

**Bills Committee on
Smoking (Public Health) (Amendment) Bill 2005**

**Administration's response to issues raised
at the Bills Committee meeting on 3 October 2005**

PURPOSE

This paper sets out the Administration's response to issues raised by the Bills Committee at its meeting on 3 October 2005.

BACKGROUND

2. At the above meeting, Members referred to LC Paper No. CB(2)2340/04-05(02) and CB(2)2340/04-05(03). Various questions were raised, which were outlined below together with our response:

(a) What was the number of licensed hawker stalls not displaying tobacco advertisement, and the types of non-tobacco advertisement, if any, displayed by these hawker stalls?

ADMINISTRATION'S RESPONSE

3. Licensed hawker stalls are free to advertise tobacco or non-tobacco advertisement at different junctures in time for different durations. We do not have the number of stalls that are having tobacco or non-tobacco advertisements. However, from our observation, there are apparently a variety of advertising sources, which may include publications, mobile phone networks and banks. Photo shots depicting these advertisements are attached at the *Annex*.

(b) Whether there were any labour disputes arising from enforcing the Smoking (Public Health) Ordinance since its implementation on 1 July 1999 by managers of statutory no smoking areas; if so, the number of cases occurred.

4. The Labour Relations Division of the Labour Department advised that they did not have any record on labour dispute cases relating to the enforcement of the Smoking (Public Health) Ordinance since enactment.

(c) Details on how it intended to help licensed hawker stalls to obtain non-tobacco advertisement, in view of the revocation of the exemption of the display of tobacco advertisement at licensed hawker stalls proposed under the Bill.

5. The Smoking (Public Health) (Amendment) Bill 2005 (the Bill) provides for an adaptation period of one year for licensed hawker stalls before the exemption is removed. The purpose of a long adaptation period is to facilitate licensed hawker stalls in identifying alternative sources of advertising.

6. Way ahead of the enactment of the Bill, we are already planning to provide assistance to hawkers by drawing the attention of major chambers of commerce, retail associations and advertising associations, informing them of possible advertising slots at licensed hawker stalls.

(d) Public reaction and economic impact of the implementation of smoking ban in indoor workplaces and public places in California, State of New York, Ireland, Singapore and New Zealand.

California, USA

7. Under the *Smoke-free Workplace Law*, smoking is prohibited in all enclosed places of employment, with the exception of tobacco shops, private smoker's lounges, private residences (when not used for child care), 65% of guest room accommodations and designated areas of lobbies in hotels/motels, meeting and banquet rooms in hotels/motels apart from during food/beverage/exhibit functions, cabs of motor trucks, large warehouses, employee breakrooms meeting stringent ventilation conditions, small businesses under limited conditions etc. The law took effect in restaurants and other workplaces on 1 January 1995 and in bars, taverns and gaming clubs on 1 January 1998.

Public Opinion

8. According to the California Tobacco Control Update 2004 issued by the California Department of Health Services, public opinion strongly supported the secondhand smoke policies in California. From March 1998 to September 2002, approval for smokefree bars among bar patrons increased from 59 percent to 75 percent, and in 2004, 73 percent of Californians agreed that smoking should be prohibited in outdoor dining areas at restaurants.

9. In 2002, 96.4 percent of California's indoor workers reported working in a smokefree environment, compared to only 37.1 percent in 1990.

10. A study among bars and restaurants in Los Angeles County showed that there were significant increase in level of compliance from 1998 to 2002, the level of compliance in bar/restaurants and freestanding bars raised from 92.2% to 98.5% and 45.7% to 75.8% respectively¹.

Economic Impact

11. According to the California Board of Equalization, the state's hospitality sector continued to grow since the enactment of the smokefree workplace law. Sales tax data showed an increase in annual sales from US\$7.16 billion in 1997 for establishments selling beer and wine to US\$9.6 billion in 2002. For establishments selling all kinds of alcohol, sales increased from US\$8.64 billion in 1997 to US\$11.3 billion in 2002. In 2003, the Employment Development Department under the Board reported that the number of individuals employed in California's bars and restaurants had about 200,500 more employees than they did in 1995, before the smokefree policy took effect.²

¹ Weber MD et al. Long term compliance with California's Smoke-free Workplace Law among bars and restaurants in Los Angeles County. *Tobacco Control* 2003;12:269-273.

² State of California, Employment Development Department. *Labour Force Statistics*. November 2003.

New York State, USA

12. Under the *Clean Indoor Air Act*, smoking is not permitted in a wide range of indoor areas including places of employment, bars, food service establishments, establishments used for carrying on or exercising any trade, profession, vocation or charitable activity, bingo facilities, indoor arenas etc. The major exempted premises are private residence, hotel or motel rooms rented to guests, retail tobacco businesses, membership associations where duties related to their operation are performed by volunteers, cigar bars, up to 25% of the seating in outdoor dining areas of food services establishments with no roof or ceiling enclosures. The Act went into effect statewide on 24 July 2003.

Public Opinion

13. It was found that support for the Act is high and increasing over time. As expected, support was higher among nonsmokers than smokers, but support increased significantly over time among smokers.³:

Percentage of adults who support the Clean Indoor Air Act over time						
%	Pre-24/7 /2003	Post-24/7 /2003	Q3/2003	Q4/2003	Q1/2004	Q2/2004
Non-smokers	72.8	72.9	73.8	75	77.2	82.1
Smokers	26.1	21.9	24.5	31.3	29.7	36.9
Overall	64.7	60.7	63.9	65.4	66.8	73.9

14. An observational study was conducted initially by the Center for Tobacco Free New York and later by the New York State Department of Health to examine the level of compliance in the month prior to the law taking effect and months after the law took effect. The Study found out that restaurants, bars and bowling facilities quickly complied with the Act within one month of implementation. One year after implementation, the respective compliance rate in the three venues was 98.9 percent, 84.1 percent and 97.7 percent.

³ RTI International, New York State Department of Health. First Annual Independent Evaluation of New York's Tobacco Control Program. November 2004.

Economic Impact

15. A March 2004 report⁴ noted, “One year later, the data are clear.....Since the law went into effect, business receipts for restaurants and bars have increased, employment has risen, virtually all establishments are complying with the law, and the number of new liquor licences issued has increased – all signs that New York City bars and restaurants are prospering.” According to the report, from 1 April 2003 through 31 January 2004, bar and restaurant tax receipts were up 8.7 percent from the same period in 2002/03. Employment in these catering premises had increased by about 10,600 jobs nine months after law enactment.

16. Data from the Division of Alcoholic Beverage Control of the New York State Liquor Authority also showed that there were more bars in New York one year after enactment of the Act. The total number of liquor licences for “on-premise” consumption for across New York increased by 565 (3.5 percent) from April 2002 to May 2004. In addition, Alcoholic Beverage Tax data from the New York State Department of Taxation and Finance showed that total alcohol excise tax collections increased in the August 2003 to June 2004 period after the law compared to the same period in the previous year before the law. The total increase was nearly \$3.7 million in additional alcohol excise tax collections (2.2 percent increase).

17. Regarding employment trends in the hospitality industry, there were no dramatic changes in employment in New York after the Act took effect. The per capita employment in the food service and drinking sector have increased in each of the five months after the law took effect compared to the same months in previous years.

Ireland

18. The ***Public Health (Tobacco) (Amendment) Act 2004*** prohibits the smoking of tobacco products in all places of work, including restaurants and

⁴ The report was issued by the New York City Department of Finance, Department of Health and Mental Hygiene, Department of Small Business Services and Economic Development Corporation. “The State of Smoke-Free New York City: A One-Year Review”. March 2004.

pubs, buildings to which the public has access to, public entertainment places, licensed premises, registered clubs etc. The smoking ban does not apply to outdoor or non-enclosed parts of places of work, dwellings, rooms in hotels or other premises that provide living/sleeping accommodation for the public, prisons etc. Smokefree requirements under the Act commenced on 29 March 2004.

Public Opinion

19. One year after the legislation came into place, the Office of Tobacco Control of Ireland conducted a review, in terms of compliance, public support and health benefits.⁵ It was reported in the review that as at March 2005, 93 percent of the respondents thought the law was a good idea, including 80 percent of smokers; 96 percent of people felt the law was successful, including 89 percent of smokers; 98 percent believed that workplaces were now healthier because of the smokefree law, including 94 percent of smokers.

20. Compliance with the legislation has also found to be very high. 94 percent of all workplaces inspected under the National Tobacco Control Inspection Programme were smokefree while 93 percent of all hospitality workplaces inspected were smokefree.

Economic Impact

21. The Retail Sales Index as available from the Central Statistics Office showed that there had been a decline in the volume of bar sales since 2001. Bar sales declined in volume by 4.4 percent in 2004, while the decline for the previous year was 4.2 percent. Economic analysis suggested that this continuing downward trend was due to a number of factors including high prices, changing lifestyle and shifting demographic patterns.

22. The Central Statistics Office also publishes statistics on employment in the hospitality sector in its Quarterly National Household

⁵ Office of Tobacco Control. Smoke-free Workplace in Ireland: A One-Year Review. March 2005.

Survey. The data showed a decline of 2.4 percent between the end of 2003 and 2004. However, the numbers employed in the sector at the end of 2004 was indeed 0.6 percent more than that at end 2002. On the other hand, the most recent data on tourism and travel made available by the Central Statistics Office showed that there was a 3.2 percent increase in visitors to Ireland in 2004 comparing to 2003.

New Zealand

23. The *Smokefree Environments Amendment Bill* was passed by the New Zealand Parliament on 3 December 2003 and was signed into law by the Governor-General six days later. With effect from 10 December 2004, it requires all indoor workplaces including offices, warehouses, factories and licensed premises/hospitality venues (e.g. bars, taverns, restaurants, cafes, clubs, casinos, gaming venues) to become smokefree. Separate smoking areas or ventilated smoking rooms in indoor workplaces or hospitality venues are disallowed. The smokefree requirement does not apply to outdoor areas except school grounds, private homes, temporary private premises, hotel rooms, home-like environment such as individual prison cells etc.

Public Opinion

24. A survey entitled “Smoking Ban in Restaurants, Bars and Pubs” conducted by UMR research⁶ found that public support for a complete ban on smoking in pubs and bars has increased by 13 points in the space of five months, to nearly 70 percent. Support from smokers increased to 42 percent in April 2005, compared with 22 percent in the previous survey in November 2004. Support from non-smokers also increased from 66 percent to 75 percent in the same period.

25. Below are two tables excerpted from the survey:

⁶ UMR research. Smoking Ban in Restaurants, Bars and Pubs: Omnibus Result. April 2005.

Do you support or oppose a complete ban on smoking in New Zealand restaurants?								
%	1/01	1/02	4/03	11/03	11/04	4/05		
						All	Smokers	Non-smokers
Support	61	60	66	67	73	81	62	86
Oppose	33	34	31	29	24	17	37	12
Depends	3	4	1	3	2	1	1	1
Unsure	3	2	2	1	1	1	-	1

Do you support or oppose a complete ban on smoking in New Zealand pubs and bars?								
%	1/01	1/02	4/03	11/03	11/04	4/05		
						All	Smokers	Non-smokers
Support	38	38	49	48	56	69	42	75
Oppose	54	51	46	46	40	27	55	20
Depends	4	7	2	3	2	2	3	2
Unsure	4	4	3	3	2	2	-	3

26. Separately, a survey of bars by Action on Smoking and Health has found 97 percent are complying with the new smoking ban. The National Business Bureau visited 193 bars in 20 centres throughout New Zealand before and after the smokefree legislation was introduced. It found that 183 bars (95 percent) had smokers in July 2004, compared with five bars (3 percent) in April 2005.

Economic Impact

27. According to the Ministry of Health⁷, a number of initiatives are underway to help measure the impact of the smokefree legislation. It will be monitoring retail trade sales, tourism and employment data, and review findings will be released in early 2006.

⁷ Website of the Ministry of Health
http://www.moh.govt.nz/moh.nsf/wpg_Index/About-smokefree-law-research

Singapore

28. The Smoking (Prohibition in Certain Public Places) Act prohibiting smoking in cinemas, theatres and other specified buildings was passed in 1970. Smoking is now prohibited in many enclosed public buildings, including fast food restaurants, air-conditioned restaurants, indoor stadiums, bowling alleys, and billiard saloons. It is also illegal to smoke or use smokeless tobacco while selling or preparing food for sale. Smoking is prohibited on all buses and taxis.

29. As a result of the recent public consultation conducted by the National Environment Agency and the Health Promotion Board, smokefree legislation has been expanded from 1 October 2005. From this date onwards, smoking has also been prohibited in bus interchanges/shops, public toilets, public swimming complexes, open air stadia and community centre/club. The ban at hawker centres and coffeeshops will take effect from 1 July 2006, while the ban at entertainment outlets will start on 1 July 2007.⁸ A summary of the extension of smoking ban to coffeeshops, hawker centres and entertainment outlets is as follows:

Areas		Implementation Date	Remarks
Hawker Centres	Indoor Refreshment Area (IRA)	Jul 06	If no ORA, allow smoking corner (less than or equal to 10% of IRA seating capacity)
	Outdoor Refreshment Area (ORA)	Jul 06	Allow smoking corner (less than or equal to 20% of ORA seating capacity)
Coffeeshops	IRA	Jul 06	Nil
	ORA	Jul 06	Allow smoking corner (less than or equal to 20% of ORA seating capacity)

⁸ National Environment Agency, Singapore

Entertainment Outlets	IRA	Jul 07	Allow smoking room with separate ventilation (less than or equal to 10% of IRA)
	ORA	Jul 07	Allow smoking corner (less than or equal to 20% of ORA seating capacity)

Public Opinion

30. A survey conducted by the Government in 2004 in relation to the new extension of statutory no smoking area⁹ found that 69% of all respondents reported that they would support a ban on smoking in at least one of the surveyed entertainment outlets (pubs, discotheques, lounges or karaoke lounges); 63% of the respondents said that they support a smoking ban at hawker centres or coffee shops; 93% of the respondents indicated that they would support a ban on smoking in at least one of the other establishments surveyed, such as beaches, parks, playgrounds, outdoor stadium, swimming pools, zoo, bird park, tertiary campus and alfresco dining areas.

31. Another survey conducted by the Government in 2005¹⁰ found an overwhelming 91% of the respondents supported a smoking ban in hawker centres and there was a similarly large support for such a ban in coffeeshops at 90%. Support was also strong in the case of entertainment outlets, with 83% wanting a ban in these outlets (pubs, bars, discos, nightclubs and KTV lounges).

Economic Impact

32. Official evaluation report of the smoking ban in Singapore is not available, probably because of the very short time the law has come into force.

⁹ Health Promotion Board Website http://www.hpb.gov.sg/hpb/default.asp?TEMPORARY_DOCUMENT=1758

¹⁰ National Environment Agency Website <http://app.nea.gov.sg/cms/htdocs/article.asp?pid=2504>

(e) Information on the implementation of smoking ban in indoor workplaces and public places in Italy and Scotland.

Italy

33. Smokefree workplace laws were first passed in Italy in 1975 prohibiting smoking in all health care facilities, education facilities, theatres, cinemas and public transportation.

34. The Italian Parliament voted for Article 51 of the Law banning smoking in public places in January 2003. Legislation was due to come into force in December 2004. However, the Italian Parliament issued a time delay, and legislation was formally introduced on 10th January 2005.

35. The new law prohibits smoking in offices, bars, restaurants, hotels, theatres, discos and cafés, unless they have a separate smoking area. These premises should be endowed with one or more non-smoking areas covering a comparatively larger area in proportion to the overall area of business. Smoking areas should have continuous floor-to-ceiling walls, sealed off by an automatic door, and with a separate ventilation system.

36. Smokers who break the ban face fines of up to 275 euros, while bar and restaurant owners who do not enforce it risk penalties of as much as 2,200 euros. The fine can be doubled if the offence takes place in the presence of children under the age of 12 and pregnant women.

Scotland

37. On 30 June 2005, members of the Scottish Parliament voted in favor of the ***Smoking, Health and Social Care (Scotland) Bill***, which will come into force on 26 March 2006. According to the Bill, smoking is prohibited in enclosed public places, such as all bars, restaurants, offices, cafes, theatres and clubs (including private member clubs). Smoking will also be banned on all forms of public transport, except the open decks of ferries.

38. Smokers will be hit with £ 50 fixed penalty fines if they are caught

smoking in enclosed public places. Penalty can rise up to £1000 for individuals who repeatedly break the law.

39. Employers will be fined £200, both for allowing the smokers to light up in their premises and for failing to display no-smoking notice. The fines may go up to a maximum of £2500. Licensees who persistently refuse to comply with Scottish law will face the ultimate sanction of licence withdrawal by the local licensing board.

ADVICE SOUGHT

40. The Bills Committee is invited to note the Administration's response.

Health, Welfare and Food Bureau
October 2005









