



Washington Research Council

# POLICY

*brief*

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## Smoking Straitjacket: Initiative 901

### BRIEFLY

**The government, as a regulatory body, should limit interventions to cases where the failure of the market to protect public safety is clearly demonstrable. In the case of I-901, given the questions behind the science, the uncertain economic impact, and the continuing market pressure toward limiting smoking, government intervention may not be needed.**

With a growing list of states and countries having outlawed smoking in all indoor public venues, Washington's I-901 is a surprise to few. Boasting an impressive list of supporters, including the American Lung Association of Washington, the American Heart Association, Swedish Medical Center, the PTA of Washington, and the AARP, Healthy Indoor Air for All of Washington has gathered 325,000 signatures and \$800,000 for its initiative campaign. The opposition, in contrast, is unorganized and underfunded, reporting only \$6,000 in contributions to the Public Disclosure Commission as of September 12<sup>th</sup>.

Money and support, however, do not make up the whole story. Anti-smoking groups make many bold claims about the positive health and economic effects of banning smoking in public indoor spaces. A closer examination of both the science and economics behind their claims reveal that the issue is not as clear cut as many would suppose.

### THE INITIATIVE

The initiative itself is straightforward, and unlike Tacoma's 2002 smoking ban, has not created any accusations of unconstitutionality. I-901 is an extension of earlier anti-smoking measures that banned smoking in all workplaces except bars, taverns, bowling alleys, skating rinks, reception areas, and hotels. The initiative extends the smoking ban to all these places (but only 75 percent of hotel rooms at any hotel), in addition to banning smoking 25 feet (or a "presumptively reasonable distance" set by local authorities) from entrances and ventilation of all public establishments (though the initiative exempts those passing by on public walkways).

### HEALTH EFFECTS

"Because cigarette smoking is quite risky, it stands to reason that [second hand smoke] may pose some health risks as well. However, this conclusion is not as straight forward as it may seem," Harvard University economist W. Kip Viscusi warned in his book *Smoke Filled Rooms*.

In 1999 the National Cancer Institute compiled the largest summary of the literature to date on the health effects of ETS (Environmental Tobacco Smoke, second hand smoke) and concluded that ETS is causally linked with lung cancer and heart disease, among other illnesses. The results of the National Cancer Institute's survey are startling: 3,000 deaths per annum due to lung cancer in the US, 35,000—

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**Washington Research Council**  
108 S Washington St., Suite 406  
Seattle WA 98104-3408  
206-467-7088  
fax: 206-467-6957  
[www.researchcouncil.org](http://www.researchcouncil.org)



62,000 deaths due to cardiovascular illness, and 1,900–2,700 deaths due to Sudden Infant Death Syndrome. They cited especially studies by the Surgeon General in 1986 and the EPA in 1992 as examples of other authoritative reviews (although the EPA review was overturned in a Federal Court due to non-standard statistical practices).

Critics are quick to point out that the above statistics are derived from the upper-bound estimates of the surveyed studies. Also, the relative risks used sometimes had confidence intervals spanning from ETS having a

mildly positive effect to a very negative effect. Neither the Surgeon General, the EPA or the National Cancer Institute filtered results with abnormally wide confidence intervals (signaling inaccuracy with the results), nor did they limit their results to studies with relative risks of greater than 2 (an increase in risk of 100 percent). As the National Cancer Institute noted in a 1994 press release, "in epidemiological research, [increases in risk of less than 100 percent] are considered small and are usually difficult to interpret. Such increases may be due to chance, statistical bias, or the effects of confounding factors that are sometimes not evident." When using the above standards, the vast majority of studies show no statistically significant harm from ETS (Viscusi, 2002; Forces International, 2005).

States With Smoking Bans in Bars & Restaurants	
California	Maryland*
Colorado	Massachusetts
Connecticut	New York
Delaware	Rhode Island
Florida*	South Dakota*
Idaho*	Utah*
Maine	Vermont

\*Smoking banned in restaurants but not bars

A representative study by the WHO (1999) included over 600 patients and 1,400 control subjects (considered by the National Cancer Institute to be a large study) and found no statistically significant risk for the spouses of smokers. Even more surprisingly, the study found a statistically significant decrease in risk for the children of smokers, although this is more an example of the difficulty of interpreting epidemiological data than an argument that parents should smoke.

Another talking point for the anti-initiative groups is that OSHA has never established a work-place hazard standard for ETS. In fact, in an unventilated 9'x12'x4' box (similar in size to a small bar without any ventilation) at least 1,2500 cigarettes would have to be smoked in one hour to reach the lowest Permissible Exposure Level (PEL) for the chemicals in ETS (Fox, 1999). A PEL is the maximum level of exposure to any chemical over a daily 8-hour work shift allowed by OSHA.

### THE VENTILATION DEBATE

Improved ventilation standards for bars and restaurants have often been presented as an alternative to outright bans on smoking, and have become a subject of heated debate. Anti-smoking activists argue that it would take "tornado-like levels of airflow" to eliminate the harmful elements of ETS from an indoor environment. Furthermore, they claim that promotion of ventilation requirements, as opposed to anti-smoking legislation, is a ploy of the Tobacco lobby. They also note that ASHRAE (the largest ventilation industry organization) has stated that ventilation cannot eliminate ETS (ASHRAE, 2005). Anti-initiative groups respond by saying that ASHRAE is avoiding lawsuits that could come from making medical claims about their industrial ventilators, and that if ventilation can prevent the spread of disease in hospitals, then it is acceptable for restaurants. Furthermore, one carefully controlled study by the US Department of Energy found, using

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personal air monitors on 1,500 non-smokers in 17 cities, that exposure to harmful airborne toxins in smoking hospitality work-places were 85 percent below OSHA's and EPA's exposure assumptions (OakRidge, 2000). No studies were found that examined the impact of various levels of ventilation on ETS concentration. Anti-smoking researcher James Repace, however, found nicotine concentration in ventilated smoking establishments to be on the order of 500–1000 percent greater than in non-smoking establishments (Repace, 2000).

## **ECONOMIC EFFECTS**

Many in the hospitality industry that oppose the smoking ban cite the economic harms that the ban will cause by driving smokers out of bars and restaurants. Commissioned in response to these claims, studies of California, New York, Massachusetts, and Texas, among others, have had mixed, but rarely negative results. The California State Board of Equalization (2002), for example, reported growth in restaurant and bar sales of over \$2 billion from 1997–2002 (the smoking ban began in 1994). In New York, businesses paid 12 percent more in business taxes in the six-month period in 2003 after the ban was enacted, compared to the same period in 2002 (NYC DHMH, 2003). However, studies such as these, although positive, fail to control for growth in the economy (both surveys include periods of strong economy-wide growth) and other factors that may have generated growth in the industry.

The gamut of studies that use econometric methods found no positive or negative economic impact of smoking bans (Texas, Massachusetts, British Columbia and others). These more sophisticated analysis take into account economic and seasonal fluctuations, giving a more realistic view of the impact of a smoking ban (Virginians for a Healthy Future, 2004).

One important factor which none of these studies cover is impact to individual businesses. Many bars, restaurants and casinos have reported large drops in sales in post-smoking ban economies. These businesses are competitive because they offer a place to smoke and eat, a market that dies with the ban. In this sense, even though a ban may have a net neutral effect, there is evidence that strong negative impacts target businesses whose competitive edge is in part due to attracting smokers (Hitt, 2005).

## **MARKET FORCES**

Beyond financial concerns, smokers will bear the greatest social cost of I-901, and their concerns should not be left out of an economic analysis. In a market economy, costs and benefits are balanced to create an efficient outcome. Only if the market fails to balance competing interests, regulation be considered.

Bars and restaurants are subject to market forces when balancing the desires of their smoking customers with the demands of increasingly outspoken non-smokers. As the share of bars and restaurants with no smoking policies has climbed to over 50 percent statewide and to over 80 percent in Pierce County, it is clear that restaurants who stand to gain financially are making the switch; the market is balancing the competing interests of smokers and non-smokers. Viscusi argues, "if the music is too loud or the



ETS is annoying to nonsmokers, the customers will go elsewhere. Restaurants in turn will establish non-smoking areas, since they have a financial interest in keeping nonsmoking customers." The same is true for workers, who given ample non-smoking alternatives, will demand higher compensation from their employers to work in a smoking establishment (Viscusi, 2002). Ultimately, regulation in the form of I-901 may introduce inefficiency into the hospitality sector which is already effectively adapting to the demands of consumers and workers.

## CONCLUSION

The government, as a regulatory body, should limit interventions to cases where the failure of the market to protect public safety is clearly demonstrable. In the case of ETS, given the questions behind the science, the uncertain economic impact, and the continuing market pressure toward limiting smoking, government intervention may not be needed. Ultimately, I-901 calls on voters to balance their value of individual liberty, concern for public health, and faith in market forces.

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