

IMPACT OF Smoking Ordinances ON RESTAURANTS

2004 RESEARCH / TALKING POINTS

Executive Summary

★ This report describes the findings of a statistical study of the impact of local government non-smoking ordinances on the sales and profits of individual tableservice restaurants. The analysis uses data from national samples of restaurants collected for five years during the 1990 to 2000 period, as well as information on the features of the ordinances applicable to the restaurants and the economic and demographic characteristics of the communities where the restaurants were located.

★ Non-smoking ordinances were found to have a statistically significant impact on the sales and profits of individual restaurants in certain cases. Most of the significant effects regarding specific ordinance types enacted at different times were negative, although some positive effects were also significant.

★ A temporary negative impact on restaurant sales was found in cases where 100 percent smoking bans (excluding the bar area) were in effect at the county level. The estimated declines in annual sales ranged from roughly 49 to 55 percent at restaurants where such bans were enacted two to three years prior to the survey.

★ Restaurant sales also declined in areas where 100 percent smoking bans (excluding the bar area) had been enacted at the place level. Annual sales declines were estimated at 36 percent at restaurants where these bans were enacted four or more years earlier.

★ In cases where significant declines in sales were estimated, gross profit tended to decline by a somewhat greater percentage.

★ A positive impact on total restaurant sales and gross profit was found in cases where place-level ordinances reserved the majority of seating for nonsmokers but allowed some smoking. In cases where these ordinances were enacted two to three years before the survey, sales were estimated to increase 36 percent and gross profit was up 37 percent. In cases where these ordinances went into effect four or more years ago, sales were up 43 percent and gross profit increased 42 percent.

A statistical study was recently conducted for the National Restaurant Association by Deloitte and Touche to determine the economic impact of local government non-smoking ordinances on many tableservice restaurants. The study interprets the issue more closely than others and concludes what commonsense has been telling many for some time: that depending on many variables, the banning of smoking by a government entity has had a positive effect on some restaurants, no effect on many and a negative effect on many more.

WHY DID THE NRA CONDUCT THIS STUDY?

In recent years, many local, county and state governments in the U.S. have enacted ordinances that limit smoking in restaurants. These laws impose varying degrees of restriction, from specifying non-smoking sections to completely banning smoking in restaurants or bars.

In the debate over the effect of these measures, many restaurant operators in areas where ordinances are in effect have reported sales declines. Operators in areas not yet covered by smoking ordinances have become concerned that their business could be disrupted by further enactment of these laws. Understanding that additional research was needed to make that assessment, the National Restaurant Association decided to conduct a statistical study of this issue to present a clearer picture of what is happening to restaurants as a result of state and local smoking ordinances.

HOW WAS THIS REPORT PREPARED?

The analysis used data collected for restaurant operations during five separate years between 1991 and 2000, as well as information on the features of the ordinances applicable to tableservice restaurants. Also, economic and demographic characteristics of the communities where the restaurants were located were considered.

The study results are categorized according to the geographic coverage of non-smoking ordinances—county or place (city, town); the impact of statewide bans was not examined. Ordinances were further categorized by the extent that they required seating in restaurants and attached bars to be reserved for non-smokers, as follows:

- ★ Ordinances requiring that 50 percent to 99 percent of seating be reserved for non-smokers
- ★ Ordinances requiring that all seating in the dining area be reserved for non-smokers, but that do not totally exclude smokers from the bar area of a restaurant
- ★ Ordinances that reserve all seating in the dining and bar areas for non-smokers

WHAT DID THE REPORT FIND?

The report found that banning smoking in tableservice restaurants by a government entity on the local level has had a positive effect on some restaurants, no effect on many and a negative effect on many more.

HOW IS THIS REPORT DIFFERENT FROM OTHERS?

This study simply examined the economic impact of banning or restricting smoking in restaurants. It was not designed to specifically prove or disprove the positive or the negative impact of smoking restrictions, but rather, any measurable impact such restrictions may have.

Studies conducted in the past, which have claimed there is no economic impact to the restaurant industry when smoking bans are adopted, are incorrect. Similar studies on the economic impact of smoking in restaurants have failed to take into account the large

number of restaurants—mostly quickservice restaurants—that did not allow smoking prior to the enactment of smoking bans, thus skewing the analysis and falsely concluding that the bans had little or no impact.

Also, it can be safely assumed that a successful restaurant would not allow for their sales to continually decline simply so they could be measured. The average restaurant owner would take appropriate steps to compensate for loss of revenue with corrective measures or risk going out of business.

HAVE RESTAURANTS EXPERIENCED POSITIVE ECONOMIC EFFECTS AS A RESULT OF LOCAL SMOKING ORDINANCES?

It is true that in several instances, some restaurants have seen positive results when local ordinances accommodated both smokers and non-smokers by reserving the majority of seating for non-smokers, but allowed some smoking. In those instances, sales were estimated to increase 36 percent two to three years after enactment. In cases where these ordinances went into effect four or more years ago, sales were up 43 percent.

IS THERE CONCLUSIVE EVIDENCE THAT SOME RESTAURANTS EXPERIENCED NEGATIVE ECONOMIC EFFECTS AS A RESULT OF LOCAL SMOKING ORDINANCES?

Yes, some restaurants have experienced lost sales as a direct result of strictest of smoking bans. According to the study, restaurant sales decline more than 50 percent when counties implement 100 percent smoking bans that include both the dining and bar areas. With smoking banned completely in the entire restaurant, total annual sales declined an estimated 55.2 percent within a year's time in some restaurants.

- ★ Restaurant sales decline when counties implement 100 percent smoking bans (excluding the bar area). Total annual sales declined an estimated 49 percent at restaurants where such bans were enacted two to three years prior to the survey.
- ★ Restaurant sales decline when cities/towns implement 100 percent smoking bans (excluding the bar area). Annual sales declines were estimated at 36 percent at restaurants where these bans were enacted four or more years earlier.

WHAT ARE PROPONENTS OF LOCAL SMOKING ORDINANCES SAYING ABOUT THE NATIONAL RESTAURANT ASSOCIATION'S STUDY?

One of the strongest proponents of local smoking ordinances is Dr. Stanton Glantz, Director for the Center for Tobacco Control Research and Education at the University of California, San Francisco and head of Tobacco Scam. In fact, he published a study in 1994 that claimed restaurant smoking bans have no adverse economic impact on 15 communities in which bans had been enacted.

Dr. Glantz has also reviewed the recent study conducted by Deloitte and Touche and has publicly criticized it as a "statistical analysis that is nothing short of bizarre" and discounted its relevance because it was funded in part by Philip Morris.

The National Restaurant Association stands by the research as the only one of its kind that presents a fair and balanced view on the economic impact of smoking ordinances on restaurants. Unlike similar studies, it was never meant to prove or disprove the positive or the negative impact of smoking restrictions, but simply determines whether there is any measurable impact of such restrictions.

Point/Counterpoint

OPPONENTS HAVE ONE POSITION ON SMOKING BANS. WHERE IS THE RESTAURANT INDUSTRY ON THIS ISSUE?

The restaurant industry remains an industry of choice. Restaurant operators, like most Americans, want to be free to make their own choices—choices that are best for them, their employees and their customers. Restaurant operators should be able to choose a smoking policy that works best for them and their patrons, both non-smokers and smokers, free of “one-size-fits-all” mandates by government.

For some restaurants, this means being able to declare their establishments smoke-free, if that's what customer demand dictates. On the other hand, many others have substantial numbers of smoking customers whom they must continue to be able to accommodate or significant business will be lost.

The restaurant industry is here to serve our customers—non-smokers and smokers alike.

OPPONENTS CONTINUE TO MAKE STRONG EMOTIONAL ARGUMENTS.

It is not uncommon for anti-smoking advocates to appeal to the emotional elements of the smoking issue, such as illness and personal tragedy. Consensus dictates that smoking has a negative impact on the public health and to allow smoking in public places is detrimental to the public health. This perception is difficult to counter therefore counterpoints must focus on the issue of choice and base facts in economic terms rather than emotion terms.

OPPONENTS WILL ARGUE SMOKING ORDINANCES AND BANS HAVE LITTLE OR NO ECONOMIC IMPACT ON RESTAURANTS.

Smoking bans and restrictions do in fact impact the restaurant industry, yet each establishment is unique and therefore each one is impacted differently. Each of the major restaurant segments—tableservice, quickservice, family and fine dining—caters to a variety of customers, smokers and non-smokers alike. The fact remains that if a restaurant's customer base consists primarily of smokers, any type of ordinance will have some impact. If an establishment's customers are predominately non-smokers, then certainly that particular establishment would be less severely impacted.

It would be inaccurate and presumptive for any study to say that the economic data confirms restaurants sales are not impacted by smoking bans. In actuality, any study that claims smoking ordinances and bans have no impact on restaurants only shows the resiliency of the industry and shows how restaurants, like many businesses either adapt to adverse conditions or perish. It would not be possible for a study to show continued declining sales in a restaurant over a prolonged period of time because the average restaurant would either alter business practices to compensate for lost sales or simply go out of business.

OPPONENTS MAY CITE INCREASED TAX REVENUE AS PROOF OF INCREASED SALES DUE TO SMOKING BANS.

In making their case, opponents have claimed that state and county tax receipts indicate increased sales in bars and restaurants after a smoking ban has been implemented. Tax receipts will provide only a very rough estimate of revenue generated by bars and restaurants. These receipts are not able to show the true impact of smoking bans because many establishments may increase prices to make up for lost sales.

OPPONENTS ARE WELL ORGANIZED AND USE COMPELLING RESEARCH TO SUGGEST RESTAURANTS ARE NOT IMPACTED BY SMOKING RESTRICTIONS OR BANS.

Dr. Stanton Glantz, a lead proponent of smoking bans, leads Tobacco Scam and continues to claim that bans in restaurants have no adverse economic impact.

Dr. Glantz has publicly criticized the recent study conducted by Deloitte and Touche as a “statistical analysis that is nothing short of bizarre” and discounted its relevance because it was funded in part by Philip Morris. To view Tobacco Scam's public attack on the National Restaurant Association and the study follow the attached link: http://www.tobaccoscam.ucsf.edu/ads/pop_ad_large.cfm?ad=nra450

The National Restaurant Association stands by the research as the only one of its kind that presents a fair and balanced view on the economic impact of smoking ordinances on restaurants. Unlike similar studies, it was never meant to prove or disprove the positive or the negative impact of smoking restrictions, but simply determine whether there is any measurable impact of such restrictions.

INDOOR AIR QUALITY (IAQ)

★ Major Technologies Available

ENERGY RECOVERY VENTILATORS (ERVs)

Energy Recovery Ventilators (ERVs): ERVs reduce energy costs associated with bringing in outdoor air and controlling humidity. An ERV will take energy from the exhaust air using a specialized wheel and add it to the incoming outdoor air, pre-heating or pre-cooling the outdoor air before it gets to your HVAC equipment. ERVs will save you money on energy costs because your HVAC equipment doesn't have to work as hard to provide the same level of comfort.

DEMAND CONTROL VENTILATION (DCV)

A method of automation that uses sensors that are equivalent to an “IAQ thermostat” to determine how many people are in an occupied space, adjusting the amount of outdoor air to meet the needs of the occupants. When you have large fluctuations in the number of people in your establishment, DCV provides the most energy-saving opportunities by giving you better control of the outdoor air supply and ventilation rates.

ADVANCED AIR CLEANING

Advanced Air Cleaning brings state-of-the-art filtration technology to venues such as bars. Advanced Air Cleaning reduces odors and particles in the air and can help to reduce your housekeeping and maintenance costs. Advanced Air Cleaning can include particle removal equipment such as Electrostatic Precipitators and HEPA filters; Gas-Phase Cleaners for odor removal; and Ozone Generators—which should only be used during unoccupied periods for odor removal.

★ Three Principles of Indoor Air Quality (IAQ)

OUTDOOR AIR

Sufficient outdoor air should be supplied to help dilute smoke and other indoor air constituents. Outdoor air will also help with proper ventilation and will provide a “fresher” smelling establishment, making your customers' experience more enjoyable.

HIGH QUALITY AIR FILTRATION

Typical filters in use today are only 20 percent efficient. This means that 80 percent of the particles that hit the filter pass through to the air supply. Efficient filters will have a 65–95% dust spot efficiency, removing more than 40% of dust particles from the air. However, filters rated above 95 percent efficient, including HEPA filters, can have real economic payback such as heating, cooling and cleaning expenses, in addition to improving IAQ. While these filters cost more than the standard 20% filter, they have enormous economic payback by reducing housekeeping and maintenance costs in your establishment.

MANAGE AIR FLOW

Managing air flow can really make a difference in any establishment and will help to control odor and smoke drift. Good airflow means supplying air to areas with the least smoke and odor concentration and exhausting air from areas with the most smoke and odor concentration.

THE IMPACT OF NON-SMOKING ORDINANCES ON RESTAURANT FINANCIAL PERFORMANCE—METHODOLOGY

This report estimates the impact of non-smoking ordinances on the sales and profits of individual restaurants. These estimates are based on a regression analysis of data from annual operations surveys conducted by Deloitte for the National Restaurant Association for the years 1991, 1996, 1997, 1999 and 2000.

The analysis was controlled for a variety of restaurant and community economic and demographic characteristics that could affect these measures. The zip code for each restaurant was used to link its data to information published by the American Nonsmokers' Rights Foundation on the non-smoking ordinances applying to that geographic area and to information on community demographic and economic characteristics that could affect restaurant sales and profits.

The study results were categorized according to the geographic coverage of non-smoking ordinances—county or place (city, town); the impact of statewide bans was not examined. Ordinances were further categorized by the extent that they required seating in restaurants and attached bars to be reserved for non-smokers, as follows:

- Ordinances requiring that 50 percent to 99 percent of seating be reserved for non-smokers
- Ordinances requiring that all seating in the dining area be reserved for non-smokers, but that do not totally exclude smokers from the bar area of a restaurant
- Ordinances that reserve all seating in the dining and bar areas for non-smokers

****IMPORTANT NOTE:** The state information provided below is compiled from a number of reporting services as of July 1, 2004. However, no warranty of accuracy is given, particularly since state laws can change frequently. The National Restaurant Association urges you to consult with the relevant state enforcement agency, your legal counsel, and/or your local human resources expert before acting on an important matter related to smoking restrictions. The information below is provided with the understanding that the National Restaurant Association is not engaged in rendering legal or professional services. It is also important to note that cities, counties and localities within each state may have more stringent restrictions.

ALASKA: Restaurants

Smoking is restricted to designated areas in food service establishments with a seating capacity of at least 50 persons. (1990)

ALABAMA: Restaurants

Restaurants are allowed to set up smoking areas and are not required to put up any physical barriers. The bill states that "existing physical barriers and ventilation systems shall be used to minimize the toxic effect of smoke (the bill states that the smoking areas be no more than 25% of the total square footage unless clientele dictate otherwise). If any restaurant is deemed by its owner as being too small to have designated smoking are, it shall be left up to the discretion of the owner if the facility will be a "smoking" or a "nonsmoking" facility. Areas designated as smoking or nonsmoking must prominently display "No Smoking" or "Smoking Permitted" signs, but specific size is not stated. Smoking is permitted in bars and lounges. (2003)

ARKANSAS: Restaurants

None at the state level.

ARIZONA: Restaurants

None at the state level.

CALIFORNIA: Restaurants

Smoking is prohibited in all enclosed places of employment, except for in a non-work area where no one is required to enter as part of his or her work responsibilities. (1996)

COLORADO: Restaurants

None at the state level.

CONNECTICUT: Restaurants

Smoking is banned in all restaurants, however smoking shall be allowed in taverns, cafes and bowling alleys until April 1, 2004, and the ban shall not apply to private clubs. (2003)

DELAWARE: Restaurants

Smoking is prohibited in all restaurants, bars and casino properties. (2002)

DISTRICT OF COLUMBIA: Restaurants

Restaurants seating over 50 persons

shall designate at least 25% of total seating capacity as a non-smoking area. (1987)

FLORIDA: Restaurants

Smoking is prohibited in the indoor portions of restaurants. (2003)

GEORGIA: Restaurants

None at the state level.

HAWAII: Restaurants

Retail eating establishments with a seating capacity of 51 patrons or more and the dining area of cruise ships shall provide nonsmoking areas proportionate to the preference of the customers and so located as to obtain the maximum effect of existing physical barriers and ventilation systems to minimize the toxic effect of smoke in adjacent nonsmoking areas. Violators may be fined up to 20 dollars. (1993)

IOWA: Restaurants

Smoking is restricted to designated areas in restaurants seating more than 50 people. (1990)

IDAHO: Restaurants

As of July 1, 2004 Idaho prohibits Smoking in all enclosed places of employment. (2004)

ILLINOIS: Restaurants

Smoking is restricted to designated areas in restaurants. The appropriate signs shall be posted. Violators are guilty of a petty offense. A unit of local government in this state shall not have the power and authority, after October 1, 1989, to regulate smoking in public places. (1989)

INDIANA: Restaurants

None at the state level.

KANSAS: Restaurants

Smoking is restricted to designated areas in restaurants. (1987)

KENTUCKY: Restaurants

None at the state level.

LOUISIANA: Restaurants

Local governments have the power to regulate smoking, but restaurants that serve liquor, bars, gambling operations,

tobacco vendors and hotel rooms are exempt from any smoking ban (2003). Restaurants must still conform to local ordinances passed before a statewide moratorium was put into place from 1993 to 2003.

MASSACHUSETTS: Restaurants

As of July 5, 2004 this state enforces a state wide ban of smoking in public places. (2004)

MARYLAND: Restaurants

Restaurants that do not possess an alcoholic beverage license may have a separate enclosed smoking room not to exceed 40% of the total area of the restaurant. Restaurants that do possess an alcoholic beverage license may designate the bar or bar area, a separate enclosed room not exceeding 40% of the total restaurant, or a combination of a bar or bar area and a separate enclosed room not exceeding 40% of the total area of the restaurant including the bar or bar area, as a smoking area. A separate enclosed room in which smoking is permitted is not required to have a specially modified ventilation system for the room. Smoking is permitted in any location that possesses an alcoholic beverage license for consumption on the premises and is generally recognized as a bar or tavern or club. (1995)

MAINE: Restaurants

Smoking is prohibited in restaurants and Class A restaurants and lounges. Smoking is allowed in other lounges and taverns. (1999) Maine banned smoking in all lounges effective 1/1/04.

MICHIGAN: Restaurants

Food service establishments seating 50 or more persons that are not owned or operated by a private club must reserve a minimum of 50% of all seating for a non-smoking section. All food service establishments seating fewer than 50 people, including establishments owned and operated by a private club, must reserve a minimum of 25% of the seating for a non-smoking section. Public areas in restaurants must be smoke-free. These areas include, but are not

limited to, restrooms, coatrooms, and entrances. Public areas do not include lobbies, waiting rooms, hallways, or lounges. This law also applies to food service establishments or food court areas in enclosed shopping malls. Compliance with this section shall be used by local health departments as criteria to determine whether to deny, suspend, limit, or revoke a license. (1993)

MINNESOTA: Restaurants

Smoking is restricted to designated areas in restaurants. (1992)

MISSOURI: Restaurants

Restaurant owners shall provide an area of sufficient size to accommodate usual and customary demand for nonsmoking areas by customers. This shall not be cause to exceed the 30% space limitation for a smoking area. Bars and Taverns, bowling alleys, billiard parlors, and restaurants have exemptions only when fewer than 50 seats and with easily seen signs stating "Non Smoking Areas are unavailable". (2002)

MISSISSIPPI: Restaurants

None at the state level.

MONTANA: Restaurants

The proprietor or manager of a restaurant must designate smoking and non-smoking areas with easily readable signs. (1991) If the operator has an all beverage license (as opposed to just a beer/wine license), the operator may allow smoking.

NORTH CAROLINA: Restaurants

None at the state level. * There is a statute that says local jurisdiction can adopt a non-smoking requirement but cannot call for over 50 percent non-smoking in restaurants.

NORTH DAKOTA: Restaurants

Smoking is restricted to designated areas in buildings or enclosed structures that seat 50 or more persons and are available to the public including restaurants, food service establishments, dining rooms, cafes, cafeterias or other rooms used primarily for the service of food—regardless of whether the establishments serve alcoholic bev-

erages. The proprietor of a food service establishment may temporarily, during the course of daily business, expand the designated smoking area beyond 50% of the total available area if the smoking area becomes fully occupied and additional space is needed. (1993)

NEBRASKA: Restaurants

Smoking is restricted to designated areas in restaurants. Bars and restaurants having a serving area of less than 1,200 square feet may be designated as a smoking area in their entirety. (1979)

NEW HAMPSHIRE: Restaurants

Smoking is restricted to effectively segregated smoking areas in restaurants seating 50 or more people. Definition of "effectively segregated smoking areas" in restaurants means all the following conditions have been met: (a) Procedures for accurately and fairly determining preference have been followed; (b) The size and location of no-smoking and smoking-permitted areas are designed, designated, or juxtaposed so that smoke does not cause harm or unreasonably intrude into the area occupied by persons who are not smoking; (c) A contiguous portion of the enclosed public place, including any seating arrangements, measures a minimum of 200 square feet, and at least one of the following 2 contingencies exist: (1) There is a continuous, physical barrier such as a wall, partition or furnishing at least 56 inches in height to separate the no-smoking area from a smoking-permitted area. The barrier may contain doors or portals for exit and entry; or (2) There is a space of at least 4 feet in width to separate the smoking-permitted and no-smoking areas. This space may be either an unoccupied area or a section of seating area representing a buffer zone in which smoking is not permitted, but which itself is not part of the no-smoking designated area; and (d) In buildings where existing ventilation systems are in place, areas designated as smoking areas are located, where reasonably possible, proximate to exhaust vents. (2000)

NEW JERSEY: Restaurants

Restaurants are encouraged to establish non-smoking areas, and must post signs at every public entrance indicating whether or not they maintain a non-smoking section. Any person who smokes in a nonsmoking area or a proprietor who fails to comply with this law after receiving

notification of a violation, is subject to a fine not to exceed \$25. (1985)

NEW MEXICO: Restaurants

None at the state level.

NEVADA: Restaurants

Restaurants seating 50 or more people are required to maintain a flexible non-smoking area and offer each patron the opportunity to be seated in a smoking or nonsmoking area. (1999) An agency, board, commission or political subdivision of this state shall not impose more stringent restrictions on the smoking, use, sale, distribution, marketing, display, or promotion of tobacco products than those provided by this law. (1993)

NEW YORK: Public Places / Restaurants

The law bans smoking in almost all indoor work areas—Smoking is prohibited in all indoor food service establishments (Defined as any area, including outdoor areas devoted to the sale of food for on-premise consumption). Smoking will be permitted in outdoor areas of food service establishments if: There is no roof or ceiling enclosure on the area; No more than 25% of the entire outdoor area is for smoking; The smoking area is at least three feet away from the non-smoking area; The area must be clearly designated with written signage. Smoking is banned in bars (Defined as any area, including outdoor areas, devoted to the sale of alcoholic beverages for on-premise consumption where the service of food is incidental). There are no conditions allowing smoking in outdoor areas of bars. (2003)

OHIO: Restaurants

None at the state level.

OKLAHOMA: Restaurants

A restaurant with a seating capacity of fifty or more persons may have designated smoking and nonsmoking areas or may be designated as being a totally smoking area or a totally nonsmoking area. Beginning March 1, 2006, all restaurants must either go smoke free or smoking areas must be enclosed and separately-ventilated. (2003)

OREGON: Restaurants

Smoking is prohibited in restaurants unless they are posted off-limits to minors or areas of restaurants are post-

ed as off-limits to minors under rules adopted by the Oregon Liquor Control Commission. A local county, district, municipality, port or political subdivision of this state may not prohibit smoking in any areas listed in this section unless the local government prohibition was passed before July 1, 2001. (2001)

PENNSYLVANIA: Restaurants

Restaurants with seating capacities of 75 or more shall provide smoking and non-smoking areas reasonably calculated to address the needs of their clientele. The size of the smoking area may be increased or decreased by the proprietor or person in charge, according to need. Restaurants with fewer than 75 seats shall either provide a non-smoking section or post a notice at each entrance stating that there is no smoking policy. (1988)

RHODE ISLAND: Restaurants

Eating facilities seating 50 or more persons are required to have separate seating arrangements for smokers and non-smokers. (1993) During the 2004 session legislation was enacted to impose a complete ban on smoking in all public places effective March 1, 2005.

SOUTH CAROLINA: Restaurants

None at the state level.

SOUTH DAKOTA: Restaurants

Smoking is prohibited. Restaurants licensed to sell alcohol are excluded. (2002)

TENNESSEE: Restaurants

None at the state level

TEXAS: Restaurants

None at the state level

UTAH: Restaurants

Smoking is prohibited in restaurants, cafes, and cafeterias. This law shall be enforced by the state Department of Health and local health departments. Violators may be fined up to \$100 for a first violation and \$100-\$500 for subsequent violations. This law supersedes any ordinance enacted by a governing body of a political subdivision that restricts smoking and that is not essentially identical to the provisions of this chapter. (1994)

VERMONT: Restaurants

Smoking is banned entirely in restaurants. (1993)

VIRGINIA: Restaurants

Any restaurant having a seating capacity of fifty or more persons shall have a designated no-smoking area sufficient to meet customer demand. In determining the extent of the no-smoking area, the following shall not be included as seating capacity: (i) seats in any bar or lounge area of a restaurant and (ii) seats in any separate room or section of a restaurant which is used exclusively for private functions. The proprietor shall post signs conspicuous to public view stating "Smoking Permitted" or "No Smoking," and in restaurants, signs conspicuous to ordinary public view at or near each public entrance stating "No-Smoking Section Available." Any person failing to post such signs may be subject to a civil penalty of not more than \$25. No person shall smoke in a designated no-smoking area and any person who continues to smoke in such area after having been asked to refrain from smoking may be subject to a civil penalty of not more than \$25. Ordinances adopted after January 1, 1990, shall not contain provisions or standards which exceed those established in this chapter. (1996)

WASHINGTON: Restaurants

Managers of restaurants who choose to provide smoking areas shall designate an adequate amount of seating to meet the demands of restaurant patrons who wish to smoke. (1985) Restaurants were exempted from the Clean Air Act passed in 1985 (that prohibits smoking in all places of work) to allow those businesses such as restaurants, taverns, bowling alleys and casinos (non-native American) to permit smoking in designated areas, and restaurants can have their entire establishment declared 100% smoking, but must sign this accordingly at the entrance of the restaurant.

WISCONSIN: Restaurants

Smoking is restricted to designated areas in restaurants, unless the restaurant's liquor sales account for more than 50% of the receipts, or the seating capacity is less than 50 persons. (1992)

WEST VIRGINIA: Restaurants

The state Supreme Court has ruled that local health boards have the power to ban smoking in most indoor public settings. No laws at the state level.

WYOMING: Restaurants

None at the state level.