

A shot across the bow

Reno Gazette-Journal / RGJ.COM

Tuesday, July 27, 2010

“By assuming that the tobacco war has been won, we risk consigning millions of Americans to premature death.” Drs. Bruce Schnoeder and Kenneth Warner, *New England Journal of Medicine* (July 15, 2010)

Last month, the state Board of Health tabled action on regulations that would have reversed bans on smoking in restaurants that have been the law of the land since the Nevada Clean Indoor Air Act was approved by voters on November 7, 2006. The proposed changes would allow smoking in bars with a physically segregated restaurant under the same roof.

These regulatory challenges are simply the latest skirmish in the ongoing battle being waged between the public health community and opponents of the ban. In its brief existence, the Act has already endured a number of legal and legislative challenges including attempts by tavern owners and slot-route operators to gut the smoking ban during the 2009 legislative session (Senate Bill 372).

As such, recent efforts to circumvent the ban through the regulatory process should be read as a shot across the bow as we approach the next gathering of the legislature this spring.

In some respects, the smoking ban is not complicated. The act prohibits smoking tobacco in any form within most indoor places of employment, including all indoor areas within restaurants, bars and taverns serving food, and all areas of grocery stores, convenience stores, and drug stores. It also prohibits smoking in shopping malls, retail establishments, and government buildings and public places.

To be sure, the act is incomplete and bears the fingerprints of the major casinos and other powerful economic interests in Nevada. Smoking is still permitted in gaming areas of casinos, stand-alone bars, and taverns and saloons that do not serve food.

Nonetheless, the Nevada Clean Indoor Air Act represents landmark public policy in a state with a woeful track record on protecting the public's health.

A recent article in the *New England Journal of Medicine*, “Don't Forget Tobacco,” cites four policies that have had documented success in reducing smoking among both youths and adults: raising tobacco taxes, running counter marketing campaigns, banning cigarette advertising and promotion, and, lastly, extending laws regarding clean indoor air to additional sites.

While a majority of the US population lives in areas in which there are comprehensive smoke-free ordinances and smoking bans are popular and rarely repealed, the report's authors suggest that in most areas of the country we will soon “reach the limit of our ability to make designated indoor

areas smoke-free.” Except in Nevada, of course, where there remains plenty of work in the fight to extend protections to workers and the public from involuntary exposure to second-hand smoke.

Opponents of the act and their shills in Carson City continue to frame the ban in terms of individual consumer or employee choice: if you don’t want to eat a meal or work in a place that allows smoking, then take your business or labor elsewhere. Exposure to second-hand smoke, though, is just as much a labor and health care cost containment issue as it is a public health matter.

A recent environmental and biological assessment of second-hand tobacco smoke exposure among casino dealers in Nevada undertaken by the Centers for Disease Control and Prevention found evidence of workplace exposure to tobacco-specific carcinogens and a higher prevalence of respiratory symptoms among casino dealers. While this may confirm what anyone who has walked through a casino already knows, my guess is that most casino workers fortunate to be still be employed don’t have the luxury of finding other work these days in a state with depression-level unemployment.

Similarly, while smoking and exposure to second-hand smoke always entail an element of individual choice, why should taxpayers be expected to subsidize the cost of doing business for employers who allow patrons to smoke?

In other words, why should the rest of us pick up part of the health care costs associated with treating workers or customers harmed by second hand smoke?

A recent Surgeon General’s report documents the health consequences of involuntary exposure to tobacco smoke in abundant detail. To understate matters, the threat from active and involuntary exposure to tobacco smoke is settled science.

The recent regulatory challenges are thus a reminder of the need for eternal vigilance to safeguard and extend protections embodied in the Nevada Clean Indoor Air Act. While the act enjoys widespread public support, including the support of thousands of restaurant and retail workers across the state no longer exposed to second-hand smoke, the cynicism and deep pockets of the Act’s opponents should never be underestimated.

The Surgeon General’s report can be downloaded at www.cdc.gov/tobacco/data_statistics/sgr/2006/index.htm. The New England Journal of Medicine article can be found at <http://content.nejm.org/cgi/content/short/363/3/201>. The CDC report on exposure among Nevada casino dealers can be downloaded at www.cdc.gov/niosh/hhe/reports/pdfs/2005-0201-3080.pdf.

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