the Administration's five year capital plan, the construction and operation of up to three resort casinos will help create more than 100,000 new jobs by 2010 and secure the Commonwealth's position as a leader in the global economy. Accordingly, I urge your early and favorable consideration of this bill.

Respectfully submitted,

DEVAL L. PATRICK,
Governor.

(iii) an independent audit report of all financial activities, including but not limited to the disclosure of all contributions, donations, loans or any other financial transactions to or from any gaming entity or operator in the past 5 years;

(iv) an independent audit report of all of the applicants' financial interests;

(v) the location of the proposed resort casino, which shall include address(es), maps, and book and page numbers from the appropriate registry of deeds, assessed value of land to be purchased or currently in ownership, market value of the land at the time of application, and ownership status over the past 5 years, including all interests, options, agreements in property, and demographic, geographic, and environmental information, and any other information requested by the authority;

(vi) the proposed architects and designers for the resort casino, which shall include the name and addresses of the architects, engineers, and designers, and timeline of construction and phases of construction;

(vii) the types of games and gaming to be conducted at the resort casino, number of tables and electronic gaming devices that are proposed to be employed at the casino, and the specific location of the gaming at the casino site;

(viii) a description of the ancillary entertainment services and amenities to be provided at the proposed resort casino;

(ix) the number of hotels, rooms per hotel and other amenities located at the proposed resort casino;

(x) the number of employees to be employed at the resort casino, including detailed information on the pay rate and benefits for employees, including any contractors;

(xi) the total amount of investment by the applicant in the resort casino, including all facilities located at the casino site;

(xii) completed studies and reports as required by the authority, which shall include, but are not limited to, an economic benefit study, both for the commonwealth and region; an environmental, traffic and local infrastructure impact study, a study on the impact of the proposed resort casino to the local and regional economy, the cost to the municipality and the state for the casino to be at its proposed location, and the total amounts of municipal and state tax revenue to be generated by the applicant;

(xiii) whether the applicant's casino is part of a regional or local economic plan;

(xiv) whether the applicant is partnering with a federally recognized native American tribe located in the commonwealth;

(xv) whether the applicant has a contract with organized labor and has the support of organized labor for its application;

(xvi) whether the applicant will be using publicly owned land for the resort casino;

(xvii) a statement that the applicant will comply, in case such a license is issued, with all applicable laws and with all applicable rules and regulations prescribed by the authority or any other relevant entity;

(xviii) a statement that the applicant shall mitigate the potential negative public health consequences associated with gambling and the operation of a destination resort casino. As part of this submission, the applicant must agree to:

(A) maintain as smoke free all indoor facilities operated by the licensee or anyone working for or under contract with the licensee;

(B) provide complimentary on-site space for an independent substance abuse and mental health counseling service to be selected by the commonwealth;

Resolution of the City of Atlantic City
No. 446

Approved as to Form and Legality on Basis of Facts Set Forth

Factual contents certified to by

Legislative Counsel Billie J. Moore Esq.

Business Administrator /s/ Domenic Cappella

Prepared by Legislative Counsel

Council Members ALL COUNCIL Present the following Resolution:

WHEREAS, the City Council of the City of Atlantic City received testimony calling for the implementation and protections of the New Jersey Smoke Free Air Act (the "Act") (N.J.S.A. 26:3D-55) to be applied to public places and places of employment; and

WHEREAS, the legislature through the January 15, 2006 approval of the "Act" sought to preserve and advance the public health and welfare of those within the State of New Jersey; and

WHEREAS, the "Act", within N.J.S.A. 26:3D-59 pronounced "AREA AND BUSINESSES EXEMPT FROM SMOKING RESTRICTION." Therein, (e)(1) specifically exempted casino floors by stating *"any casino as defined in Section 6 of P.L. 1977, C.110 C.5:12-6 approved by the Casino Control Commission that contains at least 150 stand – alone slot machines, ten table games or some combination thereof approved by the Commission, which machines and games are available to the public for wagering"*; and

WHEREAS, the Act, within N.J.S.A. 26:3D-59(e)(2) further exempted simulcasting facilities by stating that the provisions of the "Act" shall not apply to *"any casino simulcasting facility approved by the Casino Control Commission pursuant to Section 4 of P.L. 1992, C.19 (C.5:12-194) that contains a simulcast counter and dedicated seating for at least 50 simulcast patrons or a simulcast operation and at least ten table games, which simulcast facilities and games are available to the public for wagering"; and*

WHEREAS, Subsection 63 of the "Act" provides that *"the provisions of this Act shall supersede any other statute, Municipal Ordinance and rule or regulation adopted pursuant to law concerning smoking in an indoor public place or workplace, except where smoking is prohibited by Municipal Ordinance under authority of R.S.40:48-1 or 40:48-2, or by any other statute or regulation adopted pursuant to law for purposes of protecting life and property from fire or protecting public health, and except for those provisions of a Municipal Ordinance which provide restrictions on or prohibitions against smoking equivalent to, or greater than, those provided under this Act."*

WHEREAS, Council found that as a result of Subsection 63 of the "Act", it was empowered to create legislation to preserve and advance the public health by implementing legislation greater than that provided by the "Act"; and

WHEREAS, on February 15, 2007, City Council adopted Ordinance #86, which prohibited smoking in various enclosed public places and public areas of employment. It was also decided by City Council, pursuant to Ordinance #86, not to regulated smoking in various places, such as Gaming Floors within licensed casino hotel facilities; and

WHEREAS, the City Council sought to reach a amicable agreement by including a provision in Ordinance #86 which states that not more than twenty-five percent (25%) of such Gaming Floor, as particularly determined by the Casino license operator of the casino hotel facility within which the Gaming Floor is located, may be so designated (as a smoking area and therefore exempt from regulation); and further provided (1) that the exempt areas so designated shall be (a) enclosed by solid walls or windows, a ceiling and a solid door; and (b) equipped with a ventilation system separately exhausted from the nonsmoking areas

of the casino hotel facility so that air from the exempt areas is not recirculated to and smoke is not back streamed into such nonsmoking areas; (2) that the casino licensee operator, not later than five months from the effective date of this Ordinance, submits plans for such designated exempt areas to the New Jersey Department of Community Affairs and such other government agencies as may be necessary and, not later than ninety (90) days from receipt of all such approvals as may be necessary, commences and thereafter expeditiously completes the construction of such separately ventilated enclosures; and (3) that, during the pendency of the design and construction of such exempt area enclosures, not more than the above stated percentage of such Gaming Floor, as particularly determined by the casino licensee operator, may, without such enclosures, be so designated as exempt; and

WHEREAS, prior to passing Ordinance #86 with the 25% Casino Floor exemption, City Council was assured that casino employees would be selected to work in the designated smoking areas on a volunteer basis only, that no employee would be forced to work in the smoking area and that casino operators were already in possession of a list of volunteers to work in the designated 25% smoking areas; and

WHEREAS, at the May 9, 2007 City Council meeting, members of the community and individuals representing various special interest groups expressed concern for the health and safety of casino workers who they indicate are scheduled to work in the smoking areas of the casinos; and

WHEREAS, it was brought to the attention of City Council that there is no list of persons volunteering to work in the designated smoking areas and as a result, employees are required to work in heavily concentrated smoking areas; and

WHEREAS, the reduction of smoking areas from 100% of the casino floor down to a concentrated area of 25% places a greater burden on the employees who are forced to work in the smoking areas; and

WHEREAS, members of the community begged City Council to reconsider Ordinance #86 and either make the Casino Floor 100% smoke free or to revert back and make it a 100% smoking environment for the good of the employees; and

WHEREAS, members of City Council were acting in the best interest of the community upon adopting Ordinance #86 but after hearing comments from the public, Council is of the belief that the New Jersey State Legislature must intervene and address this serious matter.

NOW, THEREFORE, BE IT RESOLVED by the City Council for the City of Atlantic City, that said Council hereby recommends and urges the New Jersey State Legislature to become more aggressively involved with amending the New Jersey Smoke Fee Air Act, N.J.S.A. 26:3D-55, to include language which prohibits smoking 100% in all Atlantic City Casinos.

June 19, 2007 10:10:12 AM pg

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RECORD OF COUNCIL VOTE ON

FINAL PASSAGE

COUNCIL MEMBER	AYE	NAY	N.V	A.B.	MOT.	SEC.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	MOT.	SEC.
MANCUSO	X				X	X	SCHULTZ	X				X	X
MASON	X				X	X	SMALL	X				X	X
MOLLINEAUX	X				X	X	TIBBITT	X				X	X
ROBINSON	X				X	X	WARD	X				X	X
							MARSH, PRESIDENT	X				X	X

X-Indicates Vote NV-Not Voting AB-Absent MOT-Motion
SEC-Second

This is a Certified True copy of the Original Resolution on file in the City Clerk's Office.

DATE OF ADOPTION: MAY 9, 2007

/s/ Rosemary Adams, City Clerk

Las Vegas locals market slowing, p.5

VOLUME 13, NO. 3, FEBRUARY 25, 2008

Michael Pollock's
GAMING INDUSTRY
OBSERVER
A SPECTRUM GAMING GROUP PUBLICATION ®

View from Pennsylvania ...

IN 2008, CHALLENGES LOOM BOTH WITHIN GAMING BOARD AND IN HARRISBURG AND BEYOND

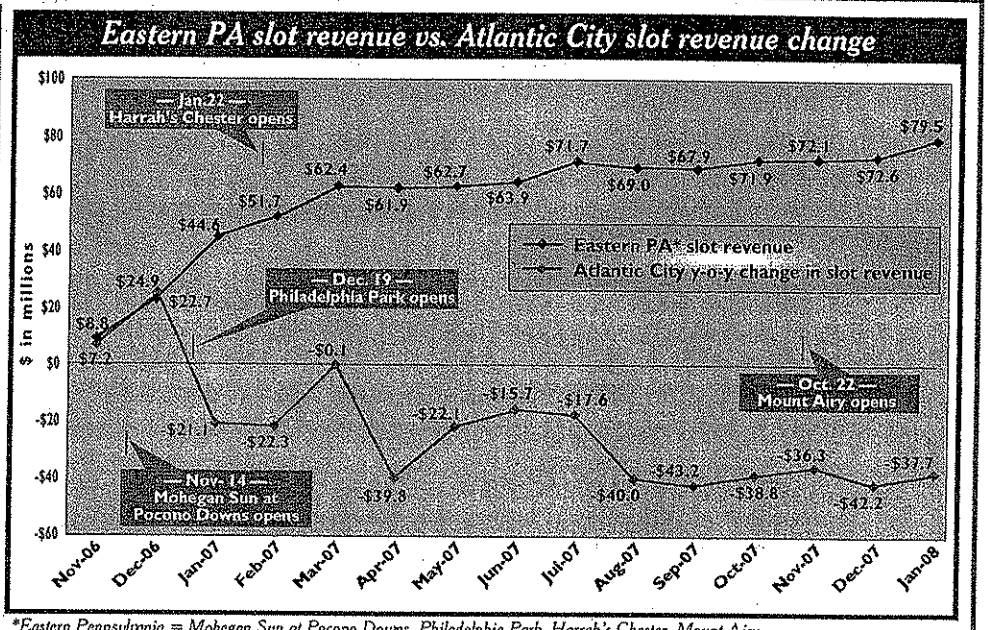
Editor's Note: In what has become tradition in this space on the eve of our annual Pennsylvania Gaming Congress & Mid-Atlantic Racing Forum, we turn to Jeff Franklin to analyze the regulatory outlook in Pennsylvania. He is an attorney and CIO with Ryan, Russell, Ogden & Seltzer, a Pennsylvania-based law firm that has been representing clients in regulated industries, eminent domain and land-use for more than 50 years.

BY JEFFREY A. FRANKLIN

The Pennsylvania Gaming Control Board faces several hurdles entering its second year of transition from primarily a licensing body into its long-term form of regulator. Judge **Mary DiGiacomo Colins** has herself transitioned from drafting the initial gaming regulations at her kitchen table at the inception of the board, to becoming the board Chair last summer. She now captains the board, which boasts about 250 employees in numerous offices throughout the Commonwealth.

The board is working toward opening and regu-

see PENNSYLVANIA on page 6



*Eastern Pennsylvania = Mohegan Sun at Pocono Downs, Philadelphia Park, Harrah's Chester, Mount Airy

Market trends ...

NORTHEASTERN PA OPERATORS CREATING OWN MARKET, WORKING THROUGH HIGH TAX

Conventional wisdom for the last 13 months has been pointing its finger at Harrah's Chester and Philadelphia Park as the culprits for Atlantic City's unprecedented decline in gross gaming revenue. This same train of thought reasonably concludes that Atlantic City will experience another round of negative impacts when the Foxwoods and SugarHouse casinos open in downtown Philadelphia in the next two to three years.

The conventional wisdom in both these instances is correct, but incomplete. To complete the impact picture, we must look farther north in Pennsylvania. Both Mohegan Sun at Pocono Downs and Mount Airy Casino Resort, by their own admission, have been attracting a surprising number of high-worth, heretofore Atlantic City slot players.

Such slot players have a weighty decision: They can drive two to three hours for the full-service experience in Atlantic City, where the 8 percent tax rate (not counting the 1.25 percent reinvestment obligation) allows operators to heavily reinvest in their customers and offer them an array of slot clubs, restaurants and comps; or they can save three to four hours of driving time by staying close to home in northeastern Pennsylvania, where the 56.5 percent effective tax rate restricts both the customer reinvestment and nongaming amenities.

With both time and money in shorter supply these days, a significant number of four-figure theoretical-worth slot players are finding their casinos in the highlands to be more than just a satisfactory alternative. They have discovered a level of comfort in the smaller confines and friendlier service — a place they can call their "home" casino.

Players who have grown accustomed to more enticing promotions in Atlantic City are learning that their level of play might not warrant the same level of comps in Pennsylvania. They can earn credits that generate more time on device, but the richer rewards require a lot more effort. Operators, at the same time, are learning a new business model: Creativity, in everything from customer service to design, must replace cash.

The Mohegan Sun racino, in particular, is a compelling story. It led the East Coast in daily win per machine last year, at $415, despite its temporary — and

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far-from-ideal — gaming area in the Pocono Downs grandstand. The property is six months away from completing Project Sunrise, its $208 million expansion in which the permanent casino will be situated.

The circular casino will be rimmed with three fine-dining restaurants, a 300-seat buffet, food court, shops, and nightlife venues — using innovative and high-quality finishes not unlike those seen at Station Casinos' highly regarded Red Rock resort in Las Vegas. President and CEO **Robert Soper** said the idea is to create an experiential atmosphere, turning the property into a day-use destination that could extend the current length of stay — 1.5 hours — by 40 percent, to 2.5 hours.

> The Mohegan Sun expansion aims to extend length of stay by 40 percent.

With the net addition of 1,200 more slots (double the current inventory), Mohegan Sun's East Coast-leading daily win per unit of $415 figures to decline but gross gaming revenue should rise significantly.

Mohegan Sun is positioning itself for what will be a highly competitive market in northeastern Pennsylvania. Mount Airy took a healthy bite out of Mohegan Sun's expected growth when it opens in October, although it is finding its own customer trove in northern New Jersey. For a slot player from Parsippany, NJ, the drive to Mount Airy is half the distance (and less than one-fourth of the toll cost) of a trip to Atlantic City.

Mount Airy, which is one of the most attractive mid-sized casinos anywhere, is off to a sluggish start. It opened as the calendar entered the doldrums of winter and, still, without the completion of all hotel rooms and other amenities. Its entrance road just 3.5 miles from Interstate 80 has been significantly widened and the property is well positioned to draw from almost every compass point.

Indeed, the $400 million invested in Mount Airy pales next to the required investment in Las Vegas or Atlantic City facilities (another side effect of the tax rate) but it was spent well to create an all-encompassing mountain lodge motif. In future phases, the property has plans for new hotel towers as well as convention and meeting space. At present, the property is handling a growing number of banquets and other events that generate incremental business but not much room demand.

The big challenge facing Mount Airy is that the year-round population within the immediate 25-mile area, as well as the tourist population during much of the year, is relatively sparse. Additionally, the tourism infrastructure in the area — including other restaurants and lodging — still suffers from a lack of capital. Those are very real challenges, but can be overcome in time.

CEO **Joseph D'Amato** believes that the property — whose operations and appeal so far are insulated from the serious problems facing its owner, **Louis DeNaples** — will be well positioned to begin hitting its stride later this spring. D'Amato, like other Pennsylvania gaming CEOs, is learning how to operate at maximum efficiency within the high-tax environment. As they climb that learning curve, they will become even more formidable competitors.

Along the other major feeder from northern New Jersey, Interstate 78, Las Vegas Sands is developing Sands Bethworks, which ultimately will be an $800 million mixed-use project. The first phase will include a 300-room hotel, 200,000 square feet of retail, 3,000 slot machines, and a variety of dining and entertainment options. Given the property's magnitude and location just 85 miles from New York City, combined with Las Vegas Sands' history of delivering premier gaming properties, we expect Sands Bethworks to have a material impact on Atlantic City after it opens late next year.

Access to the Sands Bethworks site gives it a compelling advantage, with Interstate 78 forming a belt that connects the Delaware and Hudson rivers. Sections of New Jersey's adult population are not only a short drive away, but some Garden State residents — such as those who live in Warren County — are actually within the Allentown-Bethlehem metropolitan area.

Together, the three northeastern Pennsylvania casinos will compete not only among themselves, but as a distinct market alternative to Atlantic City. ■

MISSOURI
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trade group plans to emphasize that existing operators have almost $2 billion of capital investment in an already saturated market.

The industry is expected to soon begin its petition drive to put on the ballot this year the referendum to do away with the loss limit rule. The petition would also prevent the issuance of new licenses. For that reason, Stremming believes, the commission should let the voters speak first.

The commission, though, appears ready to act on another license long before voters determine the fate of the referendum. ■

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board's appointment of a trustee, **Anthony Ceddia**, and an accountant, **Mark Gleason**.

While the particulars of the DeNaples matter may take some time to sort out, the impact has been immediate. The governor and several legislators have announced their intentions to craft and support a legislative fix. Of course, the devil is in the details, and which grand jury recommendations or other recommendations are eventually included in any successful legislative fix are likely to be hotly debated.

The second challenge beyond the board: a new breed of case pending that may be indicative of a trend — "Show me the money." Erie County Pennsylvania Judge **Michael E. Dunlavey** will soon decide a pending lawsuit challenging the county's distribution plan for millions of dollars in gaming revenues. As more casinos open and the dollars flow, such challenges seem almost inevitable.

The Summit Township Industrial and Economic Development Authority sued Erie County on December 28, 2007, arguing that the county's plan to handle dispersal of some restricted gaming money from Presque Isle Downs & Casino is contrary to the gaming act. How restricted funds can be used under the gaming act has become a crucial issue.

Erie lawyer **Daniel J. Pastore**, representing the authority, argued that money in the restricted account must be dedicated to economic development and/or assistance to municipalities that is directly related to the casino, such as road and sewer work, public safety, and human services. He said the county strives to take a broad interpretation of the gaming act so that unrelated projects, such as an airport runway extension, would be eligible for restricted funds. The judge granted an injunction to the authority pending the outcome of the case.

The county's attorney, **Roger Taft**, argued that the restricted funds can also be used for economic development and assistance not directly related to the casino. Further, only public-safety related projects, such as the purchase of firefighting equipment, must be directly tied to the casino.

In short, the county believes it has wide discretion in dispersing restricted funds. The county also claimed that the lawsuit is a veiled plan to get the casino millions of public dollars to which the casino is not entitled as a partial reimbursement for the casino's multimillion dollar infrastructure costs and to offset the hefty taxes the casino must pay. The authority denies the county's allegations of its collusion with the casino and township to secure more than $13 million for the casino.

This may be the first of such disputes over the disbursement of gaming funds, but it is unlikely to be the last. ■

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NJ GASP Information Packet

February 2008

Smokefree Gaming Trend:

List of jurisdictions in North America with 100% smokefree gaming venues

Casinos buying/branding smokefree casinos across the globe; casinos go smokefree voluntarily

As Smoke Clears, Casinos See Path to New Profitability, Gaming Industry Observer, July 2007

Expect the Unexpected as Smoking Laws Change, Gaming Industry Observer, January 2007

80% of gamblers in Nevada do not smoke, University of Nevada, Reno, November 2006

Poll shows people want smokefree casinos; Survey predicts 1.5 million more visitors to Atlantic City

Pennsylvania bingo at firehouses start going smokefree voluntarily, December 2007

Kanawha County, West Virginia includes gaming venues in 100% smokefree air law, November 2007

Tri-State's Florida racetrack business improved after going 100% smokefree, July 2007

American Gaming Association expects all public facilities will be smokefree in a few years, May 2007

New York's Yonkers racino profits not cut by smoking ban, March 2007

Delaware support for smokefree casinos, from Governor Ruth Ann Minner, November 2006

New Zealand's Sky City revenues rose, despite smoking ban, August 2006

University of California study supports smokefree gaming revenues, November 2005

Health Concerns:

Las Vegas voted smokiest city in USA, Self magazine annual survey, December 2007

Air testing studies at casinos in Atlantic City, Delaware, Illinois, Pennsylvania, Rhode Island

Worker health improves, once hospitality venues go smokefree

Ventilation cannot control exposure to secondhand smoke, per U.S. Surgeon General, Repace, ASHRAE

American Gaming Association: ventilation does not solve problem, citing U.S. Surgeon General, July 2006

Secondhand smoke exposure on casino workers, U.S. Surgeon General, 2006; World Health Org. 2007

Secondhand smoke exposure effects on London casino workers, September 2007

Nonsmoking hospitality workers absorb carcinogen NNK, known to cause lung cancer , June 2007

Secondhand smoke exposure: link to DNA damage for casino workers, University of Nevada. May 2006

Secondhand smoke exposure may increase miscarriage risk, September 2006

Dangers of smoking near portable oxygen tanks, per National Fire Prevention Association, FDA, etc.

Business Costs, Legal Concerns, Separate Gaming Sections Do Not Work:

Business Costs in Smoke-Filled Environments: Profitability, Absenteeism and Lost Productivity, Maintenance, Insurance Rates, Americans for Nonsmokers' Rights, August 2006

$150,000 Workers compensation award to nonsmoking Atlantic City casino dealer who developed lung cancer, February 2008; 2007 NIOSH report on a nonsmoking waitress who died from a fatal asthma attack on the job.

Americans with Disabilities Rights violation concerns: smoking in places of public accommodation and workplaces; Texas Attorney General's decision, November 2007

Management, worker and patron concerns with separate smoking and nonsmoking gaming areas

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JURISDICTIONS THAT REQUIRE SMOKEFREE GAMING*

***Note: Gaming refers to casinos, table games, slots, bingo, racetracks**

100% SMOKEFREE GAMING IN THE U.S.A, BY STATE** (EXCEPTIONS AS NOTED)

California
Colorado (January 1, 2008)
Delaware
Florida
Illinois (January 1, 2008)
Minnesota
Montana (September 1, 2009)
Nebraska (June 1, 2009, keno and racetracks, no nontribal casinos)
Nevada (only if location has 15 slot machines or fewer; bingo only)
New Jersey (up to 25% of gaming floors can be smoking-permitted; 100% smokefree bingo, racetracks and their simulcast facilities, *Favorites* simulcast in Vineland)
New York
Philadelphia, Pennsylvania (casinos to be constructed)
Rhode Island (% of gaming floors are smoking permitted)
Washington State
Kanahwa County, West Virginia (July 1, 2008)

100% SMOKEFREE BINGO IN THE U.S.A, BY STATE (NO SLOTS OR TABLE GAMES OFFERED)**

Arizona
Arkansas (unless at exempted food license establishments that require age 21 to enter)
District of Columbia
Hawaii
Idaho
Maine
Maryland (February 1, 2008, and smokefree racetracks)
Massachusetts
North Dakota (unless at certain exempted bars)
Ohio (and smokefree racetracks)
Rhode Island
South Dakota
Utah
Vermont
884 U.S. municipalities (Americans for Nonsmokers' Rights, January 2, 2008).

**Tribal/First Nations casinos not included.

100% SMOKEFREE TRIBAL/FIRST NATIONS CASINO IN NORTH AMERICA

United States (nearest town)

- Hoopa, California – Hoopa Valley Tribe, Lucky Bear Creek Casino
- Taos, New Mexico – Taos Pueblo Indian, Taos Mountain Casino
- Belcourt, North Dakota – Turtle Mountain Reservation, Minicasino
- Aubern, Washington - Muckleshoot Indian Tribe, Muckleshoot Casino II

Canada

- Orillia, Ontario - Mnjikaning First Nation, Casino Rama
- Port Perry, Ontario - Mississaugas of Scugog Island First Nation, Great Blue Heron Charity Casino
- Winnipeg, Manitoba – Broken Head First Nation, South Beach Casino

100% SMOKEFREE GAMING IN CANADA, BY PROVINCE**

British Columbia (January 1, 2008)
Manitoba (Winnipeg) (October 2004)
New Brunswick (May 2004)
Newfoundland-Labrador (only bingo smokefree, as of May 2005)
Nunavet (May 2004)
Northwest Territories (September 2006)
Nova Scotia (December 2006)
Ontario (May 2006)
Prince Edward Island (December 2002)
Quebec (May 2006)
Saskatchewan (January 2005)
Canada, Cities of Alberta, Red Deer and Lloydminster in Edmonton

NORTH AMERICAN JURISDICTIONS CONSIDERING SMOKEFREE GAMING**

United States – Iowa, Indiana, Michigan, Missouri, New Jersey, Pennsylvania
Canada – Alberta, Yukon

**Tribal/First Nations casinos not included.

CASINOS BUYING/BRANDING SMOKEFREE CASINOS ACROSS THE GLOBE

Casinos operators, with ownership interests in Atlantic City's casinos, have recently purchased casinos that are smokefree by law. Harrah's owns four casinos in Atlantic City: Harrah's Marina, Bally's, Showboat and Caesars. In December 2006, **Harrah's purchased London Clubs International in the United Kingdom**, which operates seven casinos in the UK, and is securing four new casino licenses under development in the UK. **UK casinos are smokefree by law, since July 1, 2007.**

In early 2007, **Harrah's decided to extend its Caesar's brand to the Canadian Ontario Windsor casino.** The Ontario Windsor casino is 100% smokefree since May 2006, per Ontario law. Harrah's also voluntarily made their Bill's casino in Lake Tahoe, Nevada, 100% smokefree, earlier this year.

Boyd Gaming owns a majority interest in the Borgata, in Atlantic City. Earlier this year, **Boyd Gaming purchased Dania Jai Alai, in Dania Beach, Florida**, which is one of four pari-mutuel facilities approved under Florida law to operate 1,500 Class III slot machines. The Company plans to begin construction at the property later this year, with a casino grand opening at the end of 2008. Florida law requires gaming establishments to be smokefree.

CASINO OPERATORS ADAPT TO 100% SMOKEFREE CASINOS LAWS

The oldest operating casino in the world is the Casino di Venezia, in Venice, Italy. It is 100% smokefree by law, and has recently completed an expansion.

A July 24, 2007 news story reported that Harrah's Metropolis casino in Illinois (USA) is making plans to build outdoor areas for smokers, to comply with Illinois' smokefree air law, effective January 1, 2008. Mike Rich, the General Manager, stated that "It won't have true walls but it will be enclosed so if it's raining you won't get rained on." Mr. Rich also stated, "It will absolutely be a positive for those players who are non-smokers who want a less smoke filled environment."

Harrah's also operates the Conrad Punta del Este casino in Uruguay, which became 100% smokefree, by law, in March 2006.

CASINOS GO SMOKEFREE VOLUNTARILY

For almost a decade, poker rooms, from coast-to-coast in the USA, are smokefree voluntarily. The trend started with the Las Vegas casinos, the Bellagio and Mirage, from customer demand. The first smokefree poker room in Atlantic City, New Jersey (USA) was at the Trump Taj Mahal. Its success resulted in other Atlantic City casinos making their poker rooms 100% smokefree (with the exception of Bally's). Today, the bingo rooms are 100% smokefree in Atlantic City, by law.

Tribal casinos go smokefree. The Blackfeet Reservation in Montana (USA) made its gaming facilities smokefree, as is The Lucky Bear Casino on the Hoopa Reservation in California (USA). Taos Mountain Casino in New Mexico (USA) is 100% smokefree, and its marketing director, Marc Kaplan, declared that marketing a smokefree casino is a joy and their customers are very enthusiastic about the policy. Kaplan also says that the casino, which has never allowed smoking, finds it easy to attract dealers.

Three of Montreal's casinos (Canada) went smokefree voluntarily, partly due to pregnant employee needs, except for a few smoking-only rooms with no gambling, food, or beverage service. In May 2006, Quebec provincial legislation required all public places, including casinos, to be smokefree.

New Zealand's biggest casino operator, Sky City Entertainment, voluntarily made more than 40% of its gaming areas smokefree, before being mandated by law, to be 100% smokefree in December 2004.

Grand Casino Kursaal in Bern, Switzerland offers three smokefree slot parlor rooms and an extended non-smoking area nearby. Their website states, "Following the general trend towards smoke-free entertainment, our table game area now includes non-smoking seats at the black jack, roulette and poker tables, and **we maintain a smoking ban for participants in tournaments.**"

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MICHAEL POLLOCK'S GAMING INDUSTRY

OBSERVER®

New Jersey outlook ...

QUESTIONS OUTWEIGH ANSWERS IN DEBATE OVER SLOTS AT MEADOWLANDS RACETRACK

(Second part of an analysis that began last issue.)

The trot toward legalized slot machines at the Meadowlands Racetrack has taken on the air of inevitability. Many in Trenton view it as a question of when, not if.

This view is rooted in two distinct phenomena:

• The racing industry throughout North America is increasingly divided between the haves — tracks that have slots, which translates into stronger purses — and the have-nots. This distinction by itself creates an uneven playing field, with better horses migrating toward richer tracks, which can increase the handle and the overall revenue for those tracks at the expense of their slot-less brethren.

• Trenton, like so many state capitals, is plagued by a lack of imagination on this important issue.

Step outside the Garden State for a moment to see how these two phenomena coalesce. Between 2001 and 2005, attendance at racetracks in Texas

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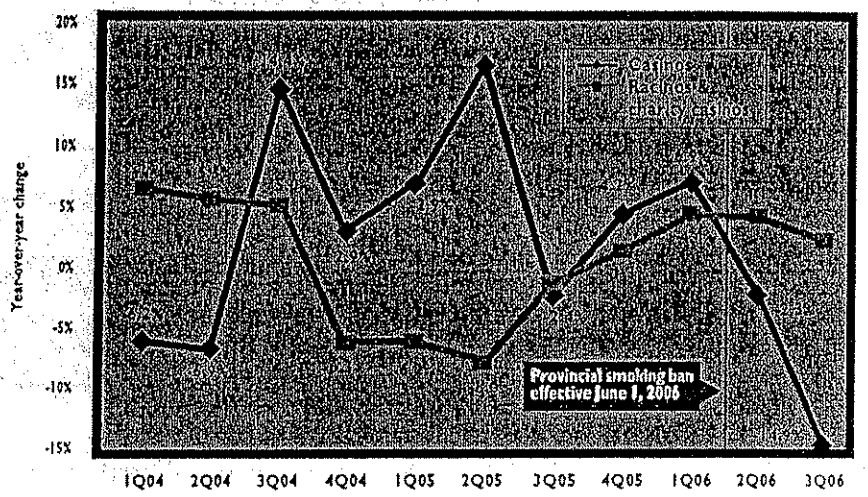
Ontario gross gaming revenue change, by quarter



Ontario implemented a provincewide smoking ban on June 1, 2006. The immediate decline in resort-casino gaming revenue is evident, although longer border crossings and a weaker American dollar have contributed to this decline, notably in Windsor and Niagara Falls, which rely on Americans for large percentages of their volume. Those casinos also have smoking-friendly competitors across their respective rivers in Detroit and Niagara Falls, N.Y. Revenue seemingly was unaffected at Ontario's 22 racinos and charity casinos. Why? Because all but three of them were already smoke-free, due to local ordinances passed in previous years.

Smoking and casinos I ...

EXPECT THE UNEXPECTED AS SMOKING LAWS CHANGE, TIGHTEN

As the casino industry around the world grapples with a net that continually tightens around smoking, their legal experts must confront an immutable law that neither legislator nor lobbyist can tinker with: the Law of Unintended Consequences.

From New Zealand to New Jersey, and from Ontario to Delaware, we have read the smoke rings, and they all indicate what gaming markets can expect as smoking bans get enacted: the unexpected.

In Atlantic City, for example, a compromise is in the offing. City Council members in that gaming resort have preliminarily approved a measure that would allow casinos to set aside up to 25 percent of their floor space for smoking. That certainly appears to be a welcome change for an industry that had already won an exemption from a statewide smoking ban that impacted restaurants, bars and other public place. But the new solution creates some new dilemmas and a few new opportunities.

As New Jersey State Senator **Joe Vitale** noted: "This compromise is nothing but a delay tactic from a casino industry which has read the writing on the walls. I urge the Atlantic City Council members to stick by their guns and support a full ban on smoking in casinos, or to hold off entirely, so as not to damage efforts to ban smoking on the gaming floors. We made a mistake last time, allowing politics to dictate the health conditions of casino employees. That's a mistake we cannot afford to make a second time."

Assemblyman **James Whelan**, a former Atlantic City mayor who has riled gaming executives with his call for eliminating the casino smoking exemption, said he would like to see how the city ordinance would work before taking legislative action. He said he would not be eager for the state to

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override the city's action.

However, Assemblyman **Frank Blee**, who also represents Atlantic City, said the Legislature should completely ban casino-floor smoking "immediately."

There is a critical argument in allowing 25 percent of a casino floor to remain a smoke-friendly habitat: Certain employees would have to work in these enclosed spaces, and they would be subject to a greater concentration of smoke (subject to ventilation quality) than they are right now. This would likely intensify the argument that casino-floor employees need protection.

Politically, we agree with Senator Vitale: If the compromise is allowed, it would take away significant pressure for the Legislature to act, particularly when it is already bogged down with tackling property taxes. While a complete ban may still be inevitable, a compromise could delay it for several years.

The industry itself will likely work hard to make this segregated-floor concept hum smoothly. But how? Smart casino managers will have to become even smarter going forward.

How many $1 Wheels of Fortune should be in the smoking area and how many in non-smoking? How many Three-Card Poker and how many blackjack tables? Do you squeeze 30 percent of the gaming positions into 25 percent of the space, and if so, what should the allocations be?

If you guess wrong on any allocation decision (which is a certainty) do you force smokers to play in non-smoking areas, or do you require non-smokers to play in a nicotine-stained fog? Even worse, do you force one group or the other to defect?

If that is not enough to make your head hurt, consider that the percentage of smokers will likely be significantly different on a Friday evening than on a Tuesday afternoon. Moreover, even if a casino attracts enough volunteers to staff the smoking area, can it find enough to fill a 24/7 schedule? Casinos might find a surplus of volunteers for weekdays, but a shortage for Saturday nights — when their needs are quite reversed, and if they impose restrictions on volunteer employees, will those restrictions be viewed as violating the spirit of the agreement?

What is a casino manager to do? If you scan the horizon, you might see several corporate cavalries riding to the rescue. The smoking changes in Atlantic City (and potentially other markets as well) should spark demand for two compelling product lines: server-based gaming and electronic table games.

Server-based gaming — a concept that would allow slots to download entirely new games at the click of a mouse — has experienced a rather slow acceptance into the gaming world. We were frankly surprised to note that even some brand-new properties have not embraced downloadable games. We expected something close to a bear hug, but in some cases we could discern barely a peck on the cheek.

Downloadable gaming, like ticket-in/ticket-out before it, needs a financial impetus to fuel demand. Mandated smoking areas could be a potential impetus. Server-based gaming in such areas would allow casino managers to quickly alter the slot mix to some degree based on the time of day, or the demographics of the customer base. It would allow casino managers who guess wrong to make fewer wrong moves.

> Smoking rooms could accelerate the push for downloadable games and electronic tables.

Shuffle Master should get its order pad ready as well. Its Table Master products are tailor-made for the compromise being forged in Atlantic City. The virtual dealers employed by Shuffle Master never join unions, never call in sick, and there is nary a hack nor a wheeze emanating from their virtual respiratory systems. (Although Shuffle Master could add even more realism to those virtual dealers deployed in the smoking rooms by having them speak in a raspy voice.)

In anticipating the impacts of the partial-ban compromise, we do not expect that every Atlantic City operator will rush to build the necessary partitions to cordon off their floors into the 75-25 gaming split. Indeed, we expect that some will consider turning the smoking areas into gaming-free lounges, where smokers can puff away in comfortable surroundings as part of a break from the betting routine. Moreover, companies with multiple operations in the market are expected to consider using this issue to bifurcate their demographics by making an entire property smoke-free, while encouraging their smoking patrons to visit another company property.

Such a cautious approach might prove to be rather prudent and prescient. If the state eliminates smoking entirely at some point, a likely outcome, the smoke-free properties will be ahead of the pack in positioning themselves as oases for non-smokers.

The above examples are hardly alone amongst our growing list of unanticipated consequences. The chart on p. 1 illustrates another smoking-related phenomenon. When smokers face restrictions, they must make choices. Sometimes, they visit other casinos. Often times, however, they appear to disappear. Do they stay home? Probably not. More likely, they are simply doing what other people do.

We can illustrate this phenomenon with an example far afield from the gaming industry. Consider a hypothetical resort hotel situated somewhere in the pristine desert of Arizona. The resort has proven successful by marketing one of its key amenities: The resort is animal-friendly.

Dog owners can romp with Fido, enjoying the unleashed pleasures that only pets and their people can truly appreciate. Would it surprise you that such "all the bones you can bury" vacations would attract dog owners? In a world in which pet owners are being suffocated by increasingly restrictive rules, from picking up droppings to bans on certain breeds, what a relief to know that somewhere in this hostile universe, a few pet-friendly oases still beckon.

The demographics of that resort's customer base would almost certainly not reflect the demographics of the larger universe. Still, you could potentially reach certain conclusions by studying such pet-friendly resorts.

You might conclude that people who own pets are much more likely to favor Arizona as a vacation destination. You might also conclude that the demographics of adults who favor desert vacations would include a significantly higher percentage of pet owners than would the population at large.

Over time, of course, such conclusions would begin to smell as sweet as Fido's droppings. Executives at such resorts who have spent their careers studying their customers would concoct elaborate psychological profiles, showing parallels between the pleasures of pets and the appeal of arid landscapes.

By this point, you have already detected where this analogy is headed. (The headline is probably a dead giveaway.) A reasonable person can reasonably conclude that when an industry caters to a particular subset of the population, that subset is likely to represent a higher percentage of that industry's customer base.

The relationship between smokers and casinos has developed over many decades into a self-fulfilling prophecy, and in recent years has evolved into an embrace. Smokers view casinos in Atlantic City, Las Vegas and elsewhere as friendly oases in an increasingly hostile world. In almost any environment in North America, lighting up a cigarette is viewed as an activity akin to urinating in public. Even worse, perhaps, since few studies have focused on the adverse health effects of second-hand urine. Casinos, however, have proven to be different, and

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smokers flock to them.

You might reasonably assume at this point that this analysis is rushing headlong toward a conclusion that the casino industry's concerns about the economic effects of a limited smoking ban in Atlantic City (or Las Vegas, for that matter) are overblown.

Alas, once again, you would be proven wrong.

Return for a moment to the analogy of our mythical pet-friendly resort in the Arizona desert. New owners of that resort have instituted a change in policy: Only two-legged guests are now allowed. No more shedding, no more drooling and no more chasing Frisbees (unless your children favor any of these activities).

The pet owners who previously frequented that resort for two blissful weeks every year would now face some difficult choices. Will they stay home and watch re-runs of Lassie? Not likely. Most will ponder a wide set of options. They will resign themselves to the prospect of putting Sparky in a kennel, and will unfold brochures of vacations that they had not previously considered. Cruises, perhaps. A week in New York? Maybe Las Vegas.

The Arizona resort's loss will benefit the rest of the tourism industry. Ultimately, as the desert resort sheds its doggy smell and its reputation for loud barking, it will attract adults who had previously stayed away. Such marketing efforts will not yield immediate results, yet the resort's occupancy rate will improve slowly.

A similar phenomenon will take place with casinos. As more and more casinos are pulled into a smoking ban that is slowly covering the entire civilized world, smokers will face options.

They can visit casinos, and confine their smoking to appropriate outdoor areas. They can seek out those remaining casinos that allow smoking. They can stay home. Or they can spend their precious leisure time and discretionary dollars in ways that might not have seemed so appealing in previous years.

In other words, smokers who might visit Atlantic City because it is more smoker-friendly than, say, Broadway theaters or night clubs, might make new choices if all their options are equally hostile to their habit.

That phenomenon has rarely been factored into the economic analyses regarding the impact on casinos from smoking bans, but it is very real. In large measure, smokers are presently overly represented within the ranks of gamblers because casinos are smoker-friendly. Most assumptions place that cause and effect in reverse order.

Still, the short-term effects will be pronounced. For awhile, smokers will visit casinos less frequently. In some sub-sets, such as Asian table players, the impacts will be even more pronounced.

The advice for the casino industry then is to simply prepare for the inevitable. As the net tightens around smoking, other options will begin to look more attractive to smokers, so casinos must begin to look more attractive to non-smokers.

At this writing, the United States has quietly passed a milestone of sorts. More than half of Americans now live in communities governed by some level of smoking ban, and that percentage is only going to increase. Just last year, seven states — including New Jersey and Nevada — and 116 municipalities enacted some level of smoking restriction.

In New Jersey, for example, a new bill would ban smoking in vehicles in which children are present. Does anyone realistically think that a state that is considering governing the back seats of Oldsmobiles will forever abstain from regulating the air in casinos? The compromise move by Atlantic City Council to limit smoking areas to 25 percent of casino floors is simply a harbinger of the inevitable.

The answer then is to look for friendly smoke signals among the storm clouds that are fueling the hostility toward smoking.

ICR, a Pennsylvania-based survey firm that we have worked closely with in the past, maintains some of the more compellingly optimistic data.

Last year, ICR surveyed 496 adults in the Mid-Atlantic region, including 118 in New Jersey and 378 in Delaware, southeast Pennsylvania, southern New York, and southwestern Connecticut.

Its findings, which overwhelmingly supported a smoking ban, noted that 34 percent of smokers favored an indoor smoking ban. More significant from the standpoint of the casino industry, ICR concludes that: "The data indicates that about 1.5 million more adults (out of the 20.5 million in the survey geography) would visit Atlantic City more often, as opposed to less often, if the smoke cleared. Granted, the best measure of visitor impact would be to query the established visitors to Atlantic City. Even here, the net gain in visitor traffic could be as much as 100,000 regional gamblers. That is, 600,000 indicated that they would visit Atlantic City more often; 500,000 less often; and 2.3 million said a no-smoking statute would have no impact on their visitation habits."

The casino industry in Atlantic City faces a challenge that is daunting, but has many positive long-term implications. Even before the smoke clears, casinos must begin to develop marketing efforts to find those 1.5 million adults who would visit Atlantic City if the air was smoke free. Those adults will need to replace those smokers who will inevitably leave to pursue other pleasures. ■

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Smoking and casinos II ...

AS MOMENTUM GROWS IN NEVADA, LAS VEGAS STRIP OPERATORS ANXIOUSLY WATCH ATLANTIC CITY

At the risk of giving you, our cherished reader, a case of literary emphysema, it is worth noting that smoke clouds are also forming over Nevada. On the Las Vegas Strip, casino operators are coming to grips with a new state law banning smoking in restaurants and other nongaming areas, a change industry executives expect to have minimal impact on bottom lines.

But the city's biggest operators are concerned — maybe even worried — about the likelihood that Nevada's casino floors will be the next target of the anti-tobacco and public-health activists who orchestrated the successful November ballot measure that banned smoking in most indoor public space.

Results in other casino markets that have eliminated smoking — including Delaware, Ontario and Australia — fuel their concern and the biggest Las Vegas operators are now anxiously watching Atlantic City to see if the city's expected smoking restrictions will drive business elsewhere.

Harrah's Entertainment, MGM Mirage, Station Casinos, Boyd Gaming Corp., Wynn Resorts and other operators are complying with the dictates of Nevada Question 5, which banned smoking in restaurants, shops, convention space, bowling centers and employee break rooms.

The changes are not expected to have a significant impact on casino revenue, and locals operators like Station, Boyd and **Michael Gaughan's** South Point expect to capture a small portion of business from smokers who no longer can light up at slots in restricted-license locations, such as convenience stores, grocery stores and taverns that serve food.

Las Vegas operators, however, acknowledge a new reality that could impact the Strip: public opinion has clearly passed a tipping point, in which smoking is now viewed as a health issue more than a personal-rights issue.

They note that even in strong casino markets, the public's worry about the effect of exposure to second-hand smoke can trump the industry's economic arguments.

Las Vegas casinos and the American Gaming Association have long trumpeted the industry's desire to appeal to both nonsmoking and smoking customers by employing increasingly more efficient air-handling systems and opening smoke-free gaming tables. In fact, most of the city's poker rooms don't allow smoking.

Those measures undoubtedly limit the impact of second-hand smoke, but they clearly do not eliminate it. The measures offer little protection for the gamblers seated next to a smoker or for dealers facing a table of smokers.

The declining number of smokers as a portion of the voting public is driving the new reality. The voting majority, however, could snuff out two of the most important groups of Las Vegas visitors, who happen to have a higher proclivity to smoke: Foreign customers, particularly the big-betting Asian players that drive high-end play on the Strip, and video poker players, who fuel the robust earnings of locals casinos.

Casino operators fear that Nevada voters could plug the loopholes that now exempt casinos and bars that don't serve food from the indoor smoking ban, a move antismoking activists have admitted is next on their agenda.

Of course Nevada's casino gaming business could and probably would spend tens of millions to defeat a casino smoking ban, but that's not a fight operators relish. Opponents of Question 5 outspent proponents by a wide margin, yet were defeated. Casinos could not even count on the unanimous support of resort workers, despite warnings of lost business and layoffs, and nonsmokers have proven their willingness to vote for cleaner air.

Question 5 also allowed local cities and counties to pass more restrictive smoking measures than those approved by the state. Although Las Vegas area municipal government officials are pro-gaming, operators know that politicians are unlikely to ignore the popularity of smoking restrictions.

If Atlantic City smoking restrictions do not have a significant impact on revenue, Nevada casino executives will be less likely to aggressively fight a similar ban in their state. Some operators might even be tempted to ban smoking on their own.

But operators are much more likely to wage a tough fight if Atlantic City suffers double-digit declines. Of course, Las Vegas executives know that any Atlantic City decline could be affected by factors beyond smoking when the city is facing significant new competition from Pennsylvania slots. But expect Las Vegas casino operators to blame any downturn, at least in part, on a smoking ban.

Eleven years ago, the Reno-Sparks and Las Vegas chambers of commerce commissioned a study that found that Nevada could lose 7,000 casino and resort jobs within a year, and that the state economy would lose 50,000 jobs and take an annual $3.5 billion hit if smoking were banned in the state's casinos.

Some Las Vegas casino executives expect that Atlantic City would quickly rebound from a smoking ban, and suggest that Nevada casinos enjoy one key factor that would help them bounce back from a ban even faster than casinos in its East Coast rival.

Since Nevada casinos are so dependent on California customers, and Californians smoke less and are even more averse to secondhand smoke than most other customers, some casino operators believe there is a significant untapped market of Californians who are now turned off by smoky air in Nevada resorts. At least a few operators suspect those Californians could more than make up for any business lost in the event that Nevada bans smoking in casinos. ■

Pennsylvania update ...

KEYSTONE GAMING BEGINS TO BENEFIT NEW JERSEY, NEVADA

The process of turning Pennsylvania slot parlors into farm teams for Atlantic City casinos has already begun in earnest, giving new meaning to the discarded slogan "You've got a friend in Pennsylvania."

Harrah's Entertainment, in its billboards and other advertisements, is positioning its new Harrah's at Chester Downs facility as a great place to earn Total Rewards points that can be redeemed elsewhere. Billboards advise players to do just that: "Earn in Chester, redeem in Atlantic City."

At its successful opening, we noted several lines forming at Harrah's at Chester Downs even at the off-peak hour of 11 a.m. on a Tuesday morning. The lines began on the roads leading off Interstate 95, and continued right to the buffet. The most significant line (at least in our view) took place at the Total Rewards booth.

Harrah's had 10 staffed positions to sign up new players, and all were busy. Indeed, a line to sign up was already forming.

The math is simple and compelling. Harrah's is signing up thousands of new players each week. All of those players will be motivated to varying degrees to visit Harrah's properties in Atlantic City and Las Vegas where the tax rates are lower and the amenities are greater.

This economic equation supports our thesis that gaming will continue to evolve into a hub-and-spoke model, which means that we fully expect every Pennsylvania licensee — whether in Philadelphia, Pittsburgh or the Poconos — to be courted by (or to court) operators with facilities in destination markets. ■

Tob Control. Published Online First: 14 February 2008. doi:10.1136/tc.2007.021196

RESEARCH PAPERS

Smoking rates among gamblers at Nevada casinos mirror U.S. smoking rate

Chris A Pritsos[1], Karen L Pritsos, Karen E. Spears

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ABSTRACT

Objectives: To determine the percentage of gamblers who smoke while gambling at three of Nevada's major gambling destinations, Las Vegas, Reno/Sparks and Lake Tahoe.

Methods: Teams of 2 people counted the number of smokers and total number of gamblers at various Nevada Casinos. The total number of gamblers observed smoking was then multiplied by three to determine the total number of smokers. This methodology for determining the number of smokers in a room was established by Repace and Lowry in 1980.

Results: We observed a total of 14,052 gamblers at the three sites of which a total of 947 were smoking. We estimated the percentage of smokers at three gaming tourist centers in Nevada (Las Vegas, Reno/Sparks, and Lake Tahoe). The percentage of smokers at Las Vegas (20.3% ± 95% CI 0.9) and Reno/Sparks (21.5% ± 95% CI 1.2) did not significantly differ from the U.S. population percentage of smokers (20.9 ± 95% CI 0.6)($p > 0.05$). However, at Lake Tahoe the percentage of smokers (16.4% ± 95% CI 1.8) was significantly lower than the published U.S. population smoker percentage ($p < .0.0001$). Mean percentage of smokers by location did not significantly differ ($p = 0.43$)

Conclusions: The results of this study suggest that the percentage of gamblers who smoke was less than or not different than the overall U.S. percentage of a population who smoke. These findings provide additional evidence to refute the exemption to smoking bans for casinos based upon the supposition that a greater percentage of casino customers are smokers than the general population and therefore a smoking ban for casinos may result in an economic hardship.

http://tobaccocontrol.bmj.com/cgi/content/abstract/tc.2007.021196v1

For immediate release: Nov. 30, 2006

Contact: John Trent, public relations director
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New study by University of Nevada professor shows majority of gamblers are non-smokers

In light of recent legislation banning smoking in certain locales, study suggests impact on gaming industry may not be as significant as first thought

(NOTE TO MEDIA: Chris Pritsos will be available for interviews on Friday, Dec. 1, from 9:30 a.m. to noon PDT. Contact Pritsos directly at 775-784-6443.)

RENO, Nev. – A new study by a University of Nevada, Reno researcher indicates that approximately four out of five gamblers in Nevada are non-smokers. The results suggest that the economic implications of smoking bans throughout the United States may not be as great as originally believed.

According to data in the study that included 17,000 gamblers in the state's primary tourist/casino centers – Las Vegas, Reno/Sparks and Lake Tahoe – similar results were found for all three locales. About 21.5 percent of gamblers in Las Vegas were smokers; 22.6 percent of gamblers in Reno/Sparks were smokers; 17 percent of gamblers in Lake Tahoe were smokers.

"This has been a big issue not only for Nevada but nationally and internationally, wherever gaming is allowed," said Chris Pritsos, a professor of nutrition at the University who conducted the study. "These issues have recently come to the forefront with the ballot initiatives, Questions 4 and 5, during the last election in Nevada, as well as a recent smoking ban in Colorado, where gaming was exempted at the last minute and with a recent Atlantic City, New Jersey City Council proposed ordinance that would ban smoking in Atlantic City casinos.

"The big question has been: is the number of gamblers who smoke more in line with what the gaming industry has claimed, upward to 70 percent, or is it more in line with what health organizations throughout the country have suggested, that the number of gamblers who smoke is similar to the overall percentage of the U.S. population that smokes?

"This is a critically important distinction to make, as much of the argument against banning smoking in public places has centered around the economic impact such bans would have on industries like gaming."

Pritsos worked with state health agencies and the Centers for Disease Control (CDC) in formulating, funding and executing the study.

"The percentages we found were very similar to the overall percentage of the U.S. population that smokes, which is 20.9 percent," Pritsos said. "These numbers are far below the 70 percent figure that is often put forward by pro-smoking groups and individuals."

Pritsos said the study also found that the percentage of gamblers who smoke at rural casinos is about 36.5 percent, and the percentage of gamblers who smoke at local grocery, drug and convenience stores in Nevada is about 42 percent.

"Although these numbers are higher than the numbers we found for casino/tourist destinations, they are still well below the 70 percent figure that you always hear," Pritsos said. "The percentage of smokers at small rural or non-tourist dependent gaming establishments may better reflect the percentage of smokers in those local/rural communities than that of the overall U.S. population.

"Overall, when you take all of these numbers together, the results suggest that the percent of gamblers who smoke at tourist destination casinos are almost identical to the overall percentage of smokers in the U.S."

####

Founded in 1874 as Nevada's oldest, land-grant university the University of Nevada, Reno has more than 16,000 students, four campuses and hosts Cooperative Extension educational programs in all Nevada counties. It is ranked as one of the country's top 150 research institutions by the Carnegie Foundation, and is home to America's sixth-largest study abroad program, as well as the state's oldest and largest medical school.

NJ*Breathes*

Tobacco vs. Kids - Where New Jersey draws the line!

For Immediate Release:
October 31, 2007

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NEW POLL FINDS NEARLY SEVEN IN 10 NEW JERSEY VOTERS SUPPORT SMOKE-FREE CASINOS

LAWRENCEVILLE, NJ (October 31, 2007) – A new poll finds voters from across New Jersey express strong support for 100 percent smoke-free casinos. By more than a two-to-one margin (69 percent to 28 percent), voters support extending the statewide Smoke-Free Air Act to cover casino gaming floors. This support comes from a broad-based coalition of voters across the state, including 72 percent of Democrats, 68 percent of independents and 63 percent of Republicans.

New Jersey residents and visitors have been enjoying the benefits of the Smoke-Free Air Act for more than a year and a previous study found strong support for the statewide law. The new poll confirms that voters are voicing their support for 100 percent smoke-free casinos in the Garden State. The survey of 688 registered New Jersey voters was conducted by the Monmouth University Polling Institute and released today by NJ*Breathes* and the Institute of Medicine and Public Health of New Jersey.

"New Jerseyans have embraced the Smoke-free Air Act and are now expressing their desire for a 100 percent smoke-free casino destination, as well as the need to protect the casino workers who are currently forced to work in hazardous conditions," says Dr. George DiFerdinando, Chair of New Jersey Breathes statewide tobacco control coalition. "These findings certainly point to the need for New Jersey's legislators to take action and extend the Smoke-free Air Act to protect all casino employees in Atlantic City."

Other findings of the survey include:

- Voters understand the health harms of secondhand smoke. Eighty-six (86) percent of New Jersey voters believe that exposure to secondhand smoke is a serious (66 percent) or moderate (20 percent) health hazard.
- Voters believe that all casino workers should be protected from secondhand smoke. Eighty-five (85) percent of voters agree that New Jersey's casino workers should be protected from exposure to secondhand smoke in the workplace.

NJBreathes

Tobacco vs. Kids - Where New Jersey draws the line!

- Voters place priority on the interests of customers and workers breathing clean air in casinos. Concerns about exposure to secondhand smoke translate to the very strong belief among voters (by a margin of 83 percent to 10 percent) that the interests of customers and employees in breathing clean air are more important than the interests of smokers who want to smoke inside casinos. Even among smokers, 62 percent of respondents indicate that the interest of customers and employees in breathing clean air is more important than their interest in smoking inside casinos.

If New Jersey extends its 100 percent smoke-free law to all casinos, 18 percent of voters say they would go to casinos more often compared to 7 percent who say they would go less often. A majority of voters (74 percent) say that making casinos smoke-free would have no impact on how often they visit gaming establishments.

The intention of voters to continue visiting New Jersey's casinos is not surprising given survey respondents' view that these establishments would be healthier and more enjoyable if they were smoke-free. Nearly nine out of ten voters (88 percent) believe that smoke-free casinos would be healthier, and 82 percent want to be able to enjoy casinos in New Jersey without smelling like smoke at the end of the evening.

A copy of the survey findings is available at: http://www.tobaccofreekids.org/njpoll/

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This survey was conducted by telephone September 27-30, 2007 with a scientifically selected random sample of 801 New Jersey adults, including 688 registered voters. The figures in this release are based on the sample of registered voters. All surveys are subject to sampling error, which is the expected probable difference between interviewing everyone in a population versus a scientific sampling drawn from that population. The sampling error for the registered voter sample is ± 3.7 percent, at a 95 percent confidence interval. Thus if 50 percent of New Jersey residents were found to think the state was in good economic condition, one would be 95 percent sure that the true figure would be between 46.3 and 53.7 percent (50 ± 3.7) had all New Jersey voters been interviewed, rather than just a sample. Sampling error increases as the sample size decreases, so statements based on various population subgroups, such as separate figures reported by race or age are subject to more error than are statements based on the total sample. Sampling error does not take into account other sources of variation inherent in public opinion studies, such as non-response, question wording or context effects. The verbatim wording of all questions asked is available in the full findings. The sample has been stratified based on county and the data have been weighted on age and education to insure an accurate proportional representation of the state. The questions referred to in this release are as follows. This study was conducted by the Monmouth University Polling Institute.

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New Jersey Breathes is an independent, collective voice for tobacco control convened by the Medical Society of NJ/Institute of Medicine and Public Health. More than 50 leading state, health, non-profit and civic organizations, including the American Heart Association, American Cancer Society, American Lung Association and NJ GASP, participate in the coalition. New Jersey Breathes seeks to demoralize tobacco use and drive down smoking rates, especially among children, in the state.

ICR Survey News Brief

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ICR Survey Clears the Air Over New Jerseys Proposed Indoor Air Act

Media, Pennsylvania, April 29, 2005 A recent telephone survey conducted by **International Communications Research (ICR)** indicates that New Jersey restaurants, bars and casinos may not see their profits go up in smoke if New Jersey lawmakers enact a Clean Indoor Air Act.

Nearly two-thirds of the adults who call New Jersey home would support a statewide Clean Indoor Air Act, according to the survey. Support for the proposed legislation was equally strong with adults in the Mid-Atlantic regionDelaware, southeastern Pennsylvania, southern New York and southwest Connecticuta major feeder market for the casino and hospitality industry in the Garden State. To see a written analysis of these findings, see the ICR Survey Report.

Key Findings

- More than a third (34 percent) of the smokers within the survey area would be in favor of an indoor smoking ban.
- Almost 80 percent of nonsmokers support an indoor smoking ban.

According to the survey, an indoor smoking ban would not have a negative effect on visits to Atlantic City. When asked if people would be more likely to visit the casinos in Atlantic City, less likely or not influenced if a Clean Indoor Air Act was implemented, close to three- quarters (73%) said it would have no impact on their travel plans to visit Atlantic City. In fact, the data indicates that approximately 1.5 million more adults (out of the 20.5 million in the survey area) would visit more often if the smoke cleared.

Survey results also suggest a positive impact for New Jerseys restaurants. Almost one-third of those surveyed (29 percent) said they would actually dine out more often if restaurants did not allow smoking, and more than half (61 percent) said a smoking ban would have no bearing at all on their decision to visit a restaurant. Only one in 10 people surveyed said they would dine out less if smoking was banned from restaurants.

The survey was conducted by telephone from March 23 to April 17, 2005 , among 496 adults in the Mid-Atlantic region, comprising 118 adults throughout New Jersey and 378 adults in Delaware, southeastern Pennsylvania, southern New York and southwestern Connecticut.

To access the full survey results or to learn more about **ICR**, please visit www.icrsurvey.com.

ICR, based in the Philadelphia suburb of Media, Pennsylvania, is a top-ranked and nationally recognized market research organization in the business-to-business and consumer markets. Through its research in the U.S. and over 70 countries worldwide, **ICR** provides consulting and research insights to its clients on a wide range of issues including branding, market segmentation, customer and employee satisfaction, loyalty, advertising, public relations, multicultural and ethnic marketing, social science, public policy, and many others.

Firefighters' center will ban smoking at bingo, other events

By Dale Heberlig, Sentinel Reporter (Pennsylvania)

December 24, 2007 2:50 PM EST

Bonnie Marpoe says a decision to ban smoking at the Shippensburg Firefighters' Activity Center stinks, but she pledges it won't keep her away from the bingo table. Reita Summers, a non-smoking player, says the decision makes a good thing even better. "It's a great idea," she says.

The fire at the SFAC bingo hall goes out for good Tuesday when the no-smoking policy goes into affect. The center's operating committee made the decision in September after a movement in the state Legislature to adopt a statewide smoking ban failed this summer. The new policy prohibits smoking inside the SFAC for any event.

Kevin Nehf, vice chairman of the operations committee, says there are many good reasons to ban smoking, but some members are concerned that the move may hurt bingo attendance.

Marpoe was at her regular spot Wednesday evening an hour before the games began, with her bingo cards ready, a burning cigarette between her fingers and an ashtray at her elbow. "I think it (stinks)," she said of the impending smokeless environment. "When I gamble, I smoke."

But when it comes to boycotting bingo, Parsons says, there's little chance of that. "I'm a bingo player," she says matter-of-factly, making it clear that when they start calling numbers Jan. 2, she'll be there.

Health, cost and comfort

Nehf says there are health, cost and comfort issues that demand the no-smoking action.

Installation of more effective filtering devices several years ago made the blue cloud disappear, Nehf says, but the pervasive odor of smoke in the hall still burns eyes, stings nostrils and saturates clothing. Eliminating smoke from cigarettes, cigars and pipes will cut the cost of maintenance to the center's smoke eaters, which cleanse the air, he explains. Additional savings will come in the form of energy costs, Nehf says, because heat and air-conditioned air escapes the building when the smoke eaters work.

Then there are the health issues linked to second-hand smoke. The most important issue could be the well-being of volunteers who run the bingo program. "We have people who won't work because of the smoke," Nehf says, "and players who have quit coming because of it."

Smelly clothes

Nehf has worked bingo at the SFAC since it opened in 1992. He says his wife won't let him in the house when he comes home from a bingo night. "She makes me get undressed and I have to shower before she lets me sit on the furniture," he explains.

SFAC Chairman Carolyn Kerns says she is a "smoking has-been," and she shares Nehf's domestic experience. "I despise going home smelling like smoke, and my husband hates it," Kerns says.

There is the risk of a backlash, Nehf says, but results of no-smoking policies at other fire company bingo halls indicate any attendance drop will be small and temporary.

Other fire companies

SFAC committee members polled other fire company bingo operations before making their decision.

Nehf says a slight dip in attendance at Fayetteville reversed itself quickly. Attendance at Newville reportedly blossomed after the bingo nights went smokeless.

Nehf is also relying on the powerful attraction of bingo for its fans. "I hoping their need for bingo will overcome their need to smoke," he says.

Kerns has an even more optimistic streak. "I'm hoping there will be some (quit smoking) New Year's resolutions," she says.

http://www.cumberlink.com/articles/2007/12/27/shipp_news/news432.txt

Kanawha County in West Virgina goes 100% smokefree, on July 1, 2008:

November 16, 2007

Kanawha expands smoking ban to racetrack, bars

Associated Press

Kanawha County expanded its smoking ban to include Tri-State Racetrack & Gaming Center, along with video gambling parlors and bars. The ban approved Thursday by the Kanawha-Charleston Health Department's board takes effect July 1, said Director Dr. Kerry Gateley.

Kanawha County joins 16 other counties where smoke-free rules extend to bars and gambling parlors, but it is the first in the state to include a large gaming facility, said Christina Mickey, project coordinator for The Smoke-free Initiative of West Virginia.

Jean Angle, owner of the Pour House Sports Bar in Charleston, said she is already making plans to accommodate smokers at her business. She has purchased a heater for the outdoor patio where customers will be allowed to smoke.

July 17, 2007

Tri-State doesn't see smoke ban as damaging

Parent-owned gaming center in Fla. is smoke-free

By Rusty Marks, Staff writer, West Virginia Gazette

Owners of Tri-State Racetrack & Gaming Center aren't especially worried about a proposed Kanawha County-wide smoking ban. They already run a smoke-free casino in Florida.

"It actually helped us," said Dan Adkins, vice president of Hartman & Tyner Inc. The Michigan-based company owns both Tri-State Racetrack near Cross Lanes and Mardi Gras Racetrack in Hallandale Beach, Fla. Mardi Gras went smoke-free when Florida passed a statewide smoking ban in 2003.

Kanawha County health officials want to expand the county's 2003 smoking ban to include bars and the racetrack. Kanawha-Charleston Health Department Director Dr. Kerry Gateley said the health department board will meet on Thursday to talk about the proposed smoking ban.

Adkins said smoking is no longer allowed at Mardi Gras Racetrack in Florida, although patrons can still step outside to smoke. He said business actually improved when the racetrack went smoke-free. "We were competing with the Seminole [gambling] establishments," Adkins said. "We got a lot of complaints from customers who didn't like the smoke odor."

When the state of Delaware passed a smoking ban in 2003, owners of Dover Downs in the town of Dover predicted a major drop in business. One survey in the racetrack, casino and hotel complex found that 50 percent of the patrons were smokers.

Although business did drop shortly after the smoking ban went into effect, Dover Downs executives weren't sure whether the smoking ban was responsible. Business has since picked up, and even increased.

Gateley thinks something similar may happen if the county bans smoking at Tri-State. "There are people who would like to go out to Tri-Sate now, but they don't like the smoking situation," he said.

Owners, managers and staff at Tri-State Racetrack have taken no official position on the county smoking ban. They say they expect to be treated like everyone else if the health department decides to ban smoking in bars and at the track.

Many local bar owners are opposed to expanding Kanawha County's smoking ban, or at least want county officials to wait before including their establishments. A number of restaurant and bar owners spent money to separate smoking and non-smoking areas at their facilities, and want more time to recoup their investments.

Gateley said a lot of new research has come out since Kanawha County passed its 2003 smoking ban. He said most people now agree that secondhand smoke is dangerous. "The part that you don't hear about is the impact on the workers and the innocent bystanders," he said. "You've got whole countries, like Ireland, taking smoking out of their bars and out of their public spaces."

To contact staff writer Rusty Marks, use e-mail or call 348-1215.

http://www.wvgazette.com/section/News/2007071623

U.S. Gambling Revenues up 6.8% to $32.4 Billion

May 8, 2007, AP Wire

Gambling revenues at U.S. commercial casinos rose 6.8 percent to a record $32.4 billion in 2006, according to a survey released Tuesday by the American Gaming Association. The survey assembled data about 460 commercial casinos in 11 states from those states' regulatory agencies.

It found those casinos employed 366,197 people, up 3.2 percent from a year earlier, and contributed $5.2 billion in gambling taxes to state and local governments, up 5.5 percent from a year earlier. The survey did not include the gambling revenues from 372 American Indian casinos in 28 states, 713 cardrooms in five states or 11,567 video lottery terminal locations in six states. The survey found strong growth in the 36 racetrack casinos found in 11 states. The "racinos" took in 16 percent more in gambling revenue than the previous year, or $3.6 billion. Employment in the properties rose by 30 percent.

American Gaming Association president Frank Fahrenkopf attributed the growth to public officials' relative willingness to approve such expansion. "You don't run into the old NIMBY argument - not in my backyard," Fahrenkopf told reporters on a conference call Tuesday. "Here, there's already an existing facility and the state has already made a commitment to this kind of activity within its jurisdiction and all they're doing is changing the mix." Fahrenkopf said the addition of slots to racetracks is spawning a "revival" of the horse racing industry in some states. The survey found racinos accounted for $1.4 billion in taxes to state and local governments.

The biggest gambling states by commercial casino revenue were Nevada at $12.6 billion, New Jersey at $5.2 billion, Indiana at $2.6 billion, Mississippi at $2.6 billion, Louisiana at $2.6 billion, and Illinois at $1.9 billion.

Poker continued its four-year rise in popularity in Nevada and New Jersey, though the survey showed a slowdown in the rate of revenue growth.

Casinos in those two states took in $238.1 million in poker revenue in 2006, a 15 percent increase over 2005, when revenue jumped 37 percent.

The number of poker players heading to casinos doesn't appear to have been affected by a federal Internet gambling ban passed last
fall, though it may be too early to tell, Fahrenkopf said. His association initially backed the bill but Fahrenkopf said it has switched positions and supports legislation calling for a study of the issue.

The industry appears to have resigned itself to the wave of anti-smoking measures being passed in big gambling states - including Nevada and New Jersey. Although casinos in some states have been granted special status, Fahrenkopf said he didn't expect those exemptions to last long.

"A year or two down the road there's not any public facility you're going to be able to smoke a cigarette in and that includes us," he said.

Fahrenkopf said any restrictions applied to commercial casinos should also be imposed on American Indian casinos. "We think that ought to go across the board," he said.

Fahrenkopf said the association did not find that its members' U.S. properties had been hurt by the growth of American Indian casinos or gambling markets abroad, particularly in the Chinese enclave of Macau.

He compared casinos to popular restaurant chains and said he didn't see the market reaching a "saturation point."

"When do you get too many McDonald's?"

http://www.kolotv.com/home/headlines/7399886.html Kolo TV in Reno, Nevada

rch 3, 2007

ɔnoke-Free Gambling Site Thrives Amid Debate on Ban

RONALD SMOTHERS

NKERS, Feb. 28 — In a vast, dimly lit room with a low ceiling and frosted glass chandeliers — but hout the scent or sight of a smoky haze — video lottery terminals are arrayed in ranks like soldiers.

sed to go to Atlantic City and I hated it when people would sit next to me smoking a cigarette," said a Rodriguez of the Bronx, who stood outside Yonkers Raceway this week smoking a cigarette during a ɪk from the video slot machines. "I'm a smoker, but you pick up secondhand smoke and it gets in your hes."

ɪear casino operators and some lawmakers, however, Ms. Rodriquez is the exception and not the rule.

lew Jersey, antismoking advocates are regularly reminded when it comes to casinos that progress is ɔ measured in inches. And now in New York, where an agreement with the St. Regis Mohawks has ɔd the way for a casino in the Catskills, they are finding that it is a game played in the fine print.

ɔth states, arguments over the dangers of secondhand smoke run headlong into the mantra of casino ers that smoking bans will jeopardize their ability to do business and will send gamblers fleeing to less ictive areas or to other forms of gambling.

he owners of racinos, racetracks with video slot machines, say smoking bans have not cut into their larity or their profitability.

r, say officials at Yonkers Raceway, one of seven such gambling emporiums in New York State, the ɪing ban has proved to be more of an attraction than a deterrent to business. While racinos, with their nachines, blur the lines with casinos, with their table games, there is little question that operations he one in Yonkers have brought new revenue to the tracks and to the state, rescuing harness and ɪughbred racing from extinction.

ɪw Jersey, the efforts to ban smoking have been as tremulous as a smoke ring.

ɪear the Legislature approved a total ban on smoking in restaurants and bars, but exempted casinos.

ɪear, the City Council in Atlantic City, under pressure from antismoking advocates and casino ɔyees, broached the notion of a total smoking ban. After casino operators warned of economic harm, ɔuncil relented and last month approved a measure allowing smoking on 25 percent of the gambling

three weeks later, the State Senate Health Committee unanimously passed a measure that would do

STATE OF DELAWARE
OFFICE OF THE GOVERNOR

RUTH ANN MINNER
GOVERNOR

November 6, 2006

Ms. Regina Carlson
New Jersey GASP
105 Mountain Avenue
Summit, NJ 07901

Dear Ms. Carlson,

Delaware's Clean Indoor Air Act went into effect in November 2002. It prohibits smoking in virtually all indoor public places, including restaurants, bars, casinos, bowling alleys, pool halls, racetracks and 75 percent of hotel rooms. Some private venues, such as volunteer fire company halls and fraternal organizations, were exempted in the legislation.

Although this was a very controversial piece of legislation at the time of its passage and still remains contentious among some residents, many Delawareans view the smoking ban as a health issue and a protection of the freedom of those who choose not to smoke. Since the ban passed four years ago, I am still approached by residents in public places who express their thanks because they can now enjoy an evening concert at a smoke-free venue, or they can treat their asthmatic child to a meal at their favorite restaurant. The Clean Indoor Air Act does not deny the ability of smokers to smoke but instead enables employees and customers to breathe air free of a known carcinogen.

Some predicted that the Clean Indoor Air Act would hurt the bottom line of businesses, even forcing some to close. Conversely, there are more restaurants and bars licensed in Delaware now than when the Act went into effect. Delaware's three slot machine casinos have all experienced their highest revenue periods in the last two years.

Scientific evidence proves that the Clean Indoor Air Act has lowered the level of harmful pollutants in indoor air. A study, published in the September 2004 issue of the Journal of Occupational and Environmental Medicine, showed a 95 percent reduction of cancer-causing agents in the air of eight restaurants, bars and casinos where air samples were taken before and after the Act took effect. Before the Act, carcinogen levels inside those locations had been 50 times higher than a highway at rush hour.

More than three years after its implementation, the Clean Indoor Air Act has been a very positive development for Delaware. More importantly, the greatest benefit will be the effect felt by future generations who now have the chance to breathe cleaner air everyday.

Sincerely,

Ruth Ann Minner

Ruth Ann Minner
Governor

TATNALL BUILDING, DOVER, DELAWARE 19901 (302) 744-4101 (302) 739-2775 FAX
CARVEL STATE OFFICE BUILDING, WILMINGTON, DELAWARE, 19801 (302) 577-3210 (302) 577-3118 FAX

AP

Dover Downs Gaming 3Q Profit Grows

Thursday October 26, 8:46 am ET

Dover Downs Gaming & Entertainment 3Q Profit Climbs As Sales Growth Outpaces Expenses

DOVER, Del. (AP) -- Dover Downs Gaming & Entertainment Inc., a casino, hotel and race track operator, said Thursday its third-quarter net income rose 15 percent on increased sales.

Earnings increased to $7.1 million, or 22 cents per share, compared to $6.2 million, or 17 cents per share, a year ago.

Quarterly revenue grew 10 percent to $61.7 million versus $56.1 million in the prior-year period.

Analysts polled by Thomson Financial were expecting third-quarter earnings of 21 cents per share on revenue of $61.2 million.

Gaming revenue gained 10 percent to $57.7 million in the quarter, while expenses grew 8 percent to $48.8 million.

"With slot win growth in excess of 10 percent and hotel occupancy levels at almost 99 percent, this was another strong quarter for the company," President and Chief Executive Denis McGlynn said in a statement "We look forward to the exciting new multi-player products arriving in the fourth quarter and the property expansion plans we have in process."

An expansion for the company's Dover Downs Hotel in Delaware is under way. The project will raise the hotel's number of available rooms to 500 from 232, and add a spa which is set to open in fall of 2007, the company said.

Sky City profit jumps to $120.1m

MONDAY , 21 AUGUST 2006

Sky City Entertainment Group has announced a full year profit up 12.9 per cent to $120.1 million.

The casino operator today reported the result for the year to June was achieved on operating revenue up 11.8 per cent to $757.9 million.

New Zealand operations had shown a recovery from smoking bans implemented in December 2004, the company said.

Australian operations had performed strongly as a result of new facilities and economic momentum.

Group net profit was enhanced by a reduced tax rate, one-off funding, exchange gains and long-term debt restructuring.

A final dividend of 14c per share would be paid, bring the total distribution for the year to 26cps.

Earnings before interest, tax, depreciation and amortisation (ebitda) rose 5.6 per cent to $294.5 million, while earnings before interest and tax (ebit) were up 4.3 per cent to $229.5 million. Earnings per share were up 11.8 per cent to 28.5cps.

Auckland operating revenues rose 8 per cent to $428 million, but increased expenses reduced ebitda gain to 0.5 per cent taking it to $194 million. Higher depreciation and amortisation resulted in a 2.9 per cent decline in ebit to $154.6 million.

Gaming machine revenues rose 1.9 per cent to $194.5 million, gaming tables were up 9.6 per cent to $140.3 million, food and beverage up 11.3 per cent to $37.4 million, and hotel and convention up 44.3 per cent to $43.3 million.

Gaming revenues rose 5 per cent despite the full year impact of the smoking ban, compared to a half year impact in the previous year.

Evening News
Thu 20 Jul 2006

Casino giant breathing easy after smoking ban

JIM STANTON DEPUTY BUSINESS EDITOR (jstanton@edinburghnews.com)

STANLEY Leisure, Britain's biggest casino operator, said today that its business in Scotland had not been affected by the smoking ban.

As the company posted a near doubling in annual profit, it said the ban on smoking in enclosed public places, introduced in March, "has not had a material effect on our four casinos in Scotland".

UNIVERSITY OF CALIFORNIA, SAN FRANCISCO

BERKELEY · DAVIS · IRVINE · LOS ANGELES · RIVERSIDE · SAN DIEGO · SAN FRANCISCO  SANTA BARBARA · SANTA CRUZ

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November 29, 2005

Response to "Smoking Ban Economic Effect Analysis" by PricewaterhouseCoopers (PwC) [regarding New Jersey]

The PwC report concludes that the proposed smokefree law will cause gaming revenues to drop by 20% during the first two years the law is in effect. Like many other such "studies" produced on behalf of the tobacco industry and its allies, this "report" is not based on any hard data, but rather makes a series of unsupported assumptions.

In particular, the PwC conclusion is driven by a series of unsupported and unbalance assumptions. Correcting for just one of these unbalanced assumptions leads to the conclusion that gaming revenue would actually increase by 7% during the first two years the law was in effect.

- To determine the effect of the Delaware smokefree law on gaming revenue in DE, PwC reduces total DE gaming revenue by over $98 million with no empirical support for their adjustments.
- PwC also ignores the fact that Dover Downs (in Delaware) now advertises the fact that they are a smokefree establishment, which would be an odd thing to do if they are in fact hurt by being smokefree.
- In calculating the effect of the smokefree law on Atlantic City casinos, PwC does not acknowledge the vast differences between the types of gaming that are legal in Delaware (limited to video lottery machines) and the types of gaming that are legal in Atlantic City.
- In projecting future revenues under a smokefree law, PwC assumes that smokers will reduce their number of trips to the casinos by 13% the first year and 16% the second year. Paradoxically, they assume that nonsmokers will not change their behavior in either year. No empirical evidence was presented to support either of these assumptions.
- PwC also assumes that smokers will spend 12.3% less per visit their first year and 10% less per visit the second year, again with no assumed change to spending by nonsmokers. No empirical evidence was presented to support either of these assumptions.
- Simply assuming that nonsmokers will increase their visits and spending at the same rates that smokers decrease their visits and spending indicates that total gaming revenues in Atlantic City would *increase* by 7%.

In contrast to these claims, the actual experience has been that smokefree policies are good for the hospitality business. The only business they hurt is the tobacco business.

Learn more about the real economics of smokefree policies at
http://www.tobaccoscam.ucsf.edu/fake/index.cfm

– Benjamin Alamar, PhD and Stanton Glantz, PhD

December 2007
Self-magazine

the cancer beaters

Least smoky

SALT LAKE CITY–OGDEN, UT

Less than 9 percent of women here light up daily, and cigarettes are banned not only in workplaces but in public parks, fields and golf courses. "Living near mountains inspires you to ski, hike and bike," says legislative analyst Jennifer Bruno, 27. "That's difficult to do when you're a smoker."

RUNNERS-UP **2** San Jose, CA **3** McAllen-Edinburg-Mission, TX **4** Orange County, CA **5** Los Angeles, CA

Smokiest

LAS VEGAS, NV Twenty-seven percent of Sin City women smoke, the highest rate on our list, and Vegas has the survey's smokiest workplaces. Last fall, the state passed an indoor tobacco ban, but it excludes casino gaming areas, which employ some 150,000 residents. "I've been a nonsmoker my whole life, so the only cigarettes I'm exposed to are at work," says blackjack and baccarat dealer Kanie Kastroll, 40. "I've had to get sinus surgery, and coworkers are constantly suffering from bronchitis, sinus infections and allergies."

RUNNERS-UP
2 Gary, IN
3 Dayton, OH
4 Akron, OH
5 Louisville, KY

WINNING ADVICE!

BUTT OUT LIKE SLC

Take the lead. Want smoking bans as tough as Salt Lake City's? Talk to a city council member and surf Cancer.org for advocacy tips.

Take control. If your employer owns your office building, lobby to make it smoke-free, says Scott Thompson, communications manager for the American Cancer Society's Salt Lake City office. Or suggest the company add smoking cessation programs to its benefits.

Take a hike. Smoking to cope with stress? Turn to nature instead. Walk a trail and absorb natural scenery to relax, says Edward Ruddell, Ph.D., associate professor at the University of Utah.

—*Merritt Watts*

Most annual checkups Providence, RI ⟫ **Fewest annual checkups** McAllen

FOR IMMEDIATE RELEASE

CONTACT:
Kathy Drea, American Lung Association of Illinois, 800-788-5864 cell 217-971-7274

ROSWELL PARK CANCER INSTITUTE STUDY SHOWS VERY UNHEALTHY AIR QUALITY LEVELS:
Casino Air Quality Study completed in East St. Louis, IL

September 14, 2007 – East St. Louis, Ill. – The Casino Queen has very unhealthy air quality levels, according to a study, "*Casino Air Monitoring Study, East St. Louis, Illinois*" done by the Roswell Park Cancer Institute.

The study was conducted to assess indoor air quality in the East St. Louis Casino Queen during two 3-hour visits in August 2007. The concentration of fine particle air pollution, $PM_{2.5}$, was measured with a TSI SidePak AM510 Personal Aerosol Monitor. $PM_{2.5}$ is particulate matter in the air smaller than 2.5 microns in diameter. Particles of this size are released in significant amounts from burning cigarettes, are easily inhaled deep into the lungs, and cause a variety of adverse health effects including cardiovascular and respiratory morbidity and death.

Key findings of the study include:

- The average level of fine particle indoor air pollution on the gaming floor was 172 µg/m3, 16 times higher than the outdoor background levels.
- Employees and patrons of this casino are exposed to "very unhealthy" levels of fine particle air pollution exposure according to the U.S. Environmental Protection Agency (EPA) Air Quality Index.
- Employees and patrons will exceed the USEPA 24-hour standards for $PM_{2.5}$ exposure after just 3 hours and 28 minutes on the gaming floor.

The management of the new Casino Queen, which just opened on August 2, 2007, has reported to the media on several occasions that several million dollars were spent on a new state of the art ventilation system to remove cigarette smoke and the associated health dangers from the air. The Smoke Free Illinois Act, which takes effect January 1, 2008, will require the Casino Queen, along with the other eight casinos in Illinois to be smoke free. Several bills have been introduced and are still pending to exempt the casinos from the Smoke Free Illinois Act for 5 years, or until the casinos in neighboring states are smoke free, whichever happens first.

"While the casino has used the installation of an expensive ventilation system to lobby for an exemption to the pending smoke free air legislation in Illinois, this study confirms what the science has already shown: ventilation is in no way an effective

means to eliminate tobacco smoke pollution exposure" commented Kathy Drea, Director of Public Policy, American Lung Association of Illinois & Greater Chicago.

Other data collected as part of the Roswell Park Cancer Institute air quality study included counts of the total number of patrons and how many patrons were smoking in the establishment. Counts were done every 15 minutes. Data highlights include:

- Smoking is allowed in the dining areas of the casino. On the first visit, there was only one person smoking in the buffet area. On the second visit, no one was smoking in the buffet area.
- **This study found in the gaming areas of the casino on average only approximately 7% of patrons were smoking.**
- Even though there were very few smokers, there was significant negative impact on air quality.
- It was noted that overall it was the same few people smoking during each 15 minute interval when counts were conducted.

The Illinois Casino Gaming Association Executive Director Tom Swoik has been quoted that 70% of casino patrons smoke.

Despite the expensive, state of the art, ventilation system installed at this new Illinois casino, employees and patrons are exposed to harmful levels of fine particle air pollution as a result of indoor smoking. The only way to eliminate the health risks of tobacco smoke pollution exposure is to prohibit indoor smoking. The U.S. Surgeon General has concluded, "Separating smokers from nonsmokers, cleaning the air, and ventilating buildings cannot eliminate exposures of nonsmokers to secondhand smoke." The American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) has concluded, "adverse health effects for the occupants of the smoking room cannot be controlled by ventilation."

For more information, a full copy of the report and charts please go to www.SmokeFreeIllinois.org after noon on September 14, 2007.

# # #

U.S. Environmental Protection Agency Air Quality Index

Air Quality Index Levels of Health Concern	$PM_{2.5}$ ($\mu g/m^3$)	Meaning
Good	≤15	Air quality is considered satisfactory, and air pollution poses little or no risk.
Moderate	16-40	Air quality is acceptable; however, for some pollutants there may be a moderate health concern for a very small number of people who are unusually sensitive to air pollution.
Unhealthy for Sensitive Groups	41-65	Members of sensitive groups may experience health effects. The general public is not likely to be affected.
Unhealthy	66-150	Everyone may begin to experience health effects; members of sensitive groups may experience more serious health effects.
Very Unhealthy	151-250	Health alert: everyone may experience more serious health effects.
Hazardous	≥251	Health warnings of emergency conditions. The entire population is more likely to be affected.

Figure 1. Fine Particle Air Pollution in an East Saint Louis Casino

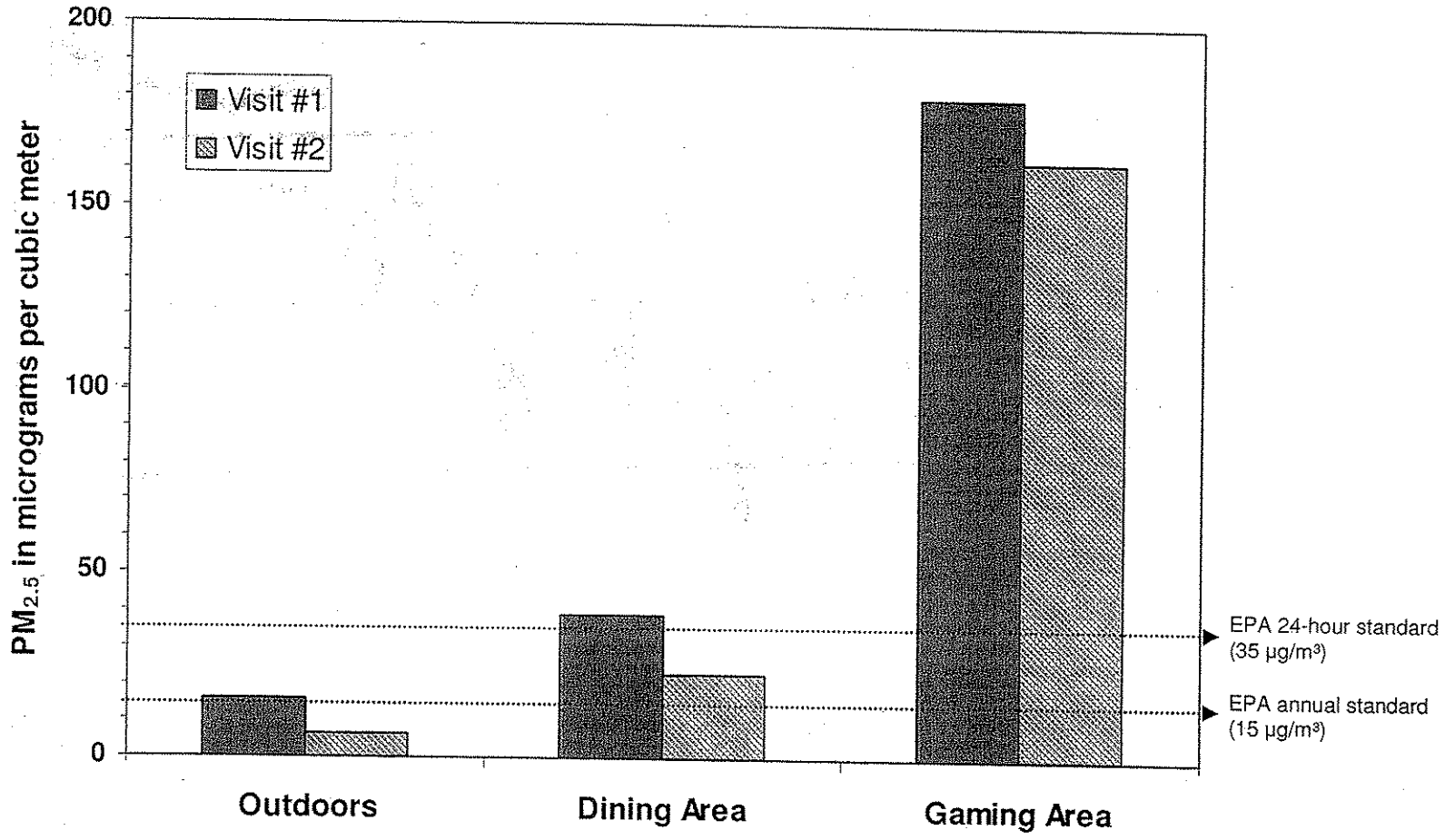


Figure 2

East Saint Louis Casino Air Monitoring Study
Visit #1 August 2007

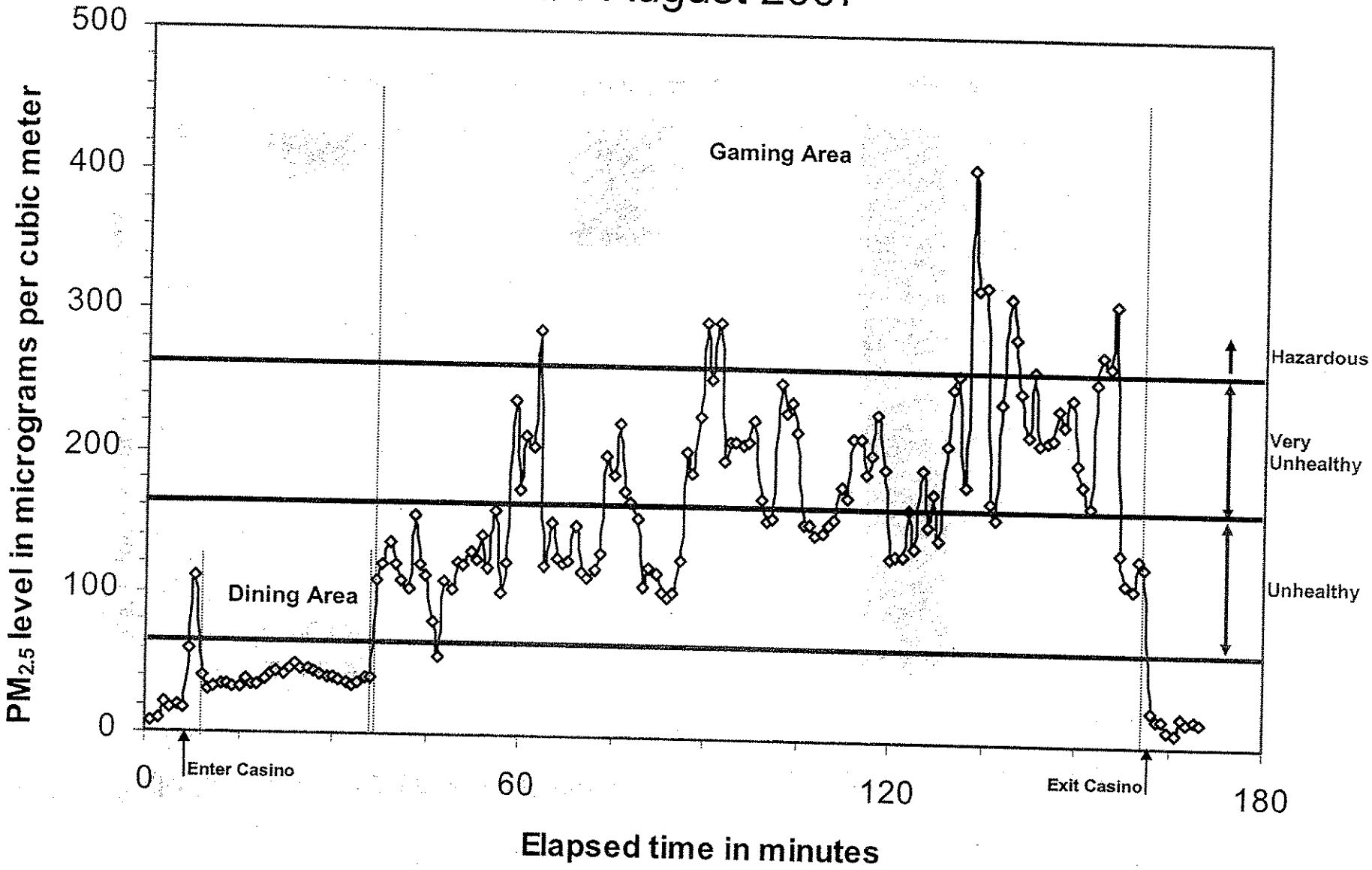
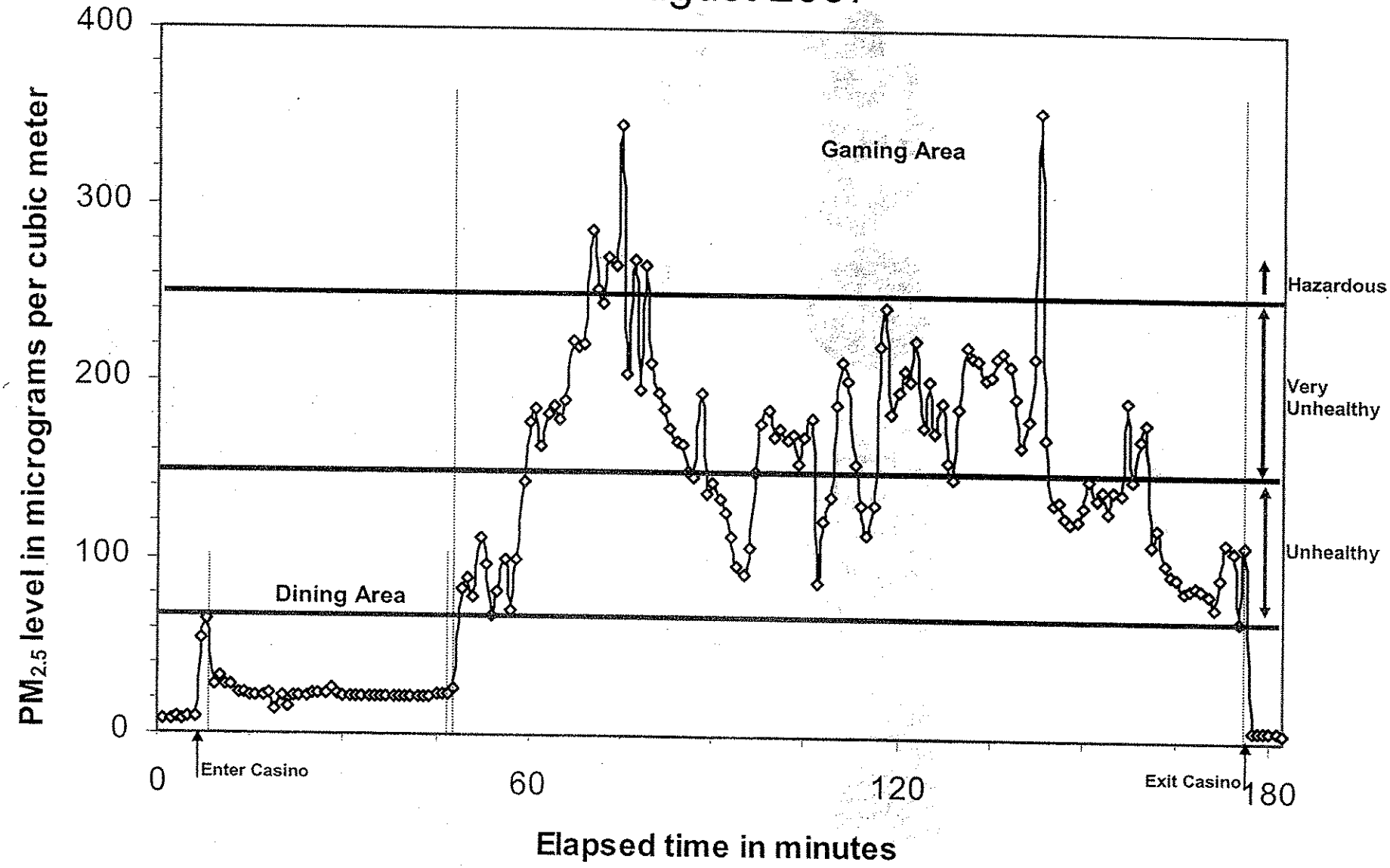


Figure 3

East Saint Louis Casino Air Monitoring Study
Visit #2 August 2007



New Jersey Air Monitoring Study 2006
Effect of the NJ Smoke-Free Air Act

Mark J. Travers, MS
Andrew Hyland, PhD
Department of Health Behavior
Roswell Park Cancer Institute

Regina Carlson, Executive Director
Kenneth Carlson, BSAE
New Jersey GASP

November 9, 2006

Executive Summary

Indoor air quality was assessed in 50 New Jersey locations, in 13 of New Jersey's 21 counties in 2005, before, and in 2006, after, the New Jersey Smoke-Free Air Act (NJ SFAA). Sites tested included 15 smoking-permitted restaurants and diners, some with alcoholic beverage service, and some with bars; 17 smoking-permitted bars, including neighborhood bars, bar clubs catering to young adults, sports bars, university-area bars, a go-go bar, and bars that had food service but were primarily bars; 8 smoking-permitted casinos; and 3 smoking-permitted bowling alleys. Seven smokefree restaurants and diners, including some with alcoholic beverage service and bars, were tested. In addition, all thirteen Atlantic City casinos were also visited twice after the law, including once during the July state government shutdown when casino gambling was suspended.

The concentration of fine particle air pollution, $PM_{2.5}$, was measured with a TSI SidePak AM510 Personal Aerosol Monitor. $PM_{2.5}$ is particulate matter in the air smaller than 2.5 microns in diameter. Particles of this size are released in significant amounts from burning cigarettes, are easily inhaled deep into the lungs, and cause a variety of adverse health effects including cardiovascular and respiratory morbidity and death.

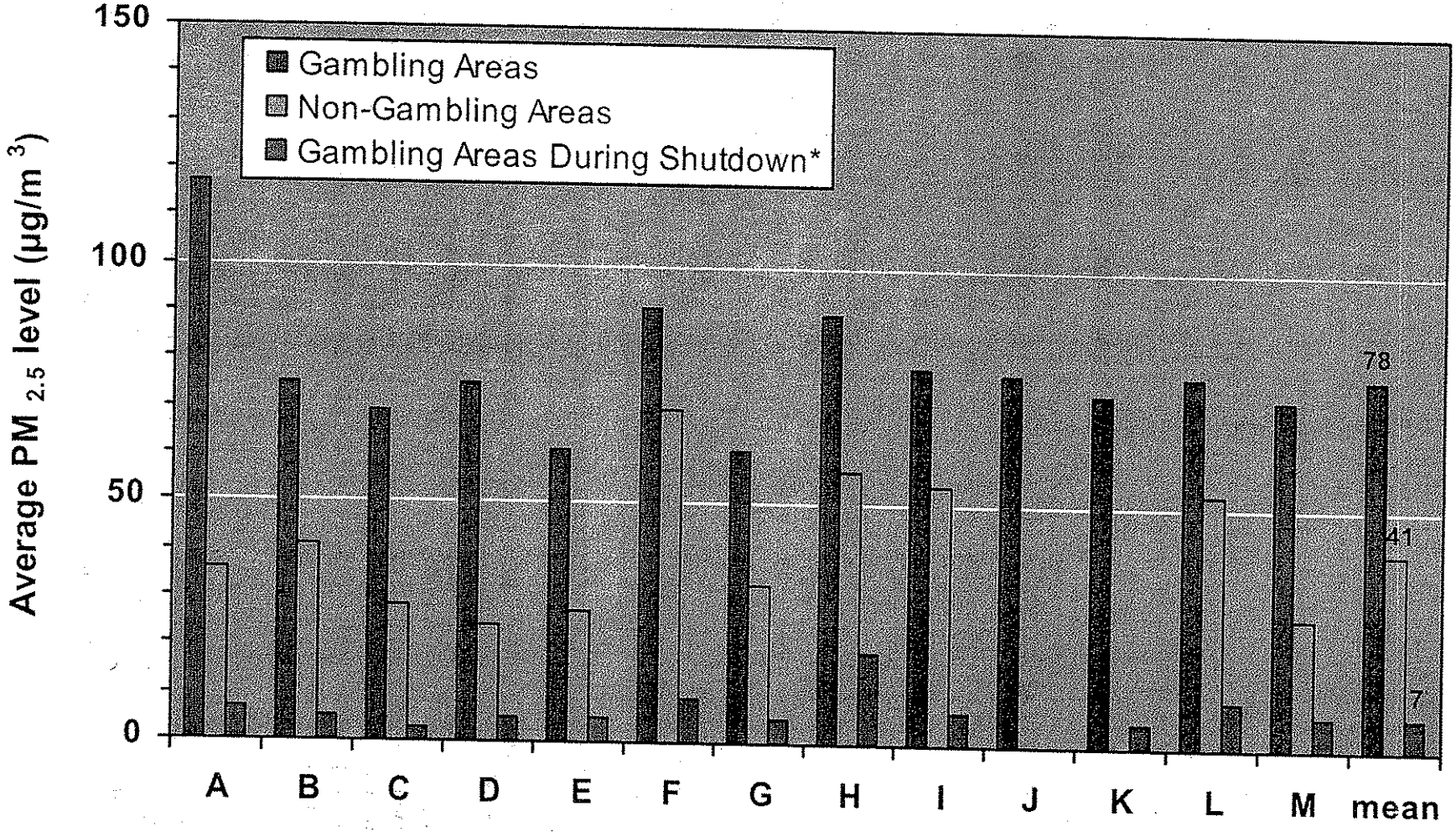
Key findings of the study include:

- The average level of fine particle indoor air pollution declined 91% after the NJ SFAA went into effect in those venues that went smokefree as a result of the law.
- The average level of fine particle air pollution in casinos remained unchanged and is still well above the safe levels required by the U.S. Environmental Protection Agency
- During the NJ state government shutdown, the level of indoor air pollution was very low in casinos as there was no smoking. This demonstrates the good air quality that would be achieved if NJ casinos were smokefree.
- New Jersey hospitality venues, except casinos, now have fine particle exposures below EPA limits.

Before New Jersey's Smokefree Air Act, locations allowing indoor smoking were significantly more polluted than indoor smokefree sites and than outdoor air in New Jersey, with levels of pollution in excess of EPA standards. As a result of the Smoke-Free Air Act, air quality is dramatically improved for workers and patrons of all New Jersey workplaces and public places where smoking was formerly permitted, except casinos, where smoking is still permitted, and where air quality continues to be poor. This study demonstrates that exposure to indoor toxic air pollution in New Jersey has declined and this translates into improved quality of life and health outcomes for New Jersey workers and residents.

The U.S. Surgeon General has concluded there is no risk-free level of exposure to secondhand smoke, and, consistent with the results of this study, casinos are a source of high concentrations of secondhand smoke for nonsmoking workers and the public. Possible solutions to the on-going air pollution problem in New Jersey casinos include casinos adopting smokefree policies, enacting state or local legislation to make casinos smokefree, and litigation forcing casinos to provide smokefree air.

Average Level of Indoor Air Pollution in New Jersey Casinos



* There was no gambling allowed during these visits on July 6 and 7, 2006 due to a New Jersey state government shutdown. There was no observed smoking on the gambling floor during these visits.

November 2006, prepared by Roswell Park Cancer Institute and New Jersey GASP

Wolters Kluwer Health | Lippincott Williams & Wilkins
JOEM Journal of Occupational and Environmental Medicine

ARTICLE LINKS:
Fulltext | PDF (529 K)

Respirable Particles and Carcinogens in the Air of Delaware Hospitality Venues Before and After a Smoking Ban.

Fast Track Article

Journal of Occupational & Environmental Medicine. 46(9):887-905, September 2004.
Repace, James MSc

Abstract:
How do the concentrations of indoor air pollutants known to increase risk of respiratory disease, cancer, heart disease, and stroke change after a smoke-free workplace law? Real-time measurements were made of respirable particle (RSP) air pollution and particulate polycyclic aromatic hydrocarbons (PPAH), in a casino, six bars, and a pool hall before and after a smoking ban. Secondhand smoke contributed 90% to 95% of the RSP air pollution during smoking, and 85% to 95% of the carcinogenic PPAH, greatly exceeding levels of these contaminants encountered on major truck highways and polluted city streets. This air-quality survey demonstrates conclusively that the health of hospitality workers and patrons is endangered by tobacco smoke pollution. Smoke-free workplace laws eliminate that hazard and provide health protection impossible to achieve through ventilation or air cleaning.

For Immediate Release

Contact: *Joy Blankley Meyer,* Executive Director, Pennsylvania Alliance to Control Tobacco; Cell: 717-269-2415

October 18, 2007

300 NONSMOKING PENNSYLVANIA CASINO EMPLOYEES WILL DIE FROM SECONDHAND-SMOKE ILLNESSES, NEW STUDY SAYS

Casinos' air quality "very unhealthy" per OSHA standards

HARRISBURG—Nearly 300 nonsmoking Pennsylvania casino employees will die from lung cancer, heart disease, and other illnesses caused by secondhand smoke, according to a new report on air quality in the state's casinos. Within the next few years, the five currently licensed casinos will employ approximately 12,000 people. Of those 12,000 people, 300 nonsmokers — or about 8 nonsmokers per year — will die during the subsequent 40 years, specifically as a result of exposure to secondhand smoke, if they continue to be exposed, according to the report, issued by internationally renowned secondhand smoke scientist James Repace. Repace said this is 27 times the "Significant Risk" level used by the U.S. Occupational Safety and Health Administration to rank workplace hazards.

"Do we really have to let 300 nonsmokers die because of secondhand smoke before we pass a comprehensive smoking ban?" asks Joy Blankley Meyer, executive director of the Pennsylvania Alliance to Control Tobacco, which commissioned the study. "This new study underscores for our legislators that they must pass a clean indoor air act to protect all Pennsylvania employees."

Repace's report covers two studies conducted in August, which constituted the first ever studies of air quality in Pennsylvania's casinos.

The first study measured air quality, including inhalable secondhand-smoke related carcinogens and other particles, at the Mohegan Sun Casino in Wilkes-Barre, Philadelphia Park Casino in Bensalem, and Harrah's in Chester. Investigators visiting the casinos used purse-sized monitors to measure the particles.

The second study measured the amount of metabolized nicotine (cotinine) in the urine of nonsmoking volunteers before and after they spent four-hour stints in the Philadelphia Park Casino, The Meadows at Meadowlands, and Presque Isle Downs Casino in Erie County.

To standardize results in the air quality study, investigators also recorded factors including the number of people, number of smokers, size of the space, ventilation rates, temperature and humidity.

Based on the findings of the two studies, Repace estimated that the risk to the average worker would be 20 times higher than the Occupational Safety and Health Administration's (OSHA) Significant Risk Level.

""Twenty Seven times OSHA's Significant Risk Level will eventually kill 8 casino workers every year. By comparison, between 1995 and 2002, 16 miners died in Pennsylvania mine disasters, or about 2 per year. We all appreciate that coal mining can be a dangerous job," Repace said. "Working in a casino should be a safe way to make a living — except that secondhand smoke makes it a hazardous occupation."

According to a 2006 report from the U.S. Surgeon General, it is indisputable that secondhand smoke causes premature death and serious diseases in nonsmoking adults and children. The report also said that the only way to protect nonsmokers from secondhand smoke is to require smoke-free workplaces and public places, and that smoke-free policies do not have an adverse economic impact on the hospitality industry.

More/

"We already know that 84 percent of Pennsylvanians believe that all workers should be protected from secondhand smoke," Meyer said. "We also know that casino employees are exposed to particularly high levels of secondhand smoke, dramatically increasing their risk of developing terminal lung and heart disease. Our legislators have a solemn responsibility to protect the citizens of Pennsylvania and this can be accomplished with the passage of a comprehensive clean indoor air law that protects all workers."

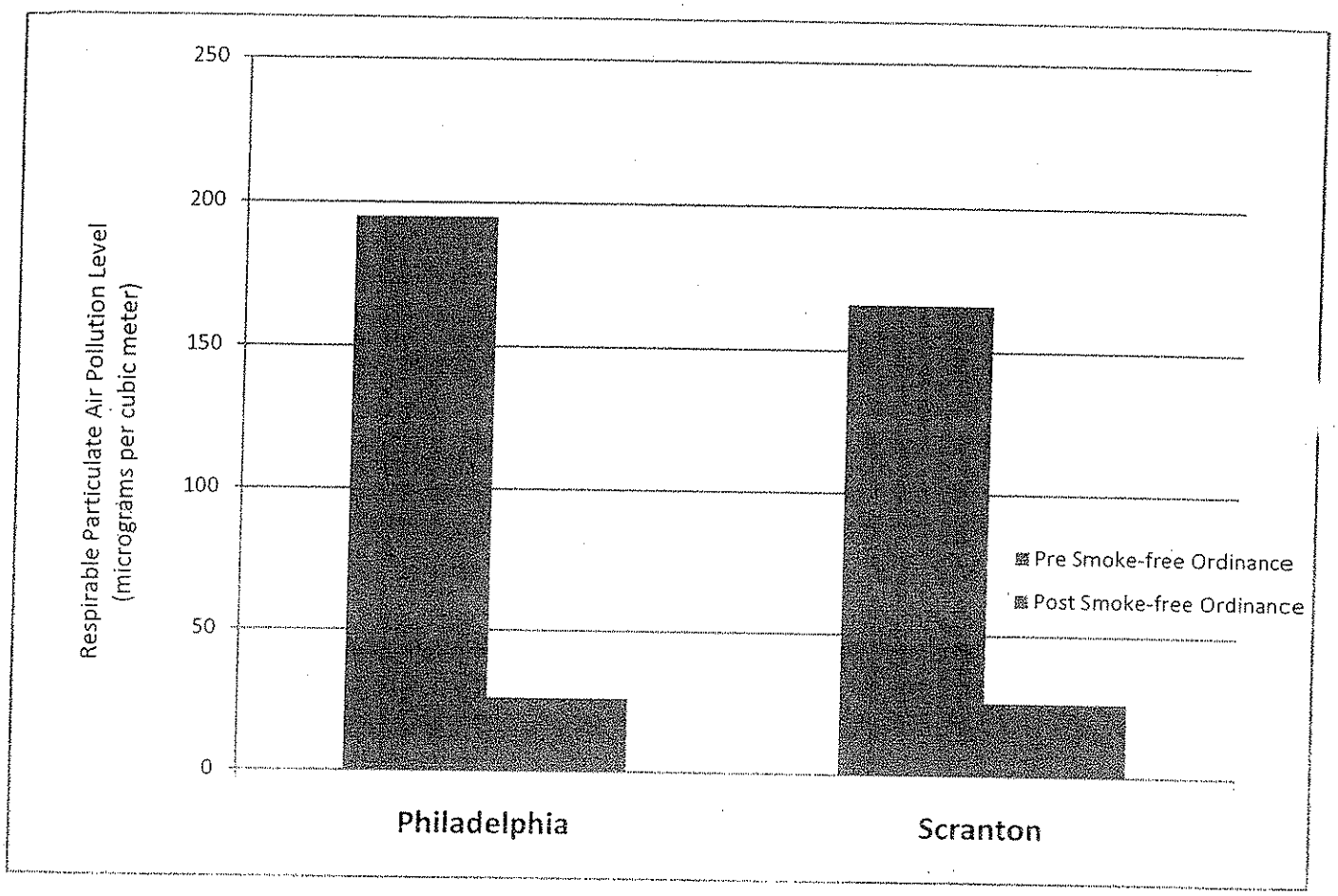
Media Resource List

1. *Joy Blankley Meyer,* Executive Director, Pennsylvania Alliance to Control Tobacco;
   Cell: 717-269-2415
   3001 Old Gettysburg Road
   Camp Hill, PA 17011
   www.PACTonline.org

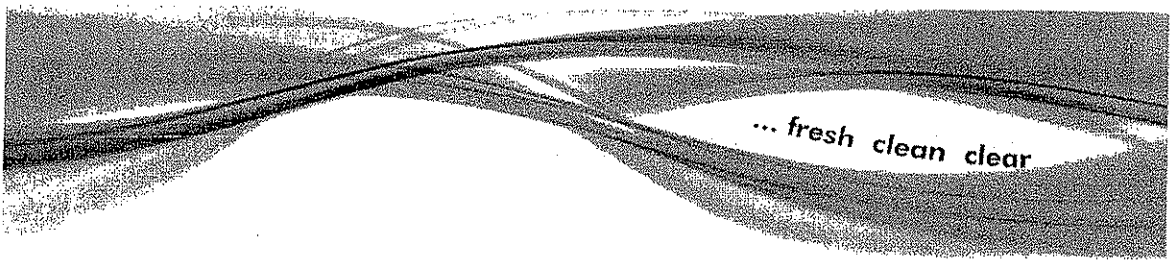
2. *Deborah P. Brown,* Vice President, Community Outreach and Advocacy,
   American Lung Association of the Mid-Atlantic
   Cell 610-563-6992
   dbrown@lunginfo.org

3. *James Repace, Biophysicists,* President, Repace Associates, Bowie, MD
   Phone: 302-262-9131, repace@comcast.net

The Immediate Effects of Clean Indoor Air Legislation on Public Health



The Pennsylvania Alliance to Control Tobacco (PACT) conducted indoor air quality testing in Scranton and Philadelphia. This study was conducted between September 2006 and February 2007, before and after clean indoor air legislation was passed in these communities. This study indicates an 87% and 84% drop, respectively, in Respirable Particle Air Pollution (RSP) in Philadelphia and Scranton hospitality venues. The positive effects on employee and patron health were immediate.



Secondhand Smoke Air Pollution in Pennsylvania Hospitality Venues

Philadelphia and Scranton

- In 2006, the Pennsylvania Alliance to Control Tobacco (PACT) commissioned a study to assess the indoor air quality of Pennsylvania's hospitality industry.

- The scientific study was conducted by James Repace, MSc, of Repace Associates, Inc., a secondhand smoke consulting firm based in Bowie, Maryland.

- In January of 2007, the cities of Philadelphia and Scranton implemented clean indoor air ordinances. The ordinances include the majority of workplaces in Philadelphia and Scranton, including restaurants and bars.

- The cities of Philadelphia and Scranton's indoor air quality were assessed before and after the clean indoor air ordinance went into effect.

- Hospitality venues in Philadelphia and Scranton were assessed using air pollution monitors. The venues consisted of restaurants, bars, and a bowling alley. The testing took place between September 2006 and February 2007.

- At each of the sites, measurements were taken of a pollutant that is known to increase the risk or respiratory disease, cancer, heart disease, and stroke. The pollutant is called Respirable Particle Air Pollution (RSP). RSP is fine particle pollution that can be inhaled and cause damage to lung tissue.

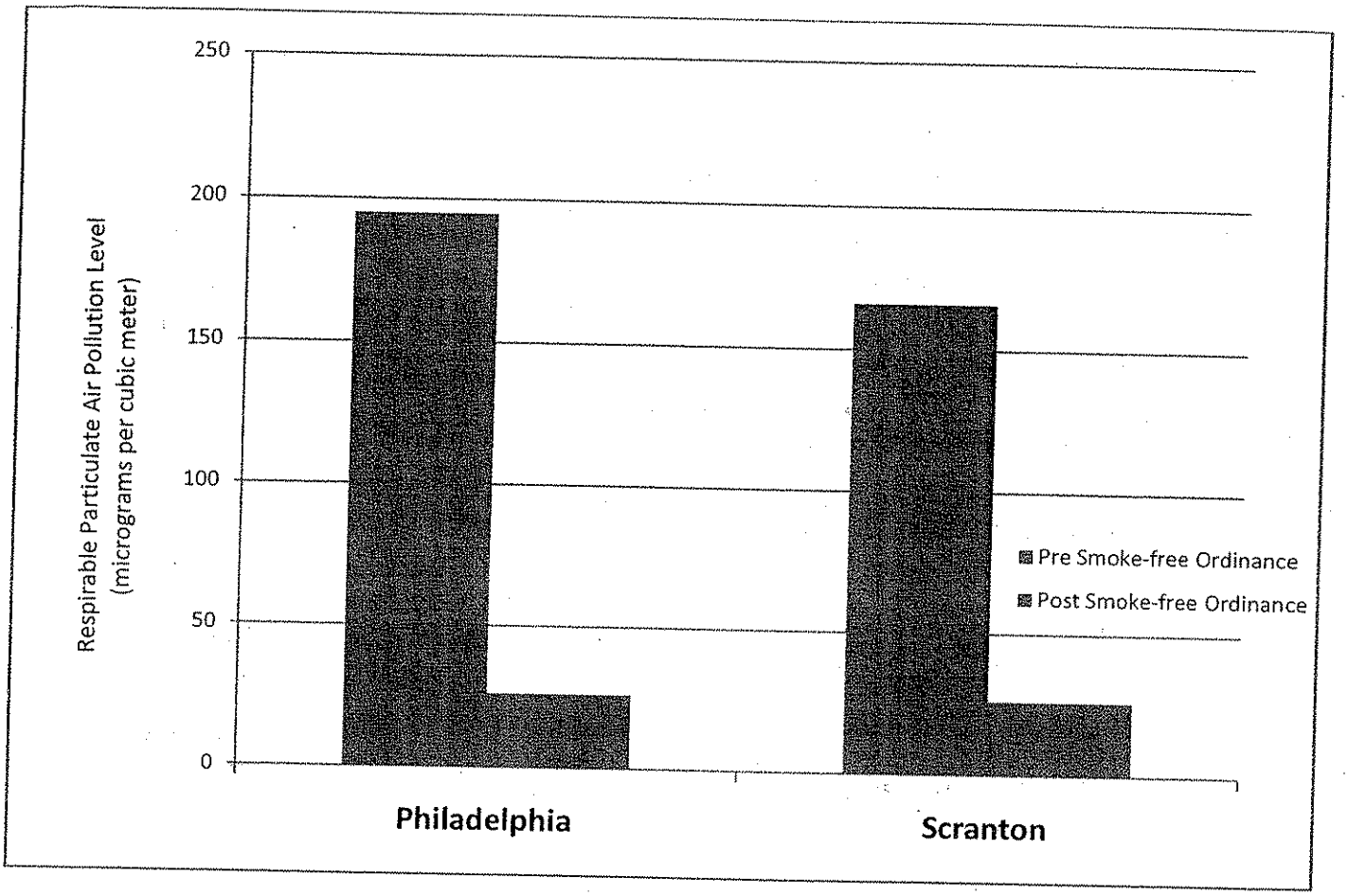
- Respirable Particle Air Pollution (RSP) can cause aggravated asthma, chronic bronchitis, reduced lung function, irregular heartbeat, heart attack, and premature death.

- At each of the hospitality venues, several factors were assessed including:

    - Average concentration of pollutants
    - Smoker density (the percentage of patrons actively smoking)
    - Air exchange rate
    - Estimate of secondhand smoke

PACT
PENNSYLVANIA ALLIANCE TO CONTROL TOBACCO

The Immediate Effects of Clean Indoor Air Legislation on Public Health



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New Jersey GASP
Group Against Smoking Pollution

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www.njgasp.org
E-mail info@njgasp.org

For Release February 5, 2007

Air Testing At Rhode Island Casinos: Separate Sections Do Not Protect Casino Workers, Patrons

To measure the likely effect of the proposed Atlantic City Council ordinance 86 (the 75-25 split), New Jersey GASP tested the air in casinos in Rhode Island, where state law requires separately walled and ventilated sections, as does the Atlantic City ordinance. The testing showed that, as smoking was concentrated into smaller areas, the level of pollution increased. (Figure 1)

Researchers estimate that confining smoking in Atlantic City casinos to 25% of the gaming area could produce pollution levels as high as four times the levels in currently undivided casinos. For an employee who worked in that area full-time, his or her exposure would be five times the EPA annual limit. In the current, average casino environment, employee exposure exceeds the EPA limit by a factor of more than one and a half. (Figure 2)

The Rhode Island testing was done on January 26 through 29 as part of a continuing, joint project of New Jersey GASP and Roswell Park Cancer Institute. Regina Carlson, Executive Director of New Jersey GASP, commented, "We used scientific methods and expensive equipment, but anyone with common sense could anticipate that the more tightly you concentrate the pollution sources, the more highly you increase the pollution. And, sure enough, the smoking section that contained 30% of the gaming area of one casino was more polluted than the smoking section in another casino, where the smoking section contained 50% of the casino floor area. But, most important, for employees and patrons in any of these smoking areas, quite simply, the air is not fit to breathe."

The nonsmoking sections of the two Rhode Island casinos were also tested and were found to be far from smokefree. In one casino, the nonsmoking area ranged from 17% to 37% as polluted as the smoking section. In the other casino, the nonsmoking area was 39% as polluted as the smoking section. "How dismal," said Carlson, "that the separately walled and ventilated nonsmoking sections are still one-third as polluted as the extra-polluted smoking sections. Clearly, at least in Rhode Island casinos, this so-called solution doesn't work." (Figure 3)

The proposed Atlantic City ordinance sets no time limit for the casinos to construct the separate sections but does require casinos to designate smoking and nonsmoking areas by April 15, 2007. To predict the likely effect of that, New Jersey GASP cited new studies, released in December, 2006, on pollution in casinos where separate areas are merely designated. Researchers at the

University of Waterloo, Ontario, Canada, tested casinos in New York and in Ontario and found that nonsmoking sections were 45% to 64 % as polluted as smoking sections, and were at levels described as "high" by the researchers. It was only when the Ontario casino went completely smokefree, as required by the May 2006 Smoke-Free Ontario Act, that the level of air quality fell within the "good" range, as defined by the EPA guidelines. (To see the full University of Waterloo report, go to www.arts.uwaterloo.ca/~gfong/smokefree and click on the December 2006 study on casinos.)

"Bottom line," said Carlson, "the only way to protect employees and patrons is to make casinos smokefree." She cited data from New Jersey GASP's 2006 air testing in New Jersey casinos, including in July when gambling was suspended and casinos were essentially smokefree. Then, she said, "Every Atlantic City casino had good air quality, within EPA limits, air as clean as outdoors, and as smokefree as restaurants and bars throughout the state."

attached: three figures on January 2007 testing

Increase in Air Pollution Levels in Casino Smoking Areas as the Smoking Area is Reduced in Proportionate Size

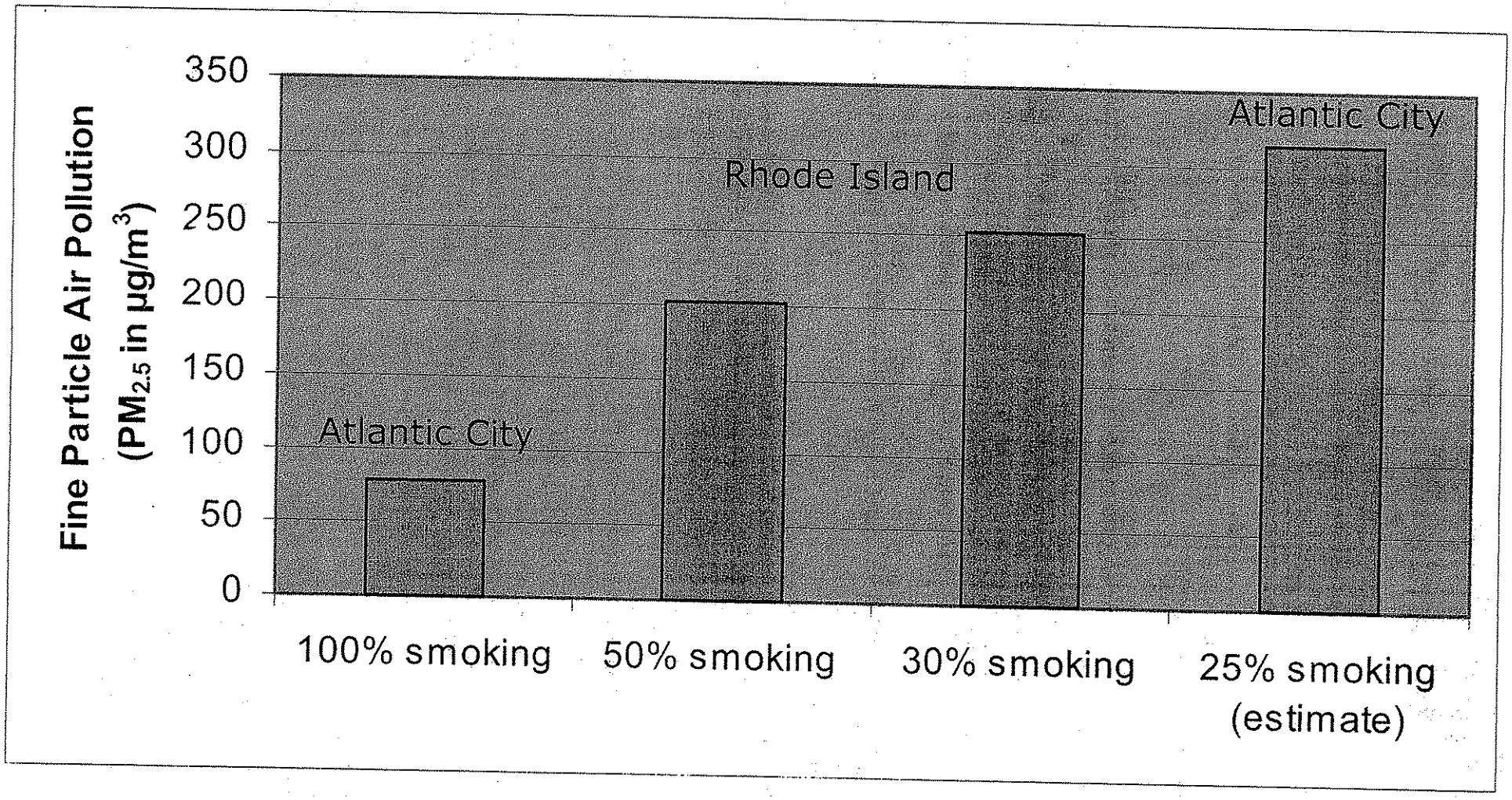

Figure 1

February 2007
prepared by New Jersey GASP
based on analysis by Roswell Park Cancer Institute

New Jersey Air Monitoring Study 2006
Effect of the NJ Smoke-Free Air Act

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November 9, 2006

Executive Summary

Indoor air quality was assessed in 50 New Jersey locations, in 13 of New Jersey's 21 counties in 2005, before, and in 2006, after, the New Jersey Smoke-Free Air Act (NJ SFAA). Sites tested included 15 smoking-permitted restaurants and diners, some with alcoholic beverage service, and some with bars; 17 smoking-permitted bars, including neighborhood bars, bar clubs catering to young adults, sports bars, university-area bars, a go-go bar, and bars that had food service but were primarily bars; 8 smoking-permitted casinos; and 3 smoking-permitted bowling alleys. Seven smokefree restaurants and diners, including some with alcoholic beverage service and bars, were tested. In addition, all thirteen Atlantic City casinos were also visited twice after the law, including once during the July state government shutdown when casino gambling was suspended.

The concentration of fine particle air pollution, $PM_{2.5}$, was measured with a TSI SidePak AM510 Personal Aerosol Monitor. $PM_{2.5}$ is particulate matter in the air smaller than 2.5 microns in diameter. Particles of this size are released in significant amounts from burning cigarettes, are easily inhaled deep into the lungs, and cause a variety of adverse health effects including cardiovascular and respiratory morbidity and death.

Key findings of the study include:

- The average level of fine particle indoor air pollution declined 91% after the NJ SFAA went into effect in those venues that went smokefree as a result of the law.
- The average level of fine particle air pollution in casinos remained unchanged and is still well above the safe levels required by the U.S. Environmental Protection Agency
- During the NJ state government shutdown, the level of indoor air pollution was very low in casinos as there was no smoking. This demonstrates the good air quality that would be achieved if NJ casinos were smokefree.
- New Jersey hospitality venues, except casinos, now have fine particle exposures below EPA limits.

Before New Jersey's Smokefree Air Act, locations allowing indoor smoking were significantly more polluted than indoor smokefree sites and than outdoor air in New Jersey, with levels of pollution in excess of EPA standards. As a result of the Smoke-Free Air Act, air quality is dramatically improved for workers and patrons of all New Jersey workplaces and public places where smoking was formerly permitted, except casinos, where smoking is still permitted, and where air quality continues to be poor. This study demonstrates that exposure to indoor toxic air pollution in New Jersey has declined and this translates into improved quality of life and health outcomes for New Jersey workers and residents.

The U.S. Surgeon General has concluded there is no risk-free level of exposure to secondhand smoke, and, consistent with the results of this study, casinos are a source of high concentrations of secondhand smoke for nonsmoking workers and the public. Possible solutions to the on-going air pollution problem in New Jersey casinos include casinos adopting smokefree policies, enacting state or local legislation to make casinos smokefree, and litigation forcing casinos to provide smokefree air.

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February 2007

Studies show improved employee health once workplaces go smokefree

Effects of the Irish Smoking Ban on Respiratory Health of Bar Workers and Air Quality in Dublin Pubs. *American Journal of Respiratory Critical Care Medicine* 2007. Conclusions: A total workplace smoking ban results in a significant reduction in air pollution in pubs and an improvement in respiratory health in barmen.

Airborne exposure and biological monitoring of bar and restaurant workers before and after the introduction of a smoking ban, Norway. *Journal of Environmental Monitoring* February 2006. Conclusion: A large reduction of airborne nicotine and total dust was found after the introduction of a smoking ban in bars and restaurants. Also the U-cotinine concentrations were reduced, both in the non-smokers and also in the current smokers.

Respiratory Symptoms, Pulmonary Function, and Markers of Inflammation Among Bar Workers Before and After a Legislative Ban on Smoking in Public Places, Scotland. *Journal of American Medical Association (JAMA)* October 2006. Conclusion: Smoke-free legislation was associated with significant early improvements in symptoms, spirometry measurements, and systemic inflammation of bar workers. Asthmatic bar workers also had reduced airway inflammation and improved quality of life.

Banning Smoking in Public Places. Editorial on studies in the U.S., Ireland, Norway and New Zealand, JAMA October 2006. Conclusion: Mandating smoke-free workplaces will decrease second-hand smoke exposure and will improve respiratory health, prevent chronic disease, and extend life span. Important salutary health effects occur in as little as 1 month after cessation of secondhand smoke exposure. The comprehensive body of research documenting the serious adverse health effects of passive smoking provides a powerful rationale for prohibiting smoking in all public places. The time has come to clear the air.

One year of smokefree bars and restaurants in New Zealand: Impacts and responses
BMC Public Health March 2006. Conclusion: As in other jurisdictions, the introduction of smokefree bars in New Zealand has had positive overall health protection, economic and social effects; in contrast to the predictions of opponents.

Changes in hospitality workers' exposure to secondhand smoke following the implementation of New York's smokefree law *BMJ Tobacco Control* January 2007
Conclusion: This study shows that New York's statewide law restricting smoking in virtually all workplaces led to a significant decline in both saliva cotinine and self reported measures of exposure to secondhand smoke among non-smoking workers in restaurants, bars, and bowling facilities. These declines have persisted for at least a year, demonstrating continued compliance with the law.

Secondhand Smoke Exposure and Respiratory Symptoms Among Casino, Club, and Office Workers in Victoria, Australia. *American College of Occupational and Environmental Medicine* July 2005 Conclusion: Air-conditioning interventions reduce, but fail to eliminate, exposure of hospitality workers to SHS. Such exposure is associated with measurable increases in the risk of respiratory symptoms.

Exposure to secondhand smoke and excess lung cancer mortality risk among workers in the "5 B's": bars, bowling alleys, billiard halls, betting establishments, and bingo parlors
BMJ Tobacco Control June 2003 Conclusion: Workers in the 5 B's have high levels of occupational exposure to secondhand smoke and must be included in workplace smoking regulations.

Exposure of hospitality workers to environmental tobacco smoke *BMJ Tobacco Control* February 2002 Conclusion: Overall, there was a clear association between within-shift cotinine concentration change and smoking policy. Workers in premises permitting customer smoking reported a higher prevalence of respiratory and irritation symptoms than workers in smokefree workplaces. Concentrations of salivary cotinine found in exposed workers in this study have been associated with substantial involuntary risks for cancer and heart disease.

Bartenders' Respiratory Health After Establishment of Smoke-Free Bars and Taverns
BMJ Tobacco Control December 1998 Conclusion: Establishment of smoke-free bars and taverns was associated with a rapid improvement of respiratory health.

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Ventilation cannot control exposure to second-hand smoke February 2007

U.S. SURGEON GENERAL: VENTILATION SYSTEMS CANNOT CONTROL EXPOSURE TO SECOND-HAND SMOKE June 2006 report conclusions:

1. "Current heating, ventilation and air conditioning systems alone cannot control exposure to second-hand smoke." (chapter 3, page 92)
2. "Establishing smoke-free workplaces is the only effective way to ensure that secondhand smoke exposure does not occur in the workplace." (chapter 10. page 649)
3. "Exposures of nonsmokers to secondhand smoke cannot be controlled by air cleaning or mechanical air exchange." (chapter 10, page 649)
4. "On the basis of this review, it is clear that banning smoking from the workplace is the only effective way to ensure that exposures are not occurring. Despite reductions in workplace smoking, significant worker safety issues remain that only smoking bans can address." (chapter 10, page 650)
http://surgeongeneral.gov/library/secondhandsmoke/report/

American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc., position document approved by ASHRAE Board of Directors June 30, 2005

- Executive summary concludes: At present, the only means of effectively eliminating health risk associated with indoor ETS exposure is to ban smoking activity.

New Jersey Air Monitoring Study 2006, Effect of the NJ Smoke-Free Air Act, Roswell Park Cancer Institute and New Jersey GASP, November 2006

- Executive summary concludes: Casinos are a source of high concentrations of secondhand smoke for nonsmoking workers and the public. Possible solutions to the on-going air pollution problem in New Jersey casinos include casinos adopting smokefree policies, enacting state or local legislation to make casinos smokefree, and litigation forcing casinos to provide smokefree air.

Indoor Air Quality and The Gaming Industry, American Gaming Association 10th Anniversary White Paper Series June 2006

- Note to the Reader: While the gaming industry has actively worked to improve indoor air quality by installing state-of-the-art ventilation systems in newer and renovated properties, the report concludes that any exposure to secondhand smoke is dangerous, citing the inability of even the most advanced ventilation systems to mitigate the risks.

Analysis and comment, Blowing smoke: British American Tobacco's air filtration scheme *BMJ* January 2006, summary points:

- Ventilation and air filtration are ineffective at removing environmental tobacco smoke
- Despite this knowledge, BAT extensively promoted these technologies to the hospitality industry
- Internal documents show such strategies were viewed as viable solutions to circumvent smoking restrictions and gain global marketing opportunities
- A total ban on smoking in public places is the only way to protect all employees from environmental tobacco smoke

Rhode Island Casino Air Monitoring Study 2007

Air testing was conducted by New Jersey GASP and Roswell Park Cancer Institute in casinos with designated smoking and nonsmoking areas. The smaller-concentrated smoking sections were more polluted than the smoking sections with more dispersed areas. In one casino the nonsmoking area ranged from 17% to 37% as polluted as the smoking section. In another casino, the nonsmoking area was 39% as polluted as the smoking section.

Indoor Air Quality and the Gaming Industry

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Note to the Reader

Just as this paper was going to press, Richard Carmona, the U.S. surgeon general, published the latest in a series of studies on the health effects of secondhand smoke. Released June 30, 2006, *The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General,* details the U.S. government's most comprehensive statement on secondhand smoke to date.

According to the report, the only way to adequately protect people from the extreme risks of secondhand smoke is to make indoor spaces smoke-free. While the gaming industry has actively worked to improve indoor air quality by installing state-of-the-art ventilation systems in newer and renovated properties, the report concludes that any exposure to secondhand smoke is dangerous, citing the inability of even the most advanced ventilation systems to mitigate the risks.

"Restrictions on smoking can control exposures effectively, but technical approaches involving air cleaning or a greater exchange of indoor with outdoor air cannot," the report says.

According to the report, nearly half of nonsmoking Americans are exposed to dangerous levels of secondhand smoke, and the chance of a non-smoker developing heart disease or lung cancer is increased by nearly 30 percent with exposure to smoke.

The report does not offer any new data, but provides an analysis of what Carmona terms the best available research on the topic. Carmona commends the number of state and local mandates calling for smoke-free buildings across the country, indicating they are a great success for public health.

While gaming facilities thus far have been exempt from recently enacted smoking bans in New Jersey and Colorado, anti-smoking groups in each state continue to fight the exemptions and in some cases have filed legal action. According to experts, the surgeon general's report will bolster efforts toward tougher smoking restrictions in the states and jurisdictions still considering bans.

The main body of this paper has not been amended to reflect the new information in the report, but there is no doubt the surgeon general's warning will strengthen the efforts of those working for comprehensive smoking bans across the country. The release of the report reinforces the contention of this paper that the gaming industry must make the development of an industrywide approach to indoor air quality a primary concern, and suggests the industry may need to develop even more stringent IAQ controls than are suggested here.

While the gaming industry has actively worked to improve indoor air quality by installing state-of-the-art ventilation systems in newer and renovated properties, the report concludes that any exposure to secondhand smoke is dangerous, citing the inability of even the most advanced ventilation systems to mitigate the risks.

SUNHERALD.com

Posted on Wed, Nov. 01, 2006

Study: New ventilation systems don't clear smoke as touted

LINDA A. JOHNSON
Associated Press

TRENTON, N.J. - State-of-the-art ventilation systems used to clear cigarette smoke from bars and restaurants don't eliminate dangerous soot and carcinogens and can push their levels higher in nonsmoking sections than in smoking areas, researchers concluded.

Next week, Ohio, Arizona and Nevada voters face ballot initiatives to ban smoking in public places, along with alternatives supported by the R.J. Reynolds Tobacco Co. to exempt bars, casinos or other adult venues.

Two Mesa, Ariz., restaurants that had claimed their ventilation systems would comply with that city's smoke-free restaurant law were included in the study, published Tuesday by an engineering journal and funded by the Robert Wood Johnson Foundation of Plainsboro, N.J., a major health care philanthropy.

But contaminants monitored in the restaurants' nonsmoking sections were higher than in their bars and many times worse than outdoor air, said lead researcher James Repace, a secondhand smoke expert and visiting professor at Tufts University School of Medicine. He said kitchen smells throughout the restaurants and other evidence showed the complex, difficult-to-maintain ventilation systems were not working properly.

Unlike older ventilation systems that mainly dilute smoky air with fresh air, displacement systems use cooler air, ideally pumped in at floor level, to force hot, smoky air up to ceiling ducts.

"They've been heavily promoted by the tobacco industry" and the casino industry as a way to accommodate both smokers and nonsmokers, Repace said.

"I don't think it is possible for somebody to come up with a system that works," he said. "You'd need tornado-like ventilation."

In one Mesa restaurant, the average evening level of soot - inhalable particles that raise risk of heart and lung disease - was three times higher in the nonsmoking section than in the smoking bar. The level of polycyclic aromatic hydrocarbons, cancer-causing chemicals in tobacco smoke, was 50 percent higher than in the bar.

A 1999 Finnish study of four restaurants with older ventilation systems had similar results, Repace noted.

A third restaurant he tested in Toronto had soot and carcinogen levels in its nonsmoking section much lower than in the bar area, but the bar had much higher contaminant levels than six smoking bars with old-style ventilation previously tested by Repace. After the restaurant banned smoking entirely, a re-test found carcinogen levels throughout had dropped to the outdoor level and soot levels fell sharply.

"They demonstrate that these systems do not seem to be effective in controlling contaminants in the nonsmoking section," said Patrick Breysse, an environmental health sciences professor at Johns Hopkins Bloomberg School of Public Health.

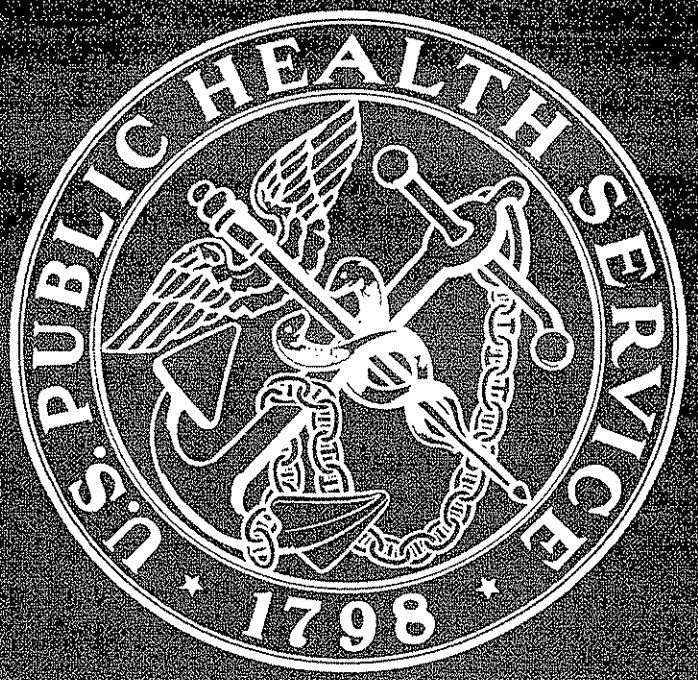
He said the number of sites tested was small and there's been little research on ventilation systems, but other studies show being in a nonsmoking section doesn't protect people from nearby smoke.

Gil Cormier, chairman of American Industrial Hygiene Association's indoor air quality committee, agreed with the study's conclusions.

"Ventilation systems over time degrade" and stop functioning as designed, he said, adding that people walking from smoking to nonsmoking areas, or opening doors and windows, shift smoke around.

The Health Consequences of Involuntary Exposure to Tobacco Smoke

A Report of the Surgeon General



Department of Health and Human Services

Chapter 10
Control of Secondhand Smoke Exposure

the hospitality industry after the law took effect. The authors concluded that they were not able to detect a significant negative effect of the state law on sales and employment in the leisure and hospitality industry. The study analyzed sales data from restaurants, lunchrooms, and catering services separately from sales data for taverns, night clubs, and bars, thus addressing a concern that analyzing sales data from eating and drinking places combined could potentially blur differential impacts on these sectors. Interestingly, the study found that the fraction of retail sales for restaurants, lunchrooms, and catering services (which were covered by the law) increased following implementation of the law, but the corresponding fraction did not increase for taverns, night clubs, and bars (which were not covered by the law). These findings suggest that there was no shift in patronage from hospitality venues that were required to be smoke-free to hospitality venues where smoking was still allowed.

Few studies have examined the impact of smoking restrictions on gaming venues (such as casinos), which may be due in part to the fact that, until recently, few gaming venues in the United States have been included in governmental smoking restrictions; some venues have implemented significant voluntary smoking policies of their own. A linear regression analysis of the economic impact of a comprehensive state smoke-free law on casinos in Delaware that drew on revenue data from the Delaware Video Lottery found that the law had no significant effect either on total revenues ($p = 0.126$) or the average revenue per video lottery terminal ($p = 0.314$) (Mandel et al. 2005). The study controlled for economic activity and seasonal effects. In another study, researchers analyzed financial information reported to the State Lottery Commission. Local ordinances in Massachusetts that made charitable bingo venues smoke-free did not appear to negatively affect the profits from those venues (Glantz and Wilson-Loots 2003).

Discrepancies between economic impact studies of clean indoor air laws conducted either by the tobacco industry or by non-industry–supported scientists can be traced in part to variations in the types of data analyzed. Studies commissioned by or for the tobacco industry to assess the economic impact of smoke-free restaurant and bar regulations have generally relied on proprietor predictions or estimates of changes in sales, rather than on actual sales or revenue data. Such estimates are subject to significant reporting bias and are viewed with skepticism because they do not constitute empirical data. Scollo and colleagues (2003) investigated the possible causes of these discrepancies by examining the quality of studies on

economic effects of smoke-free policies. Studies showing a negative economic impact that was attributed to clean indoor air laws were 4 times more likely to have used a subjective outcome measure and 20 times more likely not to have been subject to peer review than studies that found no adverse economic impact. All of the studies that found a negative economic impact were supported by the tobacco industry (Scollo et al. 2003). No peer-reviewed study using objective indicators such as sales tax revenues and employment levels found an adverse economic impact of smoke-free laws on restaurants and bars.

In assessing the economic impact of smoke-free policies and laws, their beneficial effect in reducing health care costs must also be weighed. One study using a simulation model projected that implementation of smoke-free policies in all U.S. workplaces would result in 1.3 million smokers quitting, 950 million fewer cigarette packs being smoked, 1,540 myocardial infarctions and 360 strokes being averted, and $49 million in direct medical cost savings being realized, all within the first year (Ong and Glantz 2004). The number of acute health events averted and the costs saved would increase over time. The model took into account both the impact of smokers quitting and the impact of the elimination of workplace secondhand smoke exposure among nonsmoking employees, with reduced secondhand smoke exposure accounting for 59 percent of the averted myocardial infarctions and 50 percent of the cost savings from averted myocardial infarctions during the first year (Ong and Glantz 2004).

The 2005 *Guide to Community Preventive Services* concluded that "we found no adverse impacts on business or tourism as a result of these policies" (Task Force on Community Preventive Services 2005, p. 49). Recently, some business organizations have come to the conclusion that smoke-free policies and laws can actually have a positive economic impact, as reflected not only in increased productivity and savings in employee health care costs, other insurance costs, and cleaning and maintenance costs, but also in the image and business climate of a community. For example, the Chamber of Commerce in Louisville, Kentucky, recently came out in support of a proposed municipal smoke-free ordinance. The president of the Chamber explained that "We believe that this piece of legislation ... has reasonable controls and is responsible in terms of really making a difference in the community and ultimately helping us reach our vision of becoming an economic hot spot" (Gerth 2005). "We would generally be in favor of less regulation," said Carmen Hickerson, a spokeswoman. "But quality-of-life issues

Only 100% smoke-free environments adequately protect from dangers of second-hand smoke

New WHO policy recommendations point to extensive evidence

29 MAY 2007 | GENEVA -- The World Health Organization (WHO) signalled the urgent need for countries to make all indoor public places and workplaces 100% smoke-free with the release of its new policy recommendations on protection from exposure to second-hand tobacco smoke in advance of World No Tobacco Day (31 May), which focuses this year on this theme.

"The evidence is clear, there is no safe level of exposure to second-hand tobacco smoke," said the WHO Director-General Dr Margaret Chan. "Many countries have already taken action. I urge all countries that have not yet done so to take this immediate and important step to protect the health of all by passing laws requiring all indoor workplaces and public places to be 100% smoke-free."

There are about 4000 known chemicals in tobacco smoke; more than 50 of them are known to cause cancer. Exposure to second-hand smoke causes heart disease and many serious respiratory and cardiovascular diseases that can lead to premature death in adults. It also causes diseases and worsens existing conditions, such as asthma, in children. The new WHO policy recommendations are based on the evidence of three recent major reports, which all reached the same conclusion: *Monograph 83 Tobacco Smoke and Involuntary Smoking* by the International Agency for Research on Cancer (IARC), the United States Surgeon General's Report on *The Health Consequences of Involuntary Exposure to Tobacco Smoke* and the California Environmental Protection Agency's *Proposed Identification of Environmental Tobacco Smoke as a Toxic Air Contaminant.*

Exposure to second-hand smoke occurs anywhere smoking is permitted: homes, workplaces and other public places. An estimated 200 000 workers die each year due to exposure to smoke at work. WHO estimates that around 700 million children, or almost half of the world's children, breathe air polluted by tobacco smoke, particularly at home.

The Global Youth Tobacco Survey, developed by WHO and the United States Centers for Disease Control and Prevention (CDC), interviewed students between 13 and 15 years old in 132 countries between 1999 and 2005. The results of the survey show that 43.9% of the students are exposed to second-hand tobacco smoke at home, while 55.8% are exposed to smoke in public places. Support for smoking bans in public places is global, with 76.1% of the students surveyed in favour.

The costs of second-hand smoke are not limited to the burden of disease. Exposure also imposes economic costs on individuals, businesses and society as a whole. These include primarily direct and indirect medical costs, but also productivity losses. In addition, workplaces where smoking is permitted incur higher renovation and cleaning costs, and increased risk of fire, and may experience higher insurance premiums.

Later this year, countries participating in the second Conference of the Parties to the WHO Framework Convention on Tobacco Control are expected to discuss guidelines for protection against exposure to second-hand tobacco smoke. The second Conference of the Parties, starts on June 30 in Bangkok, Thailand.

"This topic should matter to everyone, because everyone benefits from smoke-free places," said Dr Douglas Bettcher, Acting Director of the WHO Tobacco Free Initiative. "With this year's theme, we hope that everyone, especially policy makers and employers, will be inspired to claim, create and enjoy spaces that are 100% free from tobacco smoke. By doing so, we keep the bodies inside those spaces smoke-free too, and greatly increase our effectiveness in preventing serious diseases and saving lives in future generations."

Organizations, institutions and communities around the world celebrate World No Tobacco Day with different activities, for example marches, educational meetings and smoking cessation workshops, to raise awareness of the lethal health consequences of tobacco use and exposure to second-hand smoke. The day is also used to mark the beginning of extended media and advocacy campaigns or to introduce lasting policy changes, such as making public and workplaces 100% smoke-free.

Tobacco use is the leading preventable cause of death globally, causing more than five million deaths a year. Tobacco use continues to expand most rapidly in the developing world, where currently half of tobacco-related deaths occur. By 2030, if current trends continue, 8 out of every 10 tobacco-related deaths will be in the developing world.

For further information, please contact:

Where federal authorities have limited jurisdiction to restrict smoking, national governments should provide technical, financial and administrative support to state/provincial and municipal jurisdictions to pass smoke-free legislation, as provided for in Article 8.2 of the WHO FCTC.

Anticipate the opposition

Successful campaigns to implement smoke-free laws must anticipate the industry's arguments and tactics along with those of its allies and be prepared to counter them. Most opposition tactics and arguments are predictable:

- The tobacco industry will claim that smoke-free laws are not necessary, not feasible, will have a negative impact on business (particularly restaurants, bars and casinos), and that ventilation is an acceptable alternative. These claims are unproven and should not be factored into policy-making decisions. The evidence, based on the experience of hundreds of jurisdictions, shows exactly the opposite: smoke-free laws are popular, enforceable and have no effect or have a positive impact on business (except, of course, the tobacco business, which loses sales because smoke-free environments make it easier for smokers who wish to cut down or quit to do so). Policy-makers and advocates should familiarize themselves with this evidence and promote it to counter the opposition's arguments, examples of which are found throughout this publication and in Appendix 4 in Section VI.

Smoke-free laws will reduce business in the hospitality sector and harm tourism.

The impact of smoke-free legislation on employment and business has been studied in dozens of jurisdictions. Not a single study using objective data and sound research methodology has found an overall negative impact of smoke-free legislation association.[45, 153] The effects are uniformly neutral or positive, with little short-term effect on the hospitality business and some positive effects in the long-term as non-smokers start going to bars and other venues that they once avoided because of second-hand smoke.

Studies quoted by opposition groups indicating dire economic effects from smoke-free laws normally rely on subjective data or do not evaluate objective data with acceptable scientific methods. Data may also be reported out of context. For example, opponents of Ireland's smoke-free law noted that receipts for beer and spirits in pubs declined following implementation of the law. What they failed to mention is that this trend began before the law came into effect, and did not worsen as a result of the law.[154]

Tobacco industry front groups have released many studies presenting as data the predictions or opinions of a select group of bar owners. These predictions always turn out to be wrong, as the tobacco industry itself has admitted (Figs. 3, 4).

Some places have promoted smoke-free environments in their tourism campaigns, recognizing that many visitors will value the opportunity to enjoy entertainment without tobacco smoke (Fig. 5).

BMC Public Health

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Health impacts of exposure to second hand smoke (SHS) amongst a highly exposed workforce: survey of London casino workers

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Abstract

Background: Casino workers are exposed to high levels of secondhand smoke (SHS) at work, yet remain at risk of being excluded from smoke-free legislation around the world. If the prime motivation for smoke-free legislation is the protection of workers, then a workforce experiencing ill-health associated with SHS exposure should not be excluded from legislation. This study aimed to determine the prevalence of respiratory and sensory irritation symptoms among a sample of casino workers, to identify any association between the reporting of symptoms and exposure to SHS at work, and to compare the prevalence of symptoms with that in other workers exposed to SHS.

Methods: A postal questionnaire survey of 1568 casino workers in London. Using multivariate analysis we identified predictors of respiratory and sensory irritation symptoms.

Results: 559 workers responded to the questionnaire (response of 36%). 91% of casino workers reported the presence of one or more sensory irritation symptoms in the previous four weeks, while the figure was 84% for respiratory symptoms. The presence of one or more sensory irritation symptoms was most strongly associated with reporting the highest exposure to SHS at work (OR 3.26; 1.72, 6.16). This was also true for reporting the presence of one or more respiratory irritation symptoms (OR 2.24; 1.34, 3.74). Prevalence of irritation symptoms in the casino workers was in general appreciably higher than that reported in studies of bar workers.

Conclusion: Our research supports the need for comprehensive smoke-free legislation around the world, covering all indoor workplaces including casinos.

Background

In recent years, following conclusions from authoritative groups that second hand smoke (SHS) is harmful to health, policy makers around the world have increasingly sought to remove it from workplaces through smoke-free legislation [1-3]. The prime motivation for this policy move is the protection of workers from the negative health effects of SHS. However, those workers most exposed to SHS are often most at risk of remaining unprotected from smoke-free legislation. For instance, exemptions are often sought for the hospitality and gaming sectors, on the basis that trade will suffer because smokers will no longer visit these premises if they cannot smoke [4,5]. This is despite evidence that the introduction of

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New Research in *AJPH* on Secondhand Smoke in Bars and Restaurants Discovers Nonsmoking Workers Immediately Absorb Potent Carcinogen

Legal Paper in AJPH *Confirms Legal Liability to Employers of Workplace Smoke*

Washington, DC (June 28, 2007)— Offering alarming new evidence on the dangers of permitting smoking in the workplace, scientists have found that nonsmoking restaurant and bar employees absorb a potent carcinogen—not considered safe at any level—while working in places where they had to breathe tobacco smoke from customers and co-workers. The carcinogen, NNK, is found in the body only as a result of using tobacco or breathing secondhand smoke.

In a study to be published in the August 2007 edition of the *American Journal of Public Health*, investigators at the Multnomah County Health Department and Oregon Department of Human Services report that elevated levels of NNK showed up in the urine of nonsmoking employees shortly after they encountered secondhand smoke during their shifts. Moreover, levels of NNK, which is known to cause lung cancer, increased by 6 percent for each hour of work.

"This is the first study to show increases in NNK as a result of a brief workplace exposure, and that levels of this powerful carcinogen continue to increase the longer the person works in a place where smoking is permitted. NNK is a major cancer causing agent from tobacco products—and workers should not have to be exposed to any dose of this very dangerous chemical," said Michael Stark, PhD, of the Multnomah County Health Department and the study's lead author. "The science shows that the threat of disease from secondhand smoke is no longer a distant threat. The amount of this carcinogen increases even within a single work shift."

In a related study in the same issue of the Journal, experts in public health law note that across the country employers already are being held legally liable for exposing workers to secondhand smoke, even if state or local laws permit workplace smoking. They warn that as scientists continue to provide evidence of harm, employers could soon face a clear choice: either voluntarily ban smoking in their workplace or face an increasing wave of costly legal actions.

"When employers who allow smoking have scientists telling them that as soon as workers get on the job, they're breathing in some of the most dangerous carcinogens around, it's time to think about whether they want to deal with that kind of liability," said Marice Ashe with the Public Health Law Program at the Public Health Institute in Oakland, CA. and the lead author of the legal analysis. "The science is making it easier and easier to persuade courts to sanction employers who continue to allow smoking."

A National Program supported by The Robert Wood Johnson Foundation
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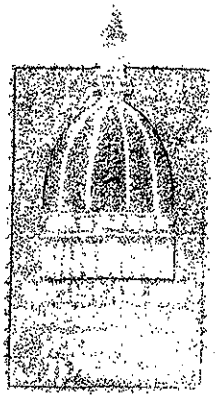

FYI

A service of
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SEATTLE POST-INTELLIGENCER
http://seattlepi.nwsource.com/national/1501ap_casino_smoke.html

Monday, May 15, 2006 · Last updated 5:23 p.m. PT

Nev. study links casino smoke, DNA damage

THE ASSOCIATED PRESS

RENO, Nev. -- Five years of research led by a University of Nevada, Reno department head in Reno and Las Vegas casinos have concluded there is a direct correlation between exposure to secondhand smoke in the workplace and damage to the employees' DNA.

"The more they were exposed to environmental tobacco smoke, the more the DNA damage, and that's going to lead to a higher risk of heart disease and cancer down the road," said Chris Pritsos.

Funded by a $2.5 million grant from the National Institutes of Health, the clinical trial followed 125 employees who work on the gambling floors of casinos in both northern and southern Nevada.

The subjects of the study were nonsmokers who were not exposed to secondhand smoke in their households, said Pritsos, chairman of the nutrition department at UNR.

"This is the first major study ever done looking at exposure to environmental tobacco smoke in the work force," Pritsos said. He added that casino floor workers are exposed to four times the amount of secondhand cigarette and cigar smoke than any other work force population.

Several Reno area casino executives who were asked by the Reno Gazette-Journal to respond to the study's findings did not return telephone calls.

Frank J. Fahrenkopf, president and chief executive officer of the American Gaming Association, said the smoking issue is a balancing act for casinos.

"In our industry, we realize we have customers who want to smoke, and that's a fact of life," he said. "Our No. 1 priority is the health and welfare of both our customers and our employees, and secondhand smoke poses a real issue for us."

Casinos put a lot of money into air conditioning and ventilation systems to try to accommodate smokers and nonsmokers, Fahrenkopf said.

"Any new major hotel-casino in Nevada is going to have the utmost cutting-edge technology designed to drag that smoke out of there so our employees and nonsmoking customers are not affected," he said. "No system is perfect yet, but we continue as an industry to work on it."

Alex Goldstein, a tourist visiting Reno from San Francisco, said he recently became a nonsmoker but doesn't support banning smoking in all public areas, as Scotland and Ireland have done. "It's a tough issue because smoking kind of infringes on other people's rights," Goldstein said.

Diana Woodbury, a violinist and dancer, won't perform in casinos or other venues that allow smoking.

"It would kill me," said Woodbury, who lives in South Lake Tahoe. "I have asthma and bronchitis, and when I get around smoke, I get pains in my chest."

Even though most casino showrooms no longer allow smoking, Woodbury said the smoke that wafts in from the main casino floor is enough to make her ill. "If I walk past a smoker, within minutes, I can't breathe. I have to use an inhaler," she said.

Woodbury is adamant in her view about the dangers of secondhand smoke. "For every eight smokers that die of smoking, they take one nonsmoker with them. Innocent victims like Dana Reeve," she said.

The widow of the late actor and quadriplegic Christopher Reeve died in March of lung cancer.

"She used to perform in smoky nightclubs and now she's dead," Woodbury said. "Only 44 years old, the same age I am."

The Nevada State Health Division said there are no data available on the number of deaths in the state caused by secondhand smoke.

This year, a secondhand smoke case filed by the widow of a nonsmoker who died at the age of 40 was settled in her favor Jan. 16, 10 years after Larry Ray Thaxton died of lung cancer.

A lifelong nonsmoker, Thaxton worked for the Norfolk Southern Railroad in an outdoor job. Thaxton complained about his constant exposure to co-workers' secondhand tobacco smoke in the bunk cars where he lived during the work week.

The expert witness in the case was James Repace, a physicist who will be helping Pritsos write a scientific paper on the results of the UNR professor's study on the effects of secondhand smoke on casino workers.

"Repace will be doing an analysis of our data in terms of air quality and the environmental tobacco smoke the participants of the study were exposed to," Pritsos said.

The paper first has to undergo a peer review, but Pritsos hopes to submit it for publication by the Journal of the American Medical Association later this year. A preliminary paper based on the results of 50 of the 125 subjects in Pritsos' clinical trial was published last December in Toxicology Letters.

Environmental Tobacco Smoke and Risk of Spontaneous Abortion.

Original Article

Epidemiology. 17(5):500-505, September 2006.
*George, Lena *; Granath, Fredrik +; Johansson, Anna L. V. *; Anneren, Goran ++; Cnattingius, Sven **

Abstract:
Background: Studies of exposure to environmental tobacco smoke (ETS) and risk of spontaneous abortion are limited to a few studies of self-reported exposure, and the results have been inconsistent. The aim of this study was to investigate risk of early spontaneous abortion related to ETS and active smoking as defined by plasma cotinine levels.

Methods: We conducted a population-based case-control study in Uppsala County, Sweden, between January 1996 and December 1998. Cases were 463 women with spontaneous abortion at 6 to 12 completed weeks of gestation, and controls were 864 pregnant women matched to cases according to the week of gestation. Exposure status was defined by plasma cotinine concentrations: nonexposed, <0.1 ng/mL; ETS-exposed, 0.1-15 ng/mL; and exposed to active smoking, >15 ng/mL. Multivariable analysis was used to estimate the relative risk of spontaneous abortion associated with exposure to ETS and active smoking.

Results: Nineteen percent of controls and 24% of cases were classified as having been exposed to ETS. Compared with nonexposed women, risk of spontaneous abortion was increased among both ETS-exposed women (adjusted odds ratio = 1.67; 95% confidence interval = 1.17-2.38) and active smokers (2.11; 1.36-3.27). We could not show a differential effect of exposure to ETS or active smoking between normal and abnormal fetal karyotype abortions.

Conclusions: Nonsmoking pregnant women exposed to ETS may be at increased risk of spontaneous abortion. Given the high prevalence of ETS exposure, the public health consequences of passive smoking regarding early fetal loss may be substantial.

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DANGERS OF SMOKING NEAR PORTABLE OXYGEN TANKS

October 2006

Patrons that use portable oxygen tanks are a frequent sighting at casino settings, including gaming areas where smoking is permitted. Allowing smoking on a gaming floor where portable oxygen tanks are used creates the risk of a dangerous condition to the smoker near the oxygen tank user, the oxygen tank user, and any passer by.

When discussing the issue of smoking on casino floors, this safety hazard should not be overlooked, especially since many senior citizens carry portable oxygen machines, as do other patrons with breathing disabilities.

FACT SHEET

I. National Fire Prevention Association Precautions

The National Fire Prevention Association (NFPA) recommends that smoking should not be allowed in a home where oxygen is in use, and encourages smokers to smoke outside. Source: http://www.nfpa.org/itemDetail.asp?categoryID=294&itemID=19303&URL=Research%20&%20Reports/Fact%20sheets/Home%20safety/Smoking%20material-related%20fires (updated January 2005).

The NFPA states that smoking materials (cigarettes, cigars, pipes, etc.) are the leading cause of fire deaths in the United States. Roughly one of every four fire deaths in 2001 was attributed to smoking materials. Source: NFPA's *The Smoking-Material Fire Problem*, November 2004, by John R. Hall, Jr.

II. FDA Precautions

"My experience has been that smoking around oxygen may cause fires," says Duane Sylvia, a consumer safety officer in the Food and Drug Administration's Center for Drug Evaluation and Research. "Smoking anywhere near oxygen, even in the same room, can be extremely dangerous." The FDA regulates medical gases, such as oxygen, as prescription drugs, and regulates the related delivery hardware, such as concentrators, tubing, and regulators, as medical devices. Source: FDA Consumer magazine, July-August 2000.

III. Home Oxygen Therapy Usage Precautions

The Cleveland Clinic Health System provides precautions when using portable oxygen, if the user is near a combustion source. Their website expressly states the following:

"Do not smoke nor allow others to smoke in the same room as your oxygen system. Cigarette smoking is very dangerous; sparks from a lighted cigarette could cause facial burns."

"Is home oxygen therapy safe?
Yes. Oxygen is a safe gas as long as it is used properly. Contrary to what most people believe, oxygen will not explode. Oxygen does, however, support combustion. Therefore, any material that is already burning will burn much faster and hotter in an oxygen-enriched atmosphere. It is very important to follow these precautions so that you and your family are safe when you are using your oxygen.

Oxygen use precautions

1. Stay at least six feet away from any open flame or heat source (candles, gas stove, etc.) when you are using your oxygen system. If you must cook while using oxygen, make sure your tubing will not touch the gas flame or electric burner (tuck the tubing in your shirt or position it behind you).
2. Do not store your oxygen system near any heat sources or open flames.
3. Do not smoke nor allow others to smoke in the same room as your oxygen system. Cigarette smoking is very dangerous; sparks from a lighted cigarette could cause facial burns.
4. Post "No Smoking" signs in the room where your oxygen is kept.
5. Keep the oxygen system away from aerosol cans or sprays, including air fresheners or hair spray. These products are very flammable.

Do not use cleaning products or other products containing grease or oils, petroleum jelly, alcohol or flammable liquids on or near your oxygen system. These substances cause oxygen to be flammable."

Source: http://www.ccbs.net/health/health-info/docs/2400/2412.asp?index=8707

Dec. 04, 2007

Man, woman seriously burned in fire

Cigarette sparks oxygen tank blaze; clothes melt to his body

By BRIAN HAYNES
REVIEW-JOURNAL

A man and woman were seriously burned Monday morning when the woman's cigarette sparked a fire with her oxygen tank, a spokesman for the Clark County Fire Department said.

The woman suffered burns to her face and the man suffered significant burns over a large part of his body in the blaze, which started about 6 a.m. in a house on the east side of the valley, Fire Department spokesman Scott Allison said. Both were taken to University Medical Center.

Flames were shooting from the front door and window when firefighters pulled up to the house on the 3100 block of Palmdale Street, near Lamb Boulevard and Desert Inn Road. The house was filled with furniture and other belongings that fueled the flames, Allison said.

Investigators believe the man, whose clothes melted to his body, was in another part of the house when the fire started and was burned either trying to put out the fire or was burned by a fireball from an exploding oxygen tank, Allison said.

He went to a neighbor's house to get help.

The neighbor has "known him for years, and he said the guy was so badly burned he didn't recognize him," Allison said.

Investigators weren't sure how the woman got out of the house. She told firefighters she was smoking while taking oxygen when the fire started, he said.

The fire was the third in two weeks involving cigarettes and oxygen tanks.

In one of those cases, a man died Friday morning after his apartment on Charleston Boulevard near Interstate 15 was gutted by a fire.

Firefighters put out heavy flames before finding the man's charred body in the bed of his studio apartment. The remains of an exploded oxygen tank were found on the bed, and nearby residents told investigators that the man had a history of smoking while using his oxygen, a fire official said.

On Thanksgiving, firefighters responded to a fire caused by a person smoking near an oxygen tank on the city's east side.

No one was seriously injured in that incident.

AMERICANS for NONSMOKERS' RIGHTS

Business Costs In Smoke-filled Environments

PDF Format

August 2006

The U.S. Surgeon General has concluded that adopting smokefree workplace policies is a wise business decision. The results of all credible peer-reviewed studies show that smokefree policies and regulations do not have a negative impact on business revenues. Establishing smokefree workplaces is the simplest and most cost effective way to improve worker and business health.[1]

PROFITABILITY

- The Society of Actuaries has determined that secondhand smoke costs the U.S. economy roughly $10 billion a year: $5 billion in estimated medical costs associated with secondhand smoke exposure, and another $4.6 billion in lost wages. This estimate does not include youth exposure to secondhand smoke.[2]
- If all workplaces were to implement 100% smokefree policies, the reduction in heart attack rates due to exposure to secondhand smoke would save the United States $49 million in direct medical savings within the first year alone. Savings would increase over time.[3]
- Smokefree laws add value to establishments. Restaurants in smokefree cities have a higher market value at resale (an average of 16% higher) than comparable restaurants located in smoke-filled cities.[4]

ABSENTEEISM AND LOST PRODUCTIVITY

- The U.S. Surgeon General has concluded that smokefree workplace policies lead to less smoking among workers and the elimination of secondhand smoke exposure, thus creating a healthier workforce.
- Cigarette smoking and secondhand smoke cost $92 billion in productivity losses annually, according to the U.S. Centers of Disease Control and Prevention.[5]
- Smokers, on average, miss 6.16 days of work per year due to sickness (including smoking related acute and chronic conditions), compared to nonsmokers, who miss 3.86 days of work per year.[6]
- In a study of health care utilization in 20,831 employees of a single, large employer, employees who smoked had more hospital admissions per 1,000 (124 vs. 76), had a longer average length of stay (6.47 vs. 5.03 days), and made six more visits to health care facilities per year than nonsmoking employees.[7]
- A national study based on American Productivity Audit data of the U.S. workforce found that tobacco use was one of the greatest variables observed when determining worker lost production time (LPT)-greater than alcohol consumption, family emergencies, age, or education. The study reported that LPT increased in relation to the amount smoked; LPT estimates for workers who reported smoking one pack of cigarettes per day or more was 75% higher than that observed for nonsmoking and ex-smoking workers. In addition, employees who smoked had approximately two times more lost production time per week than workers who never smoked, a cost equivalent of roughly $27 billion in productivity losses for employers.[8]
- The U.S. Office of Technology Assessment estimated that in 1990 lost economic productivity from disability and premature mortality caused by smoking was $47 billion.[9]
- The U.S. Centers for Disease Control and Prevention (CDC) puts a $3,391 price tag on each employee who smokes: $1,760 in lost productivity and $1,623 in excess medical expenditures.[10] In addition, estimated costs associated with secondhand smoke's effects on nonsmokers can add up to $490 per smoker per year.[11,12]
- Smokefree air will save Scotland £4.2 billion ($7.9 billion) a year, according to a study conducted by Aberdeen University, assessing the costs and savings involved in the Scottish Executive's proposed bill that would make most enclosed public places in the country 100% smokefree. The report estimates that £1.9 billion ($3.9 billion) of the savings would be in productivity gains, reduced sickness absences, savings on National Health Service treatment and reduced cleaning and decorating costs.[13]

MAINTENANCE

- The U.S. Environmental Protection Agency (EPA) estimates that smokefree restaurants can expect to save about $190 per 1,000 square feet each year in lower cleaning and maintenance costs.[14] The EPA also estimates a savings of $4 billion to $8 billion per year in building operations and maintenance costs if comprehensive smokefree indoor air policies are adopted nationwide.[15]
- The Organization for Economic Cooperation and Development estimates that construction and maintenance costs are seven percent higher in buildings that allow smoking than in buildings that are smokefree.[16]
- A 1993 survey of businesses conducted by the Building Owners and Management Association (BOMA) International found that the elimination of smoking from a building reduced cleaning expenses by an average of 10%. Smoking was also cited as the number one cause of fires on a BOMA fire safety survey.[17]
- The National Fire Protection Association found that in 1998 smoking materials caused 8,700 fires in non-residential structures resulting in a direct property damage of $60.5 million.[18]
- In a survey of cleaning and maintenance costs among 2,000 companies that adopted smokefree policies, 60 percent reported reduced expenditures.[19]
- After Unigard Insurance, near Seattle, Washington, went smokefree, its maintenance contractor voluntarily reduced its fee by $500 per month because the cleaning staff no longer had to dump and clean ashtrays, dust desks, or clean carpets as frequently.[20]
- Using U.S. Bureau of Economic Analysis data, it was determined that employees who smoke cost businesses in Marion County, Indiana, $260.1 million in increased health insurance premiums, lost productivity, and absenteeism, as well as additional recruitment and training costs resulting from premature retirement and deaths due to smoking.[21]
- At the Dollar Inn in Albuquerque, New Mexico, maintenance costs are 50 percent lower in nonsmoking rooms.[22]

- Merle Norman Cosmetics Company in Los Angeles voluntarily went smokefree and saved $13,500 the first year in reduced housekeeping costs.[23]

INSURANCE RATES

- The total property and contract loss due to fires caused by smoking materials was more than $10.6 million in 1996. The National Fire Protection Association reports $391 million in direct property damage for smoking related fires from 1993 to 1996. Landlords and restaurants with smokefree premises have negotiated lower fire and property insurance premiums.[24] Fire insurance is commonly reduced 25-30% in smokefree businesses.[25]
- The American Cancer Society reports that employees who smoke have an average insured payment for health care of $1,145, while nonsmoking employees average $762.[26]

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The Press of Atlantic City
Life, one page at a time

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Judge says secondhand smoke contributed to Claridge dealer's lung cancer

By REGINA SCHAFFER Staff Writer, 609-272-7211
(Published: February 13, 2008)

Kam Wong never smoked. Her husband didn't smoke.

As a dealer at the Baccarat and poker tables at Claridge Casino Hotel, however, Wong breathed in cigarette smoke throughout her late-night shifts. That, according to a state workers' compensation judge, was the cause behind her lung cancer.

In a preliminary ruling issued Monday, Judge Cosmo Giovinazzi found that 10 years of secondhand smoke exposure materially contributed to Wong's lung cancer, according to her attorney, Lawrence Mintz.

Wong, 57, worked in the Asian gaming area at Claridge in the 1990s as a dealer for baccarat, mini baccarat and pei gow poker games, Mintz said

Giovinazzi awarded Wong 60 percent partial disability, plus lost wages for the six-month period between her first and second lung surgeries, totalling about $150,000, Mintz said. New Jersey Manufacturers Insurance Company, which insured Claridge at the time, is also responsible for any future medical treatment that is related to Wong's work in the casino.

"This was a hard-fought case," Mintz said Tuesday. "It is slowly but surely becoming generally accepted that secondhand smoke is hazardous to your health."

Wong, who was born and raised in Canton City, China, and later worked in Macaw, China, moved to the United States in 1990 with her husband, Mintz said. She worked at Claridge for eight and a half years before she developed a persistent cough in 1998, Mintz said. A large tumor was discovered in her left lung, and half of the lung was removed in surgery. Upon returning to work six months later, the casino tried to assign Wong to a nonsmoking gaming table, Mintz said.

"But there was smoke all around her," Mintz said. "And high rollers were always allowed to smoke if they asked."

Within a year and a half after returning to work, Wong developed more symptoms. She ended up losing the entire left lung in 2000, and has been unable to work since.

"She never in her life was exposed to any tobacco products outside of work," Mintz said.

"She never smoked; her husband of many years never smoked; her family never smoked."

Mintz said Wong worked in the Asian gaming pit in the lower level of the casino, which has

low ceilings. Wong testified in July 2006 that six out of 10 people smoked in front of her and would exhale their smoke right in her face, Mintz said. Co-workers also smoked in front of her on their breaks, Mintz said.

Christopher Jonic, a spokesman for Harrahs Entertainment, said Tuesday that he cannot comment on pending litigation.

Thomas R. Hlawatsch, the attorney representing New Jersey Manufacturers Insurance Company, was not aware of Giovinazzi's ruling when contacted by a reporter Tuesday afternoon. He said he needs to look over the judge's decision before deciding whether or not to appeal.

Wong has since moved back to Macaw, China, and was unavailable for comment.

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Smoky bar triggered fatal asthma attack

First case of secondhand smoke causing an immediate death, study says

Reuters

updated 6:38 p.m. ET, Fri., Feb. 8, 2008

A woman in her late teens died from an acute asthma attack triggered by secondhand cigarette smoke shortly after arriving at her job as a waitress in a bar in Michigan, researchers reported on Friday.

They said it was the first reported case of an immediate death caused by secondhand smoke.

"She didn't have any other possible known causes of death," said Dr. Kenneth Rosenman, a Michigan State University professor who oversees three state public health surveillance systems.

Cigarette smoke is known to trigger acute asthma attacks.

"We know that particulate levels from secondhand cigarette smoke in bars like this reach sufficient levels to set off an asthma attack," Rosenman said.

He said the woman was a student who had a job at a fast-food restaurant, and worked a second job as a waitress at the bar. "She was perfectly fine when she went to work," Rosenman said in a telephone interview.

"After about 15 minutes, she had an acute asthma attack and collapsed on the floor. The autopsy clearly indicates she died from asthma," said Rosenman, who would not disclose the woman's name or the precise place and time of her death for privacy reasons.

Rosenman said the woman had asthma since age 2. Her asthma was poorly controlled. She had made four visits to her doctor in the year before her death for flare-ups, and had been treated in a hospital emergency department two to three times that year.

Although she had prescriptions for an assortment of drugs to prevent and treat asthma attacks, she was reported to only use them when she was having breathing difficulty.

On the evening of her death, she had no inhaler with her. When she became sick, she told the bar manager she needed to go to the hospital, then collapsed on the dance floor.

Bar patrons offered an inhaler and the woman tried to use it, but could not. Emergency response workers were unable to revive her and she died shortly thereafter.

Rosenman, who wrote about the case in the American Journal of Industrial Medicine, said 24 U.S. states prohibit smoking in public places such as bars. A number of other states, including Michigan, are considering it.

He said a smoking ban could prevent future deaths.

Secondhand smoke causes about 3,400 lung cancer deaths and 46,000 heart disease deaths in adult non-smokers in the United States each year, according to the American Lung Association.

"There are a lot of statistics out there about secondhand smoke. Here is a human face. She died acutely. It is a tragic death," Rosenman said.

The study was funded by the U.S. Centers for Disease Control and Prevention.

URL: http://www.msnbc.msn.com/id/23075001/from/ET/

Fatality Assessment and Control Evaluation (FACE) Program

Young Adult Female Waitress Died From an Asthma Attack While Working in a Bar

Michigan Case Report: 04MI223

Released: April 17, 2006
Corrected: August 08, 2007

Michigan Case Report

NIOSH FACE Home

State-based Case Reports

Michigan Case Reports

Summary

On May 1, 2004, a 19-year-old African-American female waitress working at a bar died from an asthma attack. The bar was divided into two separate areas, the bar area with limited seating and a room with a disc jockey (DJ) booth (See Figure 1). When the victim arrived at work at 9:45 p.m., she talked with the DJ who was setting up in the adjacent room, then walked about 25 feet to an open section of the bar. The bar owner stated she was not experiencing any difficulty breathing at this time. There were approximately 30 people in the bar area. No individuals were in the room with the DJ. According to the owner, the bar was not "overly smoky". Shortly after the victim went behind the bar, she grabbed the bar manager, saying she needed to get to the hospital and that she needed fresh air. The victim said she wished she had her inhaler with her. As the two walked out from behind the bar and toward the back door, the victim collapsed onto the dance floor. The bar patrons were asked if anyone had an inhaler. Someone did, and the victim attempted to use the inhaler, but was unable to do so. According to the bar manager, the inhaler mist came back into her face. Emergency Medical Service (EMS) was called and she was transported to a local hospital where she was declared dead 30 minutes from the time of the call to EMS.

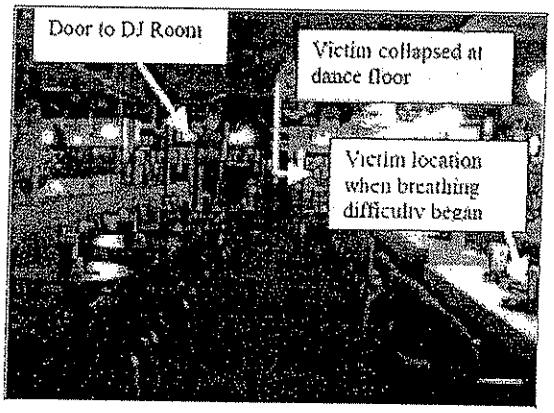


Figure 1. Bar where incident occurred.

Recommendations:

- To protect the health of employees, private business owners, including bar and restaurant owners, should consider prohibiting smoking within their establishments.
- Business owners should develop, implement and train employees in the business' emergency response plan.

Introduction

On May 1, 2004, a 19-year-old African-American female waitress working at a bar died from an asthma attack. MIFACE investigators were informed of this incident by a referral from an asthma study. On September 27, 2005, the MIFACE researcher talked with the owner of the bar where the victim worked and visited the incident scene. The bar owner permitted the MIFACE researcher to take pictures of the establishment. During the writing of this report, the death certificate and medical examiner death scene investigation report were obtained.

The bar has been in business for approximately three years and employs approximately 11 people. There were five employees on site at the time of the incident. The victim worked as a waitress and as a door monitor. She checked for age identification and took cover charges to enter the establishment. The bar served primarily alcohol and food snacks. The victim worked part-time, on an on-call basis to staff the 10:00 p.m. – 2:00 a.m. shift. The victim had been employed at this establishment for

AUSTIN-AMERICAN STATESMAN, Commentary

Ellis and Gottlieb: Texas Lottery Commission should clear the air

State Sen. Rodney Ellis and Mark Gottlieb, Special Contributors

Saturday, December 22, 2007

It's funny how social expectations change over time. Some years ago, if someone had a disability, there was no expectation that society had an obligation to not discriminate against that individual. People did not think that the failure to build wheelchair ramps or provide Braille on ATMs was even discrimination. Since 1992, the Americans with Disabilities Act (ADA) has provided civil rights to the disabled by prohibiting discrimination.

Likewise, 10 years ago, no state had initiated a comprehensive ban on smoking. Breathing other people's tobacco smoke at work was unpleasant, but widely accepted. By 2008, 22 states have adopted 100 percent smoke-free workplace laws, including bars.

These rapidly changing social and legal expectations have recently come before the Texas Lottery Commission. **Attorney General Greg Abbott issued an opinion in November concluding that the commission could be found in violation of the ADA if it denied meaningful access to people with disabilities. The opinion arose from a discrimination complaint by a Texan with severe asthma who suffered a serious attack after buying a lottery ticket where smoking was permitted.** Abbott's opinion addresses the asthmatic's complaint because there are many people with severe breathing limitations who can't buy a lottery ticket at smoky retailers the same way wheelchair-bound customers cannot without ramps.

The remedy that the ADA would provide is that the commission must make a "reasonable modification to policies, practices or procedures." By requiring retailers to sell tickets in a smoke-free environment, the commission would provide access to all those who have substantial breathing limitations. It would also protect nonsmokers from harm caused by exposure to tobacco smoke, among whom the most vulnerable are children who are often brought into smoke-filled convenience stores so that a parent can play the lottery.

Last year, the U.S. surgeon general and the American Academy of Pediatrics called for elimination of children's exposure to tobacco smoke. The surgeon general's report noted that secondhand smoke contains hundreds of chemicals known to be toxic or cancer-causing. The report concluded that there is no risk-free level of exposure to secondhand smoke.

Whenever smoking restrictions are proposed, business owners are naturally concerned about the impact on the bottom line. Peer-reviewed studies on smoking bans in workplaces, restaurants and bars, have found no negative economic impact. **The commission should not fear economic loss either; three of the 22 states that have 100 percent smoke-free workplace laws, including lottery sales locations, also report higher lottery profits than Texas.**

The agency faces a stark choice. It can take the high road and move to require its licensees to be smoke-free and provide the meaningful access required by the ADA. Or it can wait for judicial or legislative intervention that will, inevitably, lead to the same smoke-free policy.

Though there may be room to debate whether the lottery itself is a healthy endeavor, there is no debate that a smoke-free lottery sales policy providing access to people with disabilities and protecting the health of workers, customers and children is a winner.

Ellis, D-Houston, heads the Committee on Government Organization. Gottlieb is executive director of Northeastern University's Public Health Advocacy Institute.

http://www.statesman.com/opinion/content/editorial/stories/12/22/1222ellis_edit.html

ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

November 8, 2007

The Honorable Rodney Ellis
Chair, Committee on Government Organization
Texas State Senate
Post Office Box 12068
Austin, Texas 78711-2068

Opinion No. GA-0579

Re: Whether the Texas Lottery Commission violates the Americans with Disabilities Act if it fails to provide "meaningful access" to state services (RQ-0586-GA)

Dear Senator Ellis:

You ask whether the Texas Lottery Commission (the "Commission") violates the Federal Americans with Disabilities Act (the "ADA") if it fails to provide "meaningful access" to state services. (1)

I. Statutory and Regulatory Background

The ADA is a civil rights law prohibiting discrimination based on disability. *See generally* 42 U.S.C. §§ 12101-12213 (2000 & Supp. IV 2004). Title I of the ADA prohibits employment discrimination on the basis of a person's disability. *See id.* §§ 12111-12117; *see also* 29 C.F.R. pt. 1630 (2006) (rules promulgated by the Federal Equal Employment Opportunity Commission to enforce and implement title). Title II prohibits discrimination against disabled persons by public entities. *See* 42 U.S.C. §§ 12131-12165 (2000 & Supp. IV 2004); *see also* 28 C.F.R. pt. 35 (2006). Title III prohibits discrimination against disabled persons in places of public accommodation. *See* 42 U.S.C. §§ 12181-12189 (2000); *see also* 28 C.F.R. pt. 36 (2006).

Your question, whether the Commission violates the ADA by failing to provide "meaningful access" to state services, primarily concerns title II, and thus we confine our analysis accordingly. Title II of the ADA provides that "no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity." 42 U.S.C. § 12132 (2000). The United States Department of Justice (the "DOJ") has promulgated rules to enforce and implement title II. *See* 28 C.F.R. pt. 35 (2006) (implementing title II, subchapter A). Additionally, the DOJ has published an appendix providing a section-by-section analysis of those rules with commentary to aid in their implementation. *See id.* app. A (Section-By-Section Analysis); *id.* pt. 36,app. B (Section-By-Section Analysis and Response to Comments). *See also* Tex. Att'y Gen. Op. No. JC-0050 (1999) at 1-2 (providing additional background to the ADA).

II. Analysis

Title II applies to the actions of a "public entity," defined to include "any department, agency, special purpose district, or other instrumentality of a State." 42 U.S.C. § 12131(1)(b) (2000). According to section 12131(1)(b), a state agency, such as the Commission, is a public entity subject to the rules and regulations specified by title II of the ADA to the extent that title II validly abrogates a state's sovereign immunity. (2) *See id.*; Tex. Gov't Code Ann. §§ 466.001-.303 (Vernon 2004) (the State Lottery Act, which establishes the Commission and its administrative authority). Section 12132 of title II provides that "no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity." 42 U.S.C. § 12132 (2000). The DOJ regulation implementing section 12132 requires a "public entity [to] make reasonable modifications in policies, practices, or procedures when . . . necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity." 28 C.F.R. § 35.130(b)(7) (2006).

Because title II requires that a public entity comply with regulations very similar to section 504 of the Rehabilitation Act of 1973, courts look to the Rehabilitation Act to interpret the ADA. *See* Rehabilitation Act of 1973 § 504, 29 U.S.C. § 794 (2000 & Supp. IV 2004) [hereinafter Rehabilitation Act]; *see also Johnson v. Gambrinus Co./Spoetzl Brewery*, 116 F.3d 1052, 1060 n.4 (5th Cir. 1997) (stating that the Rehabilitation Act is the predecessor to the ADA and may be used to interpret the ADA). The Rehabilitation Act requires a public entity to make reasonable accommodations when a person with a disability is denied meaningful access to a benefit. (3) *See Alexander v. Choate*, 469 U.S. 287, 301 (1985) (stating that "an otherwise qualified handicapped individual must be provided with meaningful access to the benefit that the grantee offers [and] to

assure meaningful access, reasonable accommodations in the grantee's program or benefit may have to be made").

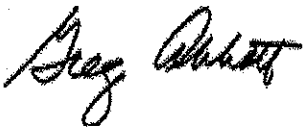
In *Jones v. City of Monroe*, a driver who suffered from multiple sclerosis brought suit against a municipality on the ground that the city's parking program violated title II of the ADA by refusing to provide her with "meaningful access" to the parking program. *Jones v. City of Monroe, Mich.*, 341 F.3d 474, 477 (6th Cir. 2003). Although the Court of Appeals for the Sixth Circuit ultimately ruled against appellant, it nevertheless applied the "meaningful access" standard to title II of the ADA. *Id.* at 479. Likewise, in *Lee v. City of Los Angeles*, the Court of Appeals for the Ninth Circuit equated "meaningful access" with the right to services under title II of the ADA: "If a public entity denies an otherwise 'qualified individual' 'meaningful access' to its 'services, programs, or activities' 'solely by reason of his or her disability, that individual may have an ADA claim against the public entity." *Lee v. City of Los Angeles, Cal.*, 250 F.3d 668, 691 (9th Cir. 2001) (footnote omitted).

In conclusion, because there is no controlling judicial authority in Texas, we cannot say as a matter of law that the Commission would violate title II of the ADA if it fails to provide Texas residents meaningful access to state services. On the other hand, because of persuasive authority from other federal appellate jurisdictions, we *can* say that a Texas court would probably conclude that the Commission would violate the ADA if it fails to provide Texas residents with meaningful access to state services.

SUMMARY

A court would probably find that the Texas Lottery Commission violates the Americans with Disabilities Act if it fails to provide Texas residents with "meaningful access" to state services.

Very truly yours,



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Footnotes

1. Letter from Honorable Rodney Ellis, Chair, Senate Committee on Government Organization, Texas State Senate, to Honorable Greg Abbott, Attorney General of Texas (Apr. 25, 2007) (on file with the Opinion Committee, *also available at* http://www.oag.state.tx.us).

2. *See United States v. Georgia*, 546 U.S. 151, 126 S.Ct. 877, 882 (2006) (holding that title II abrogates state sovereign immunity "insofar as Title II creates a private cause of action for damages against the States for conduct that *actually* violates the Fourteenth Amendment").

3. Although the Court of Appeals for the Fifth Circuit and other federal courts in Texas have not addressed the question specifically, other circuit courts have held that "reasonable modification," as it is used in the ADA, does not create a different standard from "reasonable accommodation," as that term is used in the Rehabilitation Act. *See Wong v. Regents of Univ. of Cal.*, 192 F.3d 807, 816 n.26 (9th Cir. 1999); *Theriault v. Flynn*, 162 F.3d 46, 48 n.3 (1st Cir. 1998). However, we note that the Court of Appeals for the Fifth Circuit has held that the DOJ regulations requiring the Dallas Area Rapid Transit to provide "reasonable accommodations" in its paratransit service did not apply because the paratransit service at issue there fell under title II, subtitle B of the ADA, and was subject only to Department of Transportation regulations. *Melton v. Dallas Area Rapid Transit*, 391 F.3d 669, 675 (5th Cir. 2004). The Commission's activities relate to title II, subtitle A of the ADA and are regulated by the DOJ.

Gasp Of Texas

The following information is provided as a public service by Gasp Of Texas. It is intended to assist the public with an understanding of the numerous hurdles that governmental agencies use for the purpose of protecting the profits of the tobacco industry at the expense of tobacco victims and individuals with breathing disabilities caused or exacerbated by tobacco smoke pollution.

- Advance Notice Of Air Travel For Persons With Disabilities
- Arbitration Of ADA Claims Under Union Agreements
- DOT and FAA Deferral To State And Local Smoking Ordinances
- Existing Facilities, New Construction and Alterations
- Landlord And Tenant Under The ADA
- Private Clubs Under Title III Of The ADA
- Smoking Bans Are Not Exempt From The ADA
- Working As A Major Life Activity

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February 2007

Management concerns with creating separate smokefree and smoking gaming spaces:

- Legislation to make 100% of gaming floors smokefree, can override voluntarily-built separate rooms, and require the casinos tear down the expensive smoking rooms.
- Smoking gaming rooms will be expensive to build, due to specifications requiring air locks, vestibules, separate ventilation, no recirculation, etc.
- Loss of gaming revenues:
  - from nonsmoking patrons (esp. high stakes and Asian pit game players) that no longer will play their favorite games which are now located in the smoking room.
  - caused by high demand for smokefree gaming areas, but not enough supply of smokefree games to accommodate all players, including gamblers who smoke but prefer gambling in the smokefree area because the air quality in the smoking gaming rooms will be so poor.
- Staffing concerns. Complicates daily scheduling since not many workers may volunteer to work in the smoking gaming rooms.
- Ventilation and enclosure problems.
  - Complaints from gamblers in the smoking gaming room that the air quality is poor due to the ventilation systems not being able to handle the cleaning of such high concentrations of smoke out of the air (see Dubuque eyewitness report).
  - Complaints from workers in the smoking gaming room.
  - Complaints from workers, patrons and gamblers in the smokefree gaming room that smoke leaks from the smoking gaming room into the smokefree gaming areas, and the smoke migrates from the opening of the smoking gaming area into the smokefree areas.
  - Complaints from workers, patrons and gamblers that the ventilation system is not cleaning the air of smoke in all open floor gaming areas.
  - Increased expenses from cleaning ventilation systems more frequently.
- Increased refurbishing costs in the smoking gaming rooms - damage from burns to gaming tables, chairs, rugs; replacement of furnishing from stale smoke smell; frequent repainting.
- Liability questions:
  - Employment discrimination – workers that receive a benefit from casino management to work in the smoking section, vs. workers who do not receive that

same benefit because they work in the smokefree gaming section (incentives – monetary, health benefits, comp time, etc)?

- Employer has an obligation to provide a safe workplace. Smoking in any portion of the premises is an issue?
- Americans with Disabilities Act – workers and patrons classified as having breathing disabilities under the ADA need to be accommodated?
  - Workers – smoking rooms may be more polluted and more hazardous to those with disabilities classified under the ADA (breathing, cardiac, etc.)?
  - A casino is a place of public accommodation. Patrons with medical conditions (heart, lung, etc.) who cannot enter the smoking gaming area due to a disability classified under the ADA (breathing, cardiac, etc.)?
  - A casino is a place of public accommodation. It will be unsafe for patrons on oxygen tanks to enter and remain the smoking gaming rooms, because their oxygen tanks increases the risk of a fire hazard? These patrons may want to accompany friends and family in the smoking gaming room, but will not be able to do so.
- Fire/burn hazards to patrons and workers.
  - Higher concentration of cigarettes in the smoking rooms means more likelihood of being in contact with a cigarette and being burned, for workers and patrons.
  - From patrons with oxygen tanks. Oxygen tanks should not be used around lighted smoking materials. In the smoking gaming rooms, there is a greater concentration of lit smoking materials. If oxygen tanks are permitted in the smoking gaming rooms, the risk of a fire hazard increases to the patron and employee.

- Enforcement problems. With separate sections on an open gaming floor, more staff will be needed to enforce. Compliance problems will continue to persist.

Patron concerns with separate smokefree and smoking gaming spaces:

- Smokefree gaming area will still be smoky, with separate sections on an open floor space.
- Not all games will be available in both sections, leaving patrons disappointed.
- Some nonsmoking patrons (esp. high stakes and Asian pit game players) may be unhappy because they they'll have to breathe smoke to have access to their favorite games, thereby decreasing their entertainment experience, and may choose not to gamble because of that.
- Mixed party: patrons will arrive at the casinos together as party of 2 or 4, and may have difficulty deciding whether to gamble together in the smoking vs. nonsmoking section, if some want to smoke and some do not want to be around the smoke. This decreases the entertainment experience and adds a conflict to the enjoyment of sharing the gaming experience together.

- If the mixed party splits up to gamble in the separate rooms, e.g. the husband gambles for an hour and reeks of smoke afterwards, that will annoy his wife and create tension, which diminishes their casino experience.

- Smokers will be unhappy because the smoking gaming rooms will be exceedingly smoky, due to high concentration of smokers in a smaller space and the inability of the ventilation/air filtration system to vent and clean the air appropriately:

    - Many smokers don't like to be around high concentrations of smoke, e.g. smokers hold their cigarettes away from themselves, smokers in a car open their window even on a cold day when smoking, smokers book nonsmoking hotel rooms and steps outside to smoke. Ventilation systems will not be able to clean the air in the smoky gaming rooms.

- Increased fire hazard to patrons and workers from oxygen tanks used by patrons, due to a greater concentration of lighted smoking materials; patrons with oxygen tanks, who want to accompany a gaming partner into the smoking gaming area, may be forbidden from entering (plus, ADA noncompliance concerns).

Employee concerns with separate smokefree and smoking gaming spaces:

- Health concerns continue to exist in the workplace, since smoking continues to be allowed on the open gaming floor, or in separate smoking gaming rooms.

- Health concerns after smoking rooms are built, for workers assigned to those rooms, and leakage of smoke from the smoking gaming rooms due to inadequate ventilation and sealing of smoking rooms, etc.

- Workers with ADA disabilities not being accommodated with a smokefree workplace.

- Retaliation for refusing to work in the smoking section.

- Additional benefits to employees who volunteer to work in the smoking section – issue of employment discrimination.

- Complicates daily scheduling.

- Concerned about being burned by smoking materials.