

LEGISLATIVE COUNCIL BRIEF

SMOKING (PUBLIC HEALTH) (AMENDMENT) BILL 2000

1. INTRODUCTION

This paper aims at informing Legislative Council Members of the content of the Smoking (Public Health) (Amendment) Bill 2000 to be introduced by Dr the Hon LEONG Che Hung to the Legislative Council for scrutiny. The text of the Bill is at **Annex A**.

2. OBJECTS OF THE BILL

The objects of the Bill are to amend the Smoking (Public Health) Ordinance (Cap. 371) so as to subject more restaurants to the requirement of designating no-smoking area in the premises and to expand the size of such no-smoking area.

It also seeks to amend the Smoking (Public Health) Regulations and the Smoking (Public Health) (Notices) Order, so as to allow "prescribed health warnings" of cigarette packets and tobacco advertisement being a combination of words, pictures and graphics. Under the current law, the warnings are just words.

3. BACKGROUND AND ARGUMENT

It is Government's declared policy to minimise public's exposure to environmental tobacco smoke to the maximum extent possible. The Government has also stated repeatedly that its policy is to adopt a "step-by-step approach" in formulating and implementing anti-smoking measures.

Under Section 3(1C) of the Smoking (Public Health) Ordinance, the manager of a restaurant which provides indoor seating accommodation for more than 200 persons, excluding the area used exclusively by a private event and separated by full height partition, is required to designate not less than one-third of the accommodation as no-smoking area. This requirement has come into operation in July 1999.

Given the nearly one-year experience of implementing the regulation on designating no-smoking area in restaurants, and the public sentiment yearning for more no-smoking areas in more restaurants as indicated by surveys conducted by the Hong Kong Council on Smoking and Health (COSH) in 1995 and 1999 (**Annex B**), it is time to move another step to tighten up the requirement further.

Economic Considerations

Worries about the effect of tightening no-smoking regulations on restaurant business are not justified, according to surveys by the COSH. Some 20% of respondents would eat out more often if restaurants were smoke-free, whilst only 3% would do so less. If two restaurants offer same type of service, 84% of respondents would choose the one with no-smoking area. (**Annex B**)

Extending the no-smoking requirement would also incur considerable savings in medical cost for restaurant workers, who are now being forced to inhale environmental tobacco smoke. Medical studies in 1999 indicated that about half of non-smoking employees in Hong Kong are affected by passive smoking in workplace. Amongst these suffering non-smoking employees, about 80% (or about 910,000 employees) required extra medical consultation, incurring an annual extra medical burden of \$109 million.

4. THE BILL

Clause 2 amends the requirement that the manager of a restaurant which provides indoor seating accommodation for more than 200 persons, excluding the area used exclusively for a private event and separated by full height partition, must designate not less than one-third of the seating as no smoking area. It proposes stipulating that a restaurant with more than 100 seating accommodation must designate at least half of the seats as no smoking.

Clause 3 provides that the "prescribed form of a health warning" in tobacco advertisements in printed publications may be a combination of words, pictures and graphics. Under the current regulations, the warnings are just words.

Clause 4 provides that the "health warning" on cigarette packets and retail containers may be a combination of words, pictures and graphics. Under the current order, the warnings are just words.

5. FINANCIAL IMPLICATIONS

The President of the Legislative Council has ruled that this Bill does not incur any "charging effect" on the Government. The Government has raised no objection to the ruling.

6. LEGISLATIVE TIME TABLE

Publication of the Bill in the Gazette	9 June 2000
First Reading and Second Reading	14 June 2000
Committee Stage	To be notified
Resumption of Second Reading Debate and Third Reading	To be notified

7. PUBLIC CONSULTATION

No direct consultation on the content of this Bill has been conducted. However, scientific continuous studies of the COSH have indicating increasing support of the general public towards extending no smoking area in restaurants. In its survey in 1995, 37% of the respondents strongly supported, and 47% supported, setting half of the seats in restaurants as no smoking area. In 1999, the corresponding figures have risen to 44% and 50% respectively. (**Annex B**)

8. INQUIRIES

For inquiry about this Bill, please contact the Office of Dr C H LEONG (Tel.: 2524 9596 Fax.: 2840 0748)

*Office of Dr C H Leong,
Member of the HKSAR Legislative Council
8 June 2000*

Smoking (Public Health) (Amendment) Bill 2000

A BILL

To

Amend the Smoking (Public Health) Ordinance, the Smoking (Public Health) Regulations and the Smoking (Public Health) (Notices) Order.

Enacted by the Legislative Council.

1. Short title

This Ordinance may be cited as the Smoking (Public Health) (Amendment) Ordinance 2000.

2. Prohibition on smoking in certain designated areas

Section 3(1C) of the Smoking (Public Health) Ordinance (Cap. 371) is amended -

- (a) by repealing "200" and substituting "100";
- (b) by repealing "one-third" and substituting "half".

Smoking (Public Health) Regulations

3. Tobacco advertisements in printed publications

Regulation 6A of the Smoking (Public Health) Regulations (Cap. 371 sub. leg.) is amended by adding -

"(15) The prescribed form of a health warning may be a combination of words, pictures and graphics."

Smoking (Public Health) (Notices) Order

4. Cigarette packets and retail containers

Paragraph 3 of the Smoking (Public Health) (Notices) Order (Cap. 371 sub. leg.) is amended by adding -

"(8) A health warning prescribed in the Schedule may be a combination of words, pictures and graphics."

Explanatory Memorandum

The purpose of this Bill is to amend the Smoking (Public Health) Ordinance (Cap. 371) and its subsidiary legislation -

- (a) to increase the no smoking area of a restaurant from not less than one-third to not less than half;
- (b) to amend the requirement that a restaurant with indoor seating accommodation of more than 200 persons must provide no smoking area to more than 100 persons; and
- (c) to provide that the prescribed health warning may be a combination of words, pictures and graphics.

C O S H

HONG KONG COUNCIL ON SMOKING AND HEALTH

Public Opinion on Smoke-free Restaurants in 2000

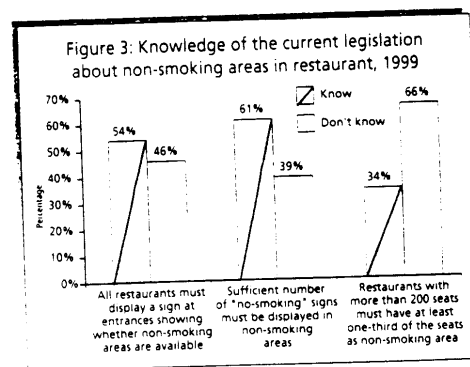
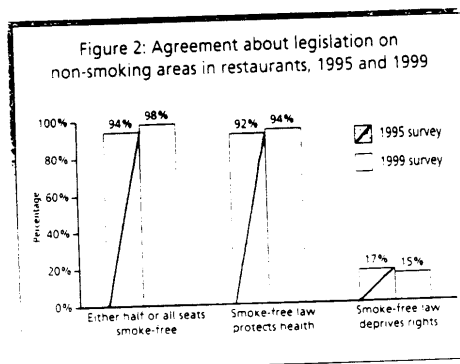
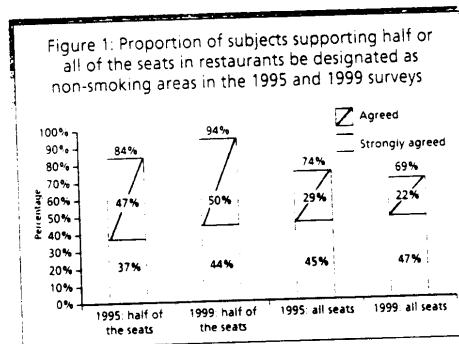
March 2000

Report No. 6

A second report on exposure to environmental tobacco smoke (ETS) in restaurants and the demand for smoke-free eating places in Hong Kong

TH Lam, B Chan, SY Ho

Department of Community Medicine, The University of Hong Kong



Introduction

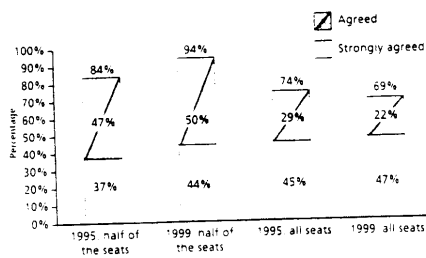
A total of 1,078 respondents completed telephone interviews from November 1999 to January 2000. These subjects were randomly selected from the Chinese Cantonese speaking population of Hong Kong, aged 15 or above. The overall response rate was 78%. The sample was representative of the general population in terms of major demographic characteristics.

Information provided by the respondents are presented below to describe the public's knowledge, attitudes towards and opinions on legislation by Government about non-smoking areas in restaurants: the prevalence of exposure of the public to ETS in restaurants and its influence on the health of restaurant patrons and their use of restaurants; and the public's perceptions of the hazards of smoking and passive smoking. The results of this second study were compared with those in the first study completed in 1995.

Opinions on legislation designating non-smoking areas in restaurants

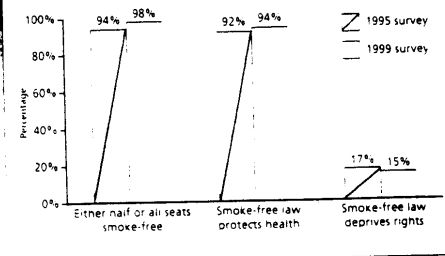
(1) Stronger support for this legislation was found in this survey than in 1995. 94% supported the proposal that *half* the seats in all restaurants should be designated as non-smoking areas. 69% supported the second proposal that *all* seats in all restaurants should be smoke-free (Fig. 1). Although the overall proportion for either "strong agreement", or "agreement", with all seats being smoke-free was slightly higher in 1995 (74%), the proportion with strong agreement had increased from 45% to 47%.

Figure 1: Proportion of subjects supporting half or all of the seats in restaurants be designated as non-smoking areas in the 1995 and 1999 surveys



(2) Almost all respondents (98%) agreed that either half or all seats should be smoke-free. 94% agreed that the government's purpose of extending the current legislation is to protect citizens' health. Only 15% (lower than in 1995) thought that citizens' rights would be infringed by such legislation (Fig. 2).

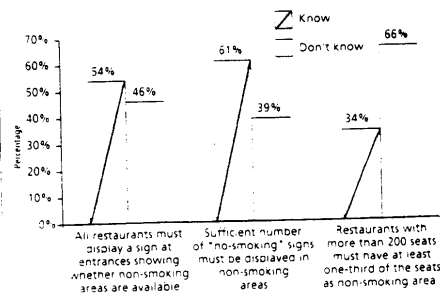
Figure 2: Agreement about legislation on non-smoking areas in restaurants, 1995 and 1999



Knowledge of the current legislation designating non-smoking areas in restaurants

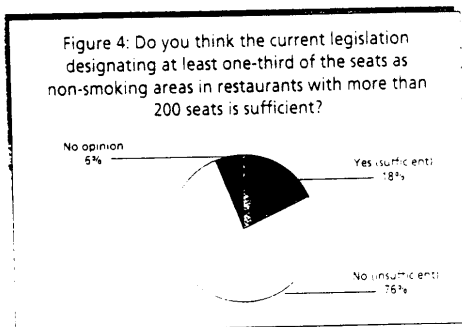
(1) The public was not fully aware of the current legislation: only 54% knew that all restaurants must display a sign at their entrances showing whether non-smoking areas are available, and 61% knew that restaurants with non-smoking areas have to display sufficient number of "no smoking" signs in their non-smoking areas. Only 34% were aware that restaurants with more than 200 seats must designate at least one-third of the seats as non-smoking areas (Fig. 3).

Figure 3: Knowledge of the current legislation about non-smoking areas in restaurant, 1999

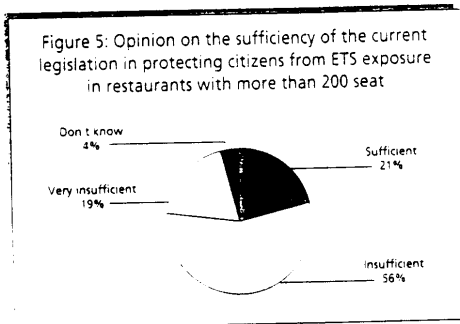


Opinions on the current legislation designating non-smoking areas in restaurants

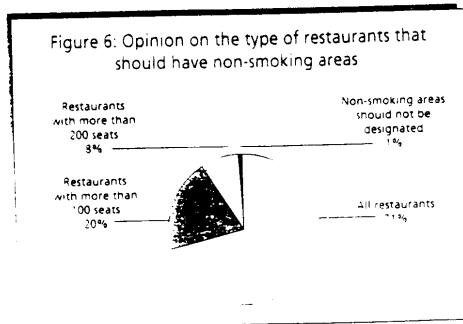
(1) 75% thought the current legislation was not sufficient (Fig. 4).



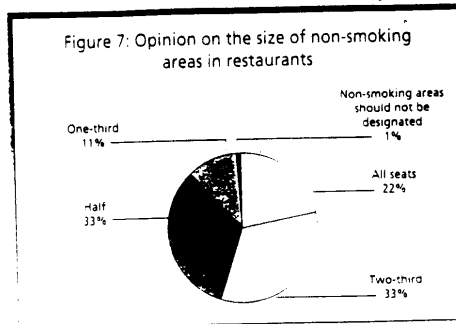
(2) 75% said the legislation was insufficient for protection of citizens from ETS exposure in restaurants with more than 200 seats (Fig. 5).



(3) 71% said all restaurants should have non-smoking areas (Fig. 6).



(4) As for the size of non-smoking areas, 22% said all seats should be smoke-free, 33% said two-third of the seats, 33% said half, and only 11% supported the present level of one-third of the seats being smoke-free (Fig. 7).

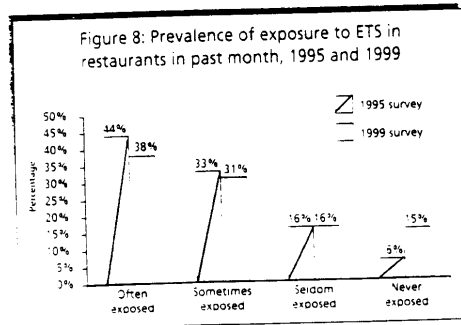


Frequency of eating-out in restaurants per week

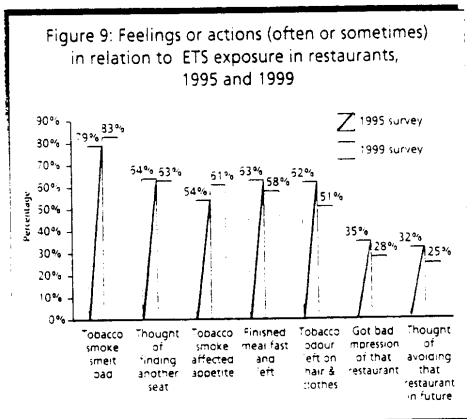
(1) 13% of the respondents had 10 meals or more in restaurants per week, 26% had 7-10, 25% had 1-3, and 8% had less than one. The frequency of eating-out with children was lower: 59% had less than one meal and 33% had 1-3 meals per week. The frequency in this sample was quite similar to that in the 1995 survey.

Exposure to ETS in restaurants and its influences

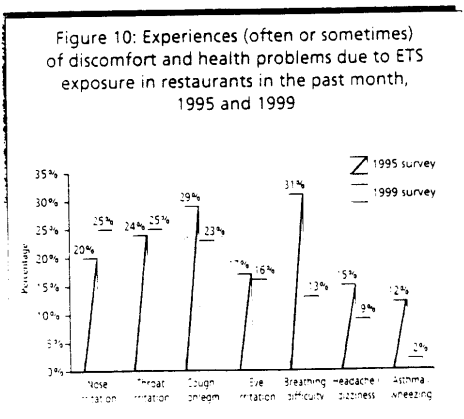
(1) The prevalence of exposure to ETS in restaurants during the past month was high: 38% were often exposed and 31% were sometimes exposed. The prevalence of frequent exposure in this survey was slightly lower than that in the 1995 survey (Fig. 8).



- (2) The most experienced feelings or actions related to ETS exposure in restaurants was "tobacco smoke smelt bad" (83%); followed by "thought of finding another seat to avoid the smoke" (63%); "felt that tobacco smoke affected appetite and mood" (61%); "finished meal fast and left that restaurant" (58%); "felt that tobacco odour would be left on clothes and hair" (51%); "got bad impression of that restaurant" (28%) and "thought of avoiding that restaurant in future" (25%) (Fig. 9).

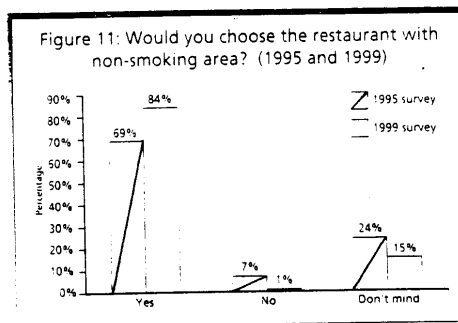


- (3) The most commonly experienced health problems due to ETS exposure in restaurants were nose irritation (25%) and throat irritation (25%), followed by cough/phlegm (23%), eye irritation (16%), breathing difficulty (13%), headache/dizziness (9%), and asthma/wheezing (2%) (Fig. 10). About one-quarter of the respondents often experienced at least one of the seven problems mentioned above, and 47% often or sometimes experienced these problems.

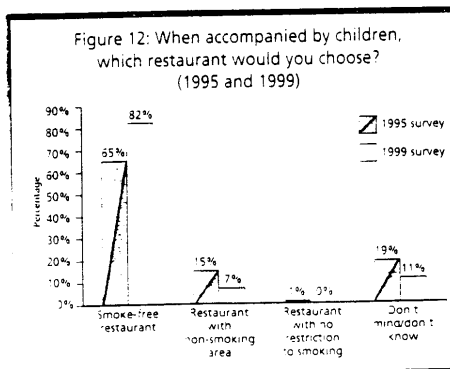


Common practices in eating-out and choice of restaurants related to non-smoking arrangements

- (1) If all restaurants were smoke-free, 20% would go to restaurants more often, 77% would not be affected, and only 3% would go less.
- (2) Given a choice of three restaurants with the same type of service but different non-smoking arrangements (a smoke-free restaurant, one with non-smoking area, and one with no restriction on smoking), the smoke-free restaurant was voted by the respondents as being the cleanest (86%), serving the cleanest food (61%), and having the best image (76%).
- (3) If there were two restaurants offering the same type of service, 84% would choose the one with the non-smoking area, which was higher than that in the 1995 survey (Fig. 11).

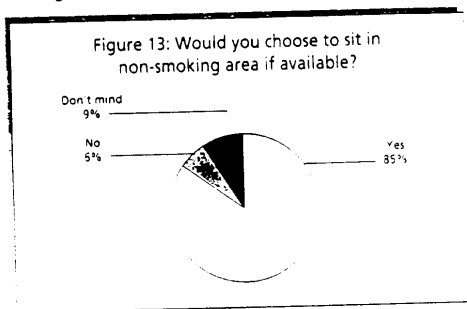


- (4) When the respondents were accompanied by children, 82% would choose a smoke-free restaurant, which was also higher than that in the 1995 survey (Fig. 12).



(5) 52% of the respondents had left a restaurant because there was too much tobacco smoke there. Only 4% had left a restaurant because smoking was not permitted there.

(6) 85% would choose to sit in non-smoking areas (Fig. 13).



(7) When the respondents who wanted to sit in a non-smoking area were asked what they would do if the only available seats in that restaurant were in the smoking permitted area, 30% would leave that restaurant, 23% would wait until non-smoking seats are available, and 41% would eat at the smoking permitted area.

Knowledge of the hazards of smoking and passive smoking

(1) 97% agreed that smoking is hazardous to health. When they were asked whether smoking can cause the following diseases, the proportions of correct responses were as follows: lung cancer (86%), chronic bronchitis/emphysema (73%), other cancer (66%), smoking in pregnant women retards fetal growth (95%). Few knew that smoking can cause impotency/sterility in males (14%), and about half knew that smoking can result in increased skin aging (53%).

(2) When asked about whether passive smoking can cause the following diseases or health hazards, the proportions of correct responses were as follows: lung cancer (77%), heart disease (68%), hazards to the health of pregnant women and the fetus (93%), hazards to children's health (95%), hazards to health in general (97%). More people gave the correct answers in all these categories in this survey than in the 1995 survey.

Conclusions

1. Compared with the results of the 1995 survey, stronger support for smoke-free restaurants was found in this survey. More people supported the proposal that half of the seats should be designated as non-smoking areas, and more than two-thirds supported all seats being non-smoking. Moreover, the degree of support for an extension of the legislation has increased. More people agreed that the purpose of the legislation was to protect citizens' health and that it would not infringe citizens' rights.
- (2) The public was not fully aware of the current legislation intended to protect them from ETS exposure in restaurants.
- (3) The majority (64%) thought that the current legislation was insufficient and ineffective in protecting people from ETS exposure in restaurants. Most agreed that the legislation should be expanded to cover more restaurants and to increase the size of non-smoking areas.
- (4) The prevalence of exposure to ETS in restaurants was high (69% often or sometimes exposed), but frequent exposure was slightly lower than that in the 1995 survey (77% often or sometimes exposed).
- (5) Actions to avoid tobacco smoke, negative feelings towards restaurants with ETS and health problems from exposure to ETS in restaurants were commonly experienced by the public.
- (6) The slightly lower prevalence of exposure to ETS in restaurants in this survey might be due to the increasing availability of non-smoking areas in restaurants and/or increased avoidance of tobacco smoke by the public. But there is still an urgent need to reduce exposures to ETS in *all* catering facilities.
- (7) Most people would choose restaurants with non-smoking areas, especially when accompanied by children, and most would choose to eat in non-smoking areas.

- (8) This survey confirms the 1995 findings that restaurant owners could expect an increase in customers if smoking was banned in all restaurants. This is because the proportion of people who would go more often is much greater than the proportion who would go less. Moreover, the public viewed smoke-free restaurants as being the cleanest, serving the cleanest food, and having the best overall image.
- (9) An increase in the public's knowledge of the hazards of smoking and passive smoking was found in this survey, but there were many important gaps in knowledge which need to be targeted.

Recommendations

- (1) All restaurants should be made totally smoke free for the protection of public health.
- (2) At least two third of the seats of all restaurants should be smoke-free. This is strongly supported by the public, and 85% of the population are non-smokers.
- (3) The public should be better informed about the current legislation so that they know more about their right to be protected from ETS in restaurants.
- (4) The public should be encouraged to strongly demand smoke-free seats in restaurants and to refuse being seated in smoking areas.
- (5) The results of this survey should encourage restaurant owners to expand the non-smoking areas in their restaurants or to make their restaurants entirely smoke-free, since there would be substantial gains in both customers and image. Smoke-free restaurants are good for business.
- (6) Health education about the hazards of smoking and passive smoking should continue. This survey shows important gaps in public knowledge about the hazards of smoking. These should be addressed urgently. For example, a new wave of health education should focus on the fact that smoking damages respiratory and sexual health, causes many different cancers in addition to lung cancer, and rapid aging of the skin.

References

- (1) Lam TH, Chung SF, Tam EYW, He Y. Public opinion on smoke-free restaurants and experience of exposure to environmental tobacco smoke (ETS) in restaurants. HSRC Report #1. Department of Community Medicine, The University of Hong Kong, Nov. 1997.
- (2) Census and Statistics Department of Hong Kong. Social data collected via the General Household Survey Special Topics Report No. 20, 1998: Government Printer 1998.

Acknowledgements

This survey was commissioned by the COSH Research Committee. (Chair) Professor Edith Lau; (Members) Mr. Alfred Chan, Professor AJ Hedley, Dr Shirley Ip, Professor TH Lam, Dr Homer Tso, Mr. Marcus Yu. The 1995 survey was funded by the Health Services Research Committee (#412016).

We would like to thank Mr. Alfred Chan and other staff of COSH for their useful suggestions for the questionnaire and all the interviewers (Ms Chu Mei Ling and Mrs Tsang Tsui Lan) and the respondents for their assistance.

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OF HONG KONG

DEPARTMENT OF COMMUNITY MEDICINE