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S.F. No. 404 - The Freedom to Breathe Act of 2005

Author: Senator D. Scott Dibble

Prepared by: David Giel, Senate Research (651/296-7178) 

Date: February 4, 2005

S.F. No. 404 strengthens the Minnesota Clean Indoor Air Act. It establishes state policy to protect the public from the hazards of second-hand smoke by eliminating smoking in public places, places of employment, public transportation, and at public meetings. It makes changes in the Clean Indoor Air Act designed to achieve that purpose.

Section 1 (144.412) modifies the section establishing the public policy behind the act. It states the purpose of the act to eliminate, rather than limit, smoking in public places in order to protect the public from the known hazards of second-hand smoke, and it adds places of employment and public transportation to the list of places where the policy applies.

Section 2 (144.413, subdivision 1a) adds a definition of "place of employment" to the definitions section of the act. Place of employment includes any indoor area where two or more persons engage in employment or perform services without compensation for which persons are usually paid.

Section 3 (144.413, subdivision 2) modifies the definition of "public place." The definition is expanded to include bars and outdoor seating at restaurants and bars. References to places of work and public transportation, which are now defined separately in the act, are removed.

Section 4 (144.413, subdivision 4) clarifies the definition of "smoking."

Section 5 (144.413, subdivision 5) adds a definition “public transportation,” which includes public means of transportation; enclosed bus and transit stops; taxis, vans, limousines, and other for-hire vehicles other than those being operated by the lessee; and ticketing, boarding, and waiting areas in public transportation terminals.

Section 6 (144.414) modifies the section governing smoking prohibitions.

Subdivision 1 expands the prohibition on smoking in public places and public meetings to also govern places of employment and public transportation, and deletes a reference to designated smoking areas. Exceptions in current law for certain private social functions and certain places of work are removed. A requirement that the Commissioner of Health adopt rules regulating smoking in certain work places is removed.

Subdivision 2 expands the current bans on smoking in day care centers and homes during their hours of operation. The proprietors of a family day care home or group family day care home must disclose orally and in writing if the proprietor permits smoking in the home when it is not being used to provide day care.

Subdivision 3 modifies the current regulation of smoking in health care facilities and clinics. Currently, smoking is prohibited in any area of a health care-related facility, other than a nursing home, boarding care facility, or licensed residential facility. This section extends the total prohibition to apply to licensed residential facilities for children. It allows smoking only by patients or residents in facilities for adults and only in a separate, enclosed room with a separate ventilation system. Limits on smoking as part of a scientific study are deleted here and restated elsewhere in the act.

Subdivision 4 prohibits smoking in public transportation vehicles but allows the driver to smoke in the vehicle when it is in personal use, provided a conspicuous sign is posted inside the vehicle to inform passengers.

Subdivision 5 prohibits smoking in the outdoor seating area of a restaurant or bar, but allows the proprietor to designate for smoking up to 50 percent of the outdoor seating capacity.

Section 7 (144.416) modifies the responsibilities of proprietors to enforce the smoking ban. The duty to make reasonable efforts to prevent smoking is extended to the proprietors of public transportation, places of employment, and public meeting places. Arranging seating to provide a smoke-free area or asking smokers to refrain from smoking if others complain of discomfort are removed as appropriate means to enforce the ban. Instead, proprietors must ask smokers in smoking-prohibited areas to refrain from smoking, and ask the person to leave if the person refuses to refrain from smoking. If the offending party refuses to leave, the proprietor must handle the situation consistent with lawful methods for dealing with disorderly conduct or trespassing. Proprietors are prohibited from providing smoking equipment, including ashtrays or matches, in areas where smoking is prohibited. Nothing prohibits proprietors from taking more stringent measures to protect

individuals from second-hand smoke. Restaurants and bars may not serve anyone who is in violation of the act.

Section 8 (144.4167) creates several exemptions under which smoking is permitted.

Subdivision 1 restates language removed elsewhere in the law that allows smoking by participants in certain scientific studies.

Subdivision 2 allows smoking by adult Indians as part of traditional American Indian spiritual and cultural ceremonies.

Subdivision 3 states that, except for limits on smoking in day care homes, the act does not prohibit smoking in private residences or automobiles or in hotel or motel rooms.

Section 9 (144.417) modifies the section governing enforcement and penalties.

Subdivision 1 deletes the requirement that rules to implement the Clean Indoor Air Act adopted after January 1, 2002, may not take effect until approved by the Legislature.

Subdivision 2 makes it unlawful:

(1) for any entity that controls an area where smoking is prohibited to fail to comply with the Clean Indoor Air Act. It creates an affirmative defense if it can be demonstrated that the area was actually controlled by another person;

(2) for any employer subject to the act to fail to comply. It is an affirmative defense if the employer has made good faith efforts to ensure that employees comply; and

(3) for any person to smoke in an area where smoking is prohibited or restricted under the act. The penalty for persons who smoke in prohibited or restricted areas remains a petty misdemeanor.

This subdivision also prohibits retaliation by proprietors against persons who report violations of the act or exercise any right to a smoke-free environment provided under the act.

Subdivision 3 expands the commissioner's injunctive authority to apply to repeated violations of any portion of the act.

Section 10 allows cities and counties to enact more stringent measures to protect individuals from second-hand smoke.

Section 11 designates this legislation as the "Freedom to Breathe Act of 2005."

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Section 12 repeals Minnesota Statutes, section 144.415, allowing the designation of smoking areas in public places where smoking is permitted.

DG:rdt

Senators Dibble, Belanger, Kiscaden, Solon and Dille introduced--
S.F. No. 404: Referred to the Committee on Health and Family Security.

1 A bill for an act

2 relating to health; establishing the Freedom to
3 Breathe Act of 2005; requiring persons to refrain from
4 smoking in certain areas; amending Minnesota Statutes
5 2004, sections 144.412; 144.413, subdivisions 2, 4, by
6 adding subdivisions; 144.414; 144.416; 144.417;
7 proposing coding for new law in Minnesota Statutes,
8 chapter 144; repealing Minnesota Statutes 2004,
9 section 144.415.

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

11 Section 1. Minnesota Statutes 2004, section 144.412, is
12 amended to read:

13 144.412 [PUBLIC POLICY.]

14 The purpose of sections 144.411 to 144.417 is to protect
15 ~~the-public-health,-comfort-and-environment-by-prohibiting~~
16 ~~smoking-in-areas-where-children-or-ill-or-injured-persons-are~~
17 ~~present,-and~~ employees and the general public from the known
18 hazards of second-hand smoke by limiting eliminating smoking in
19 public places, places of employment, public transportation, and
20 at public meetings ~~to-designated-smoking-areas.~~

21 Sec. 2. Minnesota Statutes 2004, section 144.413, is
22 amended by adding a subdivision to read:

23 Subd. 1a. [PLACE OF EMPLOYMENT.] "Place of employment"
24 means any indoor area at which two or more individuals perform
25 any type of a service for consideration of payment under any
26 type of employment relationship, including, but not limited to,
27 an employment relationship with or for a private corporation,

1 partnership, individual, or government agency. Place of
2 employment includes any location where two or more individuals
3 gratuitously perform services for which individuals are
4 ordinarily paid. Examples of a place of employment include
5 public conveyances, factories, warehouses, offices, retail
6 stores, restaurants, bars, banquet facilities, theaters, food
7 stores, banks, financial institutions, employee cafeterias,
8 lounges, auditoriums, gymnasiums, restrooms, elevators,
9 hallways, museums, libraries, bowling establishments, employee
10 medical facilities, rooms or areas containing photocopying
11 equipment or other office equipment used in common, vehicles
12 owned or leased by a company if a nonsmoking employee is
13 present, government-owned vehicles, or a similar place of
14 employment.

15 Sec. 3. Minnesota Statutes 2004, section 144.413,
16 subdivision 2, is amended to read:

17 Subd. 2. [PUBLIC PLACE.] "Public place" means any
18 enclosed, indoor area used by the general public ~~or-serving-as-a~~
19 ~~place-of-work~~, including, but not limited to, restaurants~~;~~
20 bars; outdoor seating at restaurants and bars; retail stores~~;~~
21 ~~offices and other commercial establishments~~~~;~~~~public~~
22 ~~conveyances~~~~;~~ educational facilities other than public schools,
23 as defined in section 120A.05, subdivisions 9, 11, and 13~~;~~
24 hospitals~~;~~ nursing homes~~;~~ auditoriums~~;~~ arenas~~;~~
25 meeting rooms~~;~~ and common areas of rental apartment buildings~~;~~
26 ~~but-excluding-private~~~~;~~~~enclosed-offices-occupied-exclusively-by~~
27 ~~smokers-even-though-such-offices-may-be-visited-by-nonsmokers.~~

28 Sec. 4. Minnesota Statutes 2004, section 144.413,
29 subdivision 4, is amended to read:

30 Subd. 4. [SMOKING.] "Smoking" means the inhaling,
31 exhaling, or combustion of any cigar, cigarette, pipe, or any
32 other lighted smoking equipment. Smoking includes carrying a
33 lighted cigar, cigarette, pipe, or any other lighted smoking
34 equipment.

35 Sec. 5. Minnesota Statutes 2004, section 144.413, is
36 amended by adding a subdivision to read:

1 Subd. 5. [PUBLIC TRANSPORTATION.] "Public transportation"
 2 means public means of transportation, including light and
 3 commuter rail transit; buses; enclosed bus and transit stops;
 4 taxis, vans, limousines, and other for-hire vehicles other than
 5 those being operated by the lessee; and ticketing, boarding, and
 6 waiting areas in public transportation terminals.

7 Sec. 6. Minnesota Statutes 2004, section 144.414, is
 8 amended to read:

9 144.414 [PROHIBITIONS AND EXCEPTIONS.]

10 Subdivision 1. [PUBLIC PLACES, PLACES OF EMPLOYMENT,
 11 PUBLIC TRANSPORTATION, AND PUBLIC MEETINGS.] Smoking shall not
 12 be permitted in and no person shall smoke in a public place or,
 13 at a public meeting except-in-designated-smoking-areas, in a
 14 place of employment, or in public transportation, except as
 15 provided in this section or section 144.4167. This-prohibition
 16 does-not-apply-in-cases-in-which-an-entire-room-or-hall-is-used
 17 for-a-private-social-function-and-seating-arrangements-are-under
 18 the-control-of-the-sponsor-of-the-function-and-not-of-the
 19 proprietor-or-person-in-charge-of-the-place.--Furthermore,-this
 20 prohibition-shall-not-apply-to-places-of-work-not-usually
 21 frequented-by-the-general-public,-except-that-the-state
 22 commissioner-of-health-shall-establish-rules-to-restrict-or
 23 prohibit-smoking-in-factories,-warehouses,-and-those-places-of
 24 work-where-the-close-proximity-of-workers-or-the-inadequacy-of
 25 ventilation-causes-smoke-pollution-detrimental-to-the-health-and
 26 comfort-of-nonsmoking-employees.

27 Subd. 2. [DAY CARE PREMISES.] Smoking is prohibited in a
 28 day care center licensed under Minnesota Rules, parts 9503.0005
 29 to 9503.0175, or in a family home or in a group family day care
 30 provider home licensed under Minnesota Rules, parts 9502.0300 to
 31 9502.0445, during its hours of operation. The proprietor of a
 32 family home or group family day care provider must disclose to
 33 parents or guardians of children cared for on the premises if
 34 the proprietor permits smoking outside of its hours of
 35 operation. Disclosure must include posting on the premises a
 36 conspicuous written notice and orally informing parents or

1 guardians.

2 Subd. 3. [HEALTH CARE FACILITIES AND CLINICS.] ~~(a)~~ Smoking
3 is prohibited in any area of a hospital, health care clinic,
4 doctor's office, licensed residential facility for children, or
5 other health care-related facility, ~~other-than~~ except that a
6 patient or resident in a nursing home, boarding care facility,
7 or licensed residential facility,~~-except-as-allowed-in-this~~
8 ~~subdivision.~~

9 ~~(b)-Smoking-by-participants-in-peer-reviewed-scientific~~
10 ~~studies-related-to-the-health-effects-of-smoking-may-be-allowed~~
11 ~~in-a-separated-room-ventilated-at-a-rate-of-60-cubic-feet-per~~
12 ~~minute-per-person-pursuant-to-a-policy-that-is-approved-by-the~~
13 ~~commissioner-and-is-established-by-the-administrator-of-the~~
14 ~~program-to-minimize-exposure-of-nonsmokers-to~~ for adults may
15 smoke in a designated separate, enclosed room if the room has a
16 separate ventilation system from the rest of the facility.

17 Subd. 4. [PUBLIC TRANSPORTATION VEHICLES.] Smoking is
18 prohibited in public transportation vehicles except that the
19 driver of a public transportation vehicle may smoke when the
20 vehicle is being used for personal use. For purposes of this
21 subdivision, "personal use" means that the public transportation
22 vehicle is being used by the driver for private purposes and no
23 for-hire passengers are present. If a driver smokes pursuant to
24 this subdivision, the driver must post a conspicuous sign inside
25 the vehicle to inform passengers.

26 Subd. 5. [OUTDOOR SEATING.] Smoking is prohibited in the
27 outdoor seating area of a restaurant or bar, except that the
28 proprietor may designate for smoking up to 50 percent of the
29 outdoor seating capacity of the restaurant or bar provided the
30 location is appropriately signed as a smoking area.

31 Sec. 7. Minnesota Statutes 2004, section 144.416, is
32 amended to read:

33 144.416 [RESPONSIBILITIES OF PROPRIETORS.]

34 (a) The proprietor or other person in charge of a public
35 place, public transportation, place of employment, or public
36 meeting shall make reasonable efforts to prevent smoking in the

1 public place, public transportation, place of employment, or
 2 public meeting by:

3 (a) (i) posting appropriate signs or by any other means
 4 which may be appropriate; and

5 ~~(b)-arranging-seating-to-provide-a-smoke-free-area;~~

6 ~~(c)-asking-smokers-to-refrain-from-smoking-upon-request-of~~
 7 ~~a-client-or-employee-suffering-discomfort-from-the-smoke;-or~~

8 ~~(d)-any-other-means-which-may-be-appropriate-~~

9 (ii) asking any person who smokes in an area where smoking
 10 is prohibited to refrain from smoking and, if the person does
 11 not refrain from smoking after being asked to do so, asking the
 12 person to leave. If the offending party refuses to leave, the
 13 operator shall handle the situation consistent with lawful
 14 methods for handling other persons acting in a disorderly manner
 15 or as a trespasser.

16 (b) The proprietor or other person in charge of a public
 17 place, public meeting, public transportation, or place of
 18 employment must not provide smoking equipment, including
 19 ashtrays or matches, in areas where smoking is prohibited.

20 Nothing in this section prohibits the proprietor or other person
 21 in charge from taking more stringent measures than those under
 22 sections 144.414 to 144.417 to protect individuals from
 23 second-hand smoke. The proprietor or other person in charge of
 24 a restaurant or bar may not serve an individual who is in
 25 violation of sections 144.411 to 144.417.

26 Sec. 8. [144.4167] [PERMITTED SMOKING.]

27 Subdivision 1. [SCIENTIFIC STUDY PARTICIPANTS.] Smoking by
 28 participants in peer reviewed scientific studies related to the
 29 health effects of smoking may be allowed in a separated room
 30 ventilated at a rate of 60 cubic feet per minute per person
 31 pursuant to a policy that is approved by the commissioner and is
 32 established by the administrator of the program to minimize
 33 exposure of nonsmokers to smoke.

34 Subd. 2. [TRADITIONAL NATIVE AMERICAN
 35 CEREMONIES.] Sections 144.414 to 144.417 do not prohibit the
 36 lighting of tobacco by an Indian adult as part of a traditional

1 Indian spiritual or cultural ceremony. For purposes of this
 2 section, an Indian is a person who is a member of an Indian
 3 tribe as defined in section 260.755, subdivision 12.

4 Subd. 3. [PRIVATE PLACES.] Except as provided in section
 5 144.414, subdivision 2, nothing in sections 144.411 to 144.417
 6 prohibits smoking in:

7 (1) private homes, private residences, or private
 8 automobiles; or

9 (2) a hotel or motel sleeping room rented to one or more
 10 guests.

11 Sec. 9. Minnesota Statutes 2004, section 144.417, is
 12 amended to read:

13 144.417 [COMMISSIONER OF HEALTH, ENFORCEMENT,
 14 PENALTIES VIOLATIONS.]

15 Subdivision 1. [RULES.] (a) The state commissioner of
 16 health shall adopt rules necessary and reasonable to implement
 17 the provisions of sections 144.411 to 144.417, ~~except as~~
 18 ~~provided for in section 144.414.~~

19 ~~(b) Rules implementing sections 144.411 to 144.417 adopted~~
 20 ~~after January 17, 2002, may not take effect until approved by a~~
 21 ~~law enacted after January 17, 2002. This paragraph does not~~
 22 ~~apply to a rule or severable portion of a rule governing smoking~~
 23 ~~in office buildings, factories, warehouses, or similar places of~~
 24 ~~work, or in health care facilities. This paragraph does not~~
 25 ~~apply to a rule changing the definition of "restaurant" to make~~
 26 ~~it the same as the definition in section 157.157, subdivision 12.~~

27 Subd. 2. [PENALTIES VIOLATIONS.] (a) It is unlawful for
 28 any person, firm, limited liability company, corporation, or
 29 other entity that owns, manages, operates, or otherwise controls
 30 the use of an area in which smoking is prohibited under sections
 31 144.414 to 144.417 to fail to comply with sections 144.414 to
 32 144.417. For violations of this subdivision, it is an
 33 affirmative defense that during the relevant time period, actual
 34 control of the area was not exercised by the respondent, but
 35 rather by a lessee, a sublessee, or any other person. To
 36 establish an affirmative defense, the respondent shall submit an

1 affidavit and may submit any other relevant proof indicating
2 that the respondent did not exercise actual control of the area
3 during the relevant time period. The affidavit and other proof
4 shall be mailed by certified mail to the appropriate enforcement
5 officer within 30 days of receipt of a notice of violation.

6 (b) It is unlawful for an employer whose place of
7 employment is subject to sections 144.414 to 144.417 to fail to
8 comply with sections 144.414 to 144.417. For violations of
9 sections 144.414 to 144.417, it is an affirmative defense that
10 the employer has made good faith efforts to ensure that
11 employees comply with sections 144.414 to 144.417.

12 (c) It is unlawful for any person to smoke in an area where
13 smoking is prohibited or restricted under sections 144.414 to
14 144.417.

15 (d) Any person who violates ~~section-144.414-or~~
16 ~~144.4165~~ paragraph (c) is guilty of a petty misdemeanor.

17 (e) A proprietor or person in charge of a public place,
18 public meeting, place of employment, or public transportation
19 must not retaliate or take adverse action against an employee or
20 anyone else who, in good faith, reports a violation of sections
21 144.414 to 144.417 to the proprietor or person in charge of the
22 public place, public meeting, place of employment, or public
23 transportation or to the commissioner of health or other
24 designee responsible for enforcing sections 144.414 to 144.417.

25 (f) No person or employer shall discharge, refuse to hire,
26 penalize, discriminate against, or in any manner retaliate
27 against any employee, applicant for employment, or customer
28 because the employee, applicant, or customer exercises any right
29 to a smoke-free environment provided by sections 144.414 to
30 144.417 or other law.

31 Subd. 3. [INJUNCTION.] The state commissioner of health, a
32 board of health as defined in section 145A.02, subdivision 2, or
33 any affected party may institute an action in any court with
34 jurisdiction to enjoin repeated violations of ~~section-144.416-or~~
35 ~~144.4165~~ sections 144.414 to 144.417.

36 Sec. 10. [LOCAL GOVERNMENT ORDINANCES.]

1 Nothing in Minnesota Statutes, sections 144.414 to 144.417,
2 prohibits a statutory or home rule charter city or county from
3 enacting and enforcing more stringent measures to protect
4 individuals from second-hand smoke.

5 Sec. 11. [FREEDOM TO BREATHE ACT.]

6 This act shall be referred to as the "Freedom to Breathe
7 Act of 2005."

8 Sec. 12. [REPEALER.]

9 Minnesota Statutes 2004, section 144.415, is repealed.

APPENDIX
Repealed Minnesota Statutes for 05-1405

144.415 DESIGNATION OF SMOKING AREAS.

Smoking areas may be designated by proprietors or other persons in charge of public places, except in places in which smoking is prohibited by the fire marshal or by other law, ordinance or rule.

Where smoking areas are designated, existing physical barriers and ventilation systems shall be used to minimize the toxic effect of smoke in adjacent nonsmoking areas. In the case of public places consisting of a single room, the provisions of this law shall be considered met if one side of the room is reserved and posted as a no smoking area. No public place other than a bar shall be designated as a smoking area in its entirety. If a bar is designated as a smoking area in its entirety, this designation shall be posted conspicuously on all entrances normally used by the public.

1 Senator moves to amend S.F. No. 404 as follows:

2 Page 4, line 23, delete "pursuant to" and insert "as
3 permitted under"

4 Page 5, line 13, delete "operator" and insert "proprietor
5 or other person in charge"

Stephen S. Hecht, Ph.D.
University of Minnesota Cancer Center
420 Delaware St., S.E.
Minneapolis, MN 55455

Dear Legislator:

It was brought to my attention that one person who testified against the smoke-free workplaces legislation in the Health Committee on January 26th made several statements about cancer. I cannot speak to that person's qualifications, but I would urge you to consider professional background when considering the credibility of scientific claims. I am the Wallin Professor of Cancer Prevention at University of Minnesota Cancer Center. I have been engaged in research on tobacco and cancer for over 30 years. I am also an American Cancer Society Research Professor, one of only 30 in the country and have served as a consultant to the American Cancer Society's grants program as Chairman of the study section on carcinogenesis, nutrition, and the environment. My professional and educational background is attached to this letter if you would like to know more about my work.

The American Cancer Society has been fighting cancer for about a century, and as you could probably guess, takes the issue quite seriously. Whether directly serving patients with free transportation, funding Nobel prize-winning research, or educating underserved communities about cancer risks, the American Cancer Society continues to fight this terrible disease, and will do so until the cure has been found.

For these reasons, I cannot help but respond to the claims that cancer risks associated with coffee, cell phones or cheeseburgers are equivalent to those of secondhand smoke. As an elected official considering a vote on an important public health issue, you deserve the truth.

1. Coffee. As the subject of a wide range of studies, links between coffee and cancer, heart disease and infertility have been well studied. Because coffee is inconsistently used (many people prepare it differently, add cream and sugar, or smoke a cigarette while they drink), proving a direct link between coffee and disease is complicated for researchers, who must take such variables into account. Although these are occasionally contrary studies (attributed to difficulty posed by these other factors), *the vast majority of studies agree that coffee has not been shown conclusively to have a link to bladder, breast, lung, pancreatic, prostate or any other cancers.*

2. Cell Phones. Lawsuits and news headlines have fueled the myth that cell phones cause cancer, particularly brain cancer, and 30% of Americans still believe this myth, according to the Discovery Health/Prevention/ACS telephone survey. While a few studies suggested a link with certain rare types of brain tumors, *the consensus among well-designed population studies is that there is no consistent association between cell phone use and brain cancer.* Consumers could easily have missed the reports showing no danger from cell phones because they didn't receive alarming front-page coverage like the original reports. What has been proven is that using a cell phone while driving increases the risk of having a car accident. So, keeping your hands free and your eyes on the road is a more significant issue for people who use cell phones.

3. Cheeseburgers, a.k.a. red meat. Eating large amounts of red or processed meat over a long period of time can indeed raise colorectal cancer risk. But the risks from such a diet are smaller than those from obesity and lack of exercise, both for colon cancer and for overall health.

Furthermore, *the risk associated with one individual eating red meat does not spread to other individuals. This is a crucial distinction in making the comparison between red meat and secondhand smoke.*

The claims made about cheeseburgers, coffee and cell phones causing cancer are not true. Unfortunately, the well-researched facts about secondhand smoke indicate that it is a major health hazard, particularly for those who work in the environments in which smoking is not restricted.

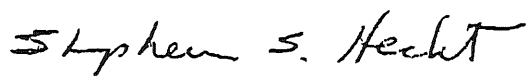
- Secondhand smoke is the third leading preventable cause of death in the U.S. killing 38,000 to 65,000 nonsmokers every year.
- Food service workers appear to be 50% more likely than the general population to develop lung cancer, largely because many of them are exposed to secondhand smoke on the job. Waiters and waitresses have almost twice the risk of lung cancer due to involuntary exposure to environmental tobacco smoke (ETS).
- Cigarette smoke contains over 6,000 chemicals, over 200 poisons, and over 60 carcinogens. The poisons in cigarette smoke include carbon monoxide, hydrogen cyanide, and methyl isocyanate. The carcinogens in cigarette smoke include benzo[a]pyrene and NNK, which cause lung cancer; other nitrosamines, which cause cancer of the lung, respiratory system, and other organs; aromatic amines, which cause bladder and breast cancer; formaldehyde, which causes nasal cancer; and benzene, which causes leukemia. Metabolites of the carcinogen NNK have been found in nonsmokers who have been exposed to secondhand smoke.
- Each year environmental tobacco smoke kills approximately 53,000 Americans, the same number of Americans killed in the Vietnam War.
- The Environmental Protection Agency has classified environmental tobacco smoke as a "Group A" Carcinogen – a substance known to cause cancer in humans. Environmental tobacco smoke joins a list, which includes substances such as radon and asbestos. Other agencies such as the International Agency for Research on Cancer have come to the same conclusion.
- The links to other diseases have been equally as established, including emphysema, heart disease, bronchitis and asthma.

As this data shows, it is simply not true that cancer risk ratios for cell phones, coffee or cheeseburgers are higher than those of secondhand smoke.

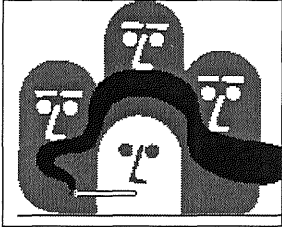
Cancer is sometimes avoidable, and sometimes not. In this case, we can save lives by protecting every worker and patron in the State. Experience in other states also shows that indoor regulations lead to less smoking in general.

You have the opportunity to move forward with one of the most important public health policies of our times. I encourage you to vote for the health of the your district and the State of Minnesota. In doing so, you will do more for the health of the state than one doctor ever can.

Sincerely,



Stephen S. Hecht



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SECONDHAND SMOKE: SMOKE-FREE WORKPLACE LAWS VERSUS VENTILATION

Dear Minnesota Elected Official:

I am writing to you at the behest of the Hennepin Medical Society concerning the urgency for smoke-free workplace laws. Secondhand smoke (SHS), i.e., indoor air pollution from tobacco combustion, has been condemned as a health hazard by all U.S. occupational health, environmental health, and public health authorities, and smoking has been prohibited in all federal workplaces. In 1999, the National Cancer Institute endorsed an estimate by the California Environmental Protection Agency that SHS killed from 38,000 to 65,000 Americans every year (NCI, 1999). Scaled to the state's 5,059,375 residents in 2003, compared to the 2003 U.S. population of 290,342,554, this is an estimated 662 to 1133 deaths per year from SHS. In 1994, U.S. OSHA estimated from 2200 to 14000 workers' deaths annually from SHS exposure on the job; scaled to Minnesota, this is from 38 to 244 deaths per year. The most exposed occupations are food and beverage workers in the hospitality industry; these are also the workers with the least protections from SHS.

1. Credentials: I am a biophysicist whose research field is secondhand smoke. Earlier this month, I published a paper in the *Journal of Occupational and Environmental Medicine* entitled: **Respirable Particles and Carcinogens in the Air of Delaware Hospitality Venues Before and After a Smoking Ban** (*J Occup Environ Med. 2004;46:887-905*). This paper investigated air pollution in a casino, six bars, and a pool hall before and after Delaware's smoking ban in November 2002. I found that secondhand smoke contributed 90% to 95% of the fine particle (RSP) air pollution during smoking, and 85% to 95% of the carcinogenic particulate polycyclic aromatic hydrocarbons (PPAH), greatly exceeding levels of these contaminants encountered on major truck highways (I-95 in Maryland and Delaware) and polluted city streets in Boston. This air-quality survey demonstrates conclusively that the health of hospitality workers and patrons is endangered by tobacco smoke pollution. Smoke-free workplace laws eliminate that hazard and provide health protection impossible to achieve through ventilation or air cleaning.

2. Why can't ventilation or air cleaning control SHS? Proponents of such engineering controls for SHS from the hospitality industry, the ventilation industry, and the tobacco industry have aggressively promoted ventilation or air cleaning as viable and preferable alternatives to smoke-free workplace laws all over North America and abroad. However, these proponents invariably fail to identify the risk at the current levels of exposure, fail to identify the amount of ventilation or air cleaning that would reduce the

SHS risk to an acceptable level as defined by an indoor air quality standard for SHS, what that acceptable level is, or how the county would enforce it. If asked to sign an affidavit affirming that their proposed “ventilation solution” will control SHS sufficiently to *guarantee* a safe and healthy workplace, would they do it?

A thorough understanding of the way ventilation affects pollutant levels requires knowledge of calculus and differential equations. However, a basic understanding can be obtained by way of the following “thought experiment.” Imagine a bathtub filled halfway to the brim with running water, with the drain opened part way such that the water maintains its level. Imagine slowly pouring a 2 liter bottle of India Ink into the tub: the water will instantly turn dark grey. In an effort to clear the water of ink, you fully open the drain and increase the flow of water until the level reaches to the brim. You continue to pour the ink at a steady rate. The water is not clear, but merely a lighter shade of gray. This is the way ventilation or air cleaning work: you can increase the level to dilute the smoke, but you can never remove it entirely.

3. Regulation of SHS with Engineering Controls. If smoke remains in workplace air, an acceptable regulatory level must be found. Is the State prepared to discover and set such a level? How would such a level, once defined, be enforced? Would the State hire inspectors, train them to use scientific monitoring equipment, and inspect and monitor every county workplace to ensure compliance? How much would this cost? SHS has been identified as a cause of heart disease, lung cancer, and respiratory disease. The federal government, with all of its resources, has never been able to define an acceptable level of SHS exposure which would protect people from contracting any of these diseases. Rather, it declared SHS to be a human carcinogen, and has banned smoking in all federal workplaces. However, the States have been left to their own devices. What have they done? Maine, Massachusetts, Rhode Island, Connecticut, New York, Delaware and California have chosen to ban SHS in the workplace. Many of the remaining states have done little or nothing, leaving localities to decide for themselves, or in some states, have even pre-empted local control, forbidding localities from banning smoking in workplaces. Fortunately, Minnesota is not one of these.

4. Regulation of Smoking by Smoke-free Laws. The following picture is worth a thousand words: The figures below shows continuous measurements of respirable particle (RSP) and carcinogen (PPAH) air pollution in a casino, six bars, and a pool hall before and after a smoking ban. Before and after each venue was visited, measurements were made outdoors and in transit between venues. Before the ban, on November 15, 2002, under conditions of unrestricted smoking (Fig. 1, top); This study was repeated on January 24, 2003, two months after a state-wide smoke-free workplace law (Fig. 1, bottom) (Repace, 2004). The pollution levels have been essentially reduced to outdoor levels, *guaranteeing* that the air no longer contains harmful SHS. This is not remotely possible using ventilation or air cleaning. To reduce the level of tobacco smoke to an acceptable risk would require tornado-like levels of air flow. Ventilation or air cleaning cannot even reduce the level of SHS RSP to comply with the U.S. National Ambient Air Quality Standard for fine particulate matter (PM_{2.5}) without air supply rates ranging upward of 80 air changes per hour, with exponentially higher rates required as the level of outdoor air pollution increases (Repace, 2004).

5. Consequences of a failure to eliminate SHS exposure: Workers will be injured, and some will die. If the county permits so-called “ventilation solutions,” who will be liable for this morbidity and mortality? In the United States, Canada, Australia, the United Kingdom, Norway, Italy, and Ireland, lawsuits by nonsmokers injured or killed from secondhand smoke abound. I have been an expert witness in SHS litigation involving plaintiffs who have suffered a variety of adverse health effects, including asthmatic attacks (Mullen et al. vs. Treasure Chest), laryngeal cancer (Pappas vs. Fairlanes Bowl), lung cancer (Thaxton vs. Norfolk Southern), and sinusitis (Jett et al. vs. Philip Morris et al.). These injuries and deaths could have been prevented by smoking bans. They occurred because ventilation doesn’t work.

6. Economics. Proponents of so-called “ventilation solutions” plead that they will suffer economic losses if smoking is banned. In fact the hospitality industry thrives where smoking is banned: Quoting from the report, *THE STATE OF SMOKE-FREE NEW YORK CITY: A ONE-YEAR REVIEW, MARCH 2004*, authored by the *New York City Department of Finance, New York City Department of Health & Mental Hygiene, New York City Department of Small Business Services, and the New York City Economic Development Corporation*: (<http://www.nyc.gov/html/doh/pdf/smoke/sfaa-2004report.pdf>)

“When New York City’s Smoke-Free Air Act went into effect on March 30, 2003, questions were raised about how the law would affect the City’s restaurants and bars. Would the law hurt business? Would some establishments have to lay off workers or close? **One year later, the data are clear. The City’s bar and restaurant industry is thriving and its workers are breathing cleaner, safer air.** 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 licenses issued has increased—all signs that New York City bars and restaurants are prospering. The vast majority of New Yorkers support the law and say they are more likely to patronize bars and restaurants now that they are smoke-free. And, most importantly, the health of all New Yorkers, customers and workers alike, is now protected from the harmful health effects of second-hand smoke. The data show that:

- **Business tax receipts in restaurants and bars are up 8.7%;**
- **Employment in restaurants and bars has increased by 10,600 jobs (about 2,800 seasonally adjusted jobs) since the law’s enactment;**
- **97% of restaurants and bars are smoke-free;**
- **New Yorkers overwhelmingly support the law;**
- **Air quality in bars and restaurants has improved dramatically;**
- **Levels of cotinine, a by-product of tobacco, decreased by 85% in nonsmoking workers in bars and restaurants; and**
- **150,000 fewer New Yorkers are exposed to second-hand smoke on the job.**

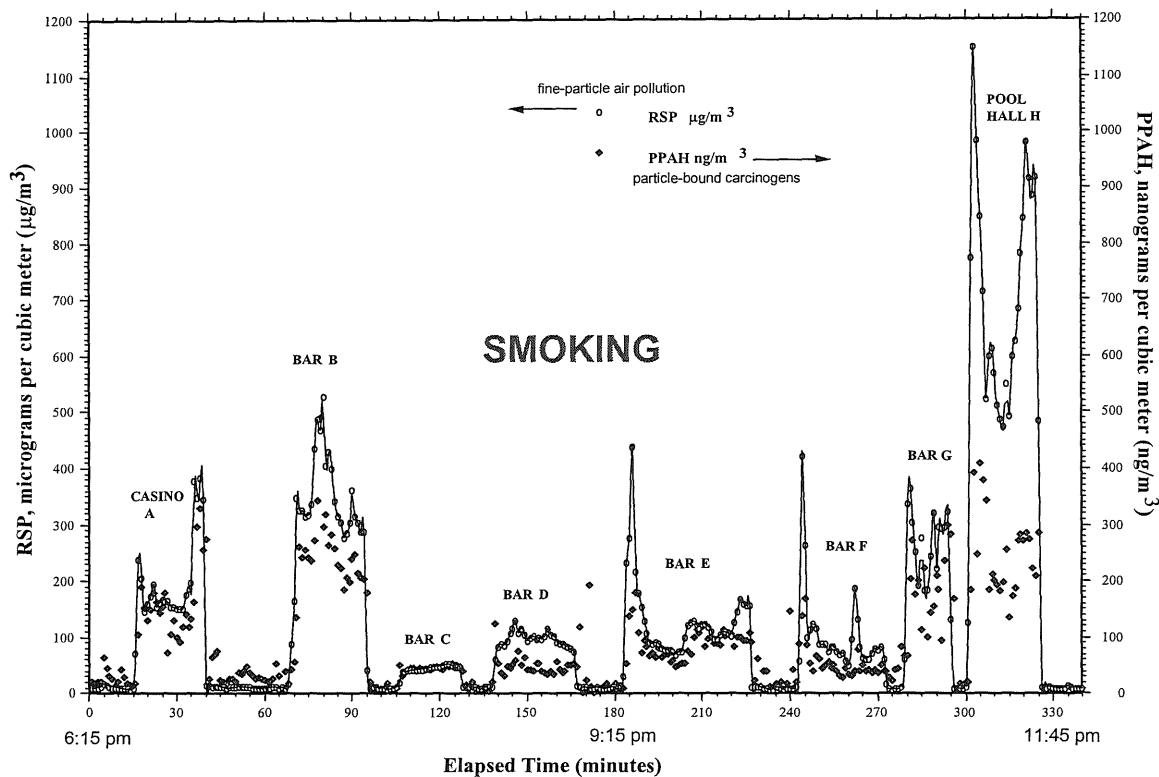
Do Minnesota citizens deserve less?

Sincerely,

James Repace, MSc.

October 1, 2004

Delaware Hospitality Industry Secondhand Smoke Survey: Real-time RSP & PPAH, Friday Nov. 15, 2002



Delaware Hospitality Industry Secondhand Smoke Survey: Real-time RSP & PPAH After The Smoking Ban

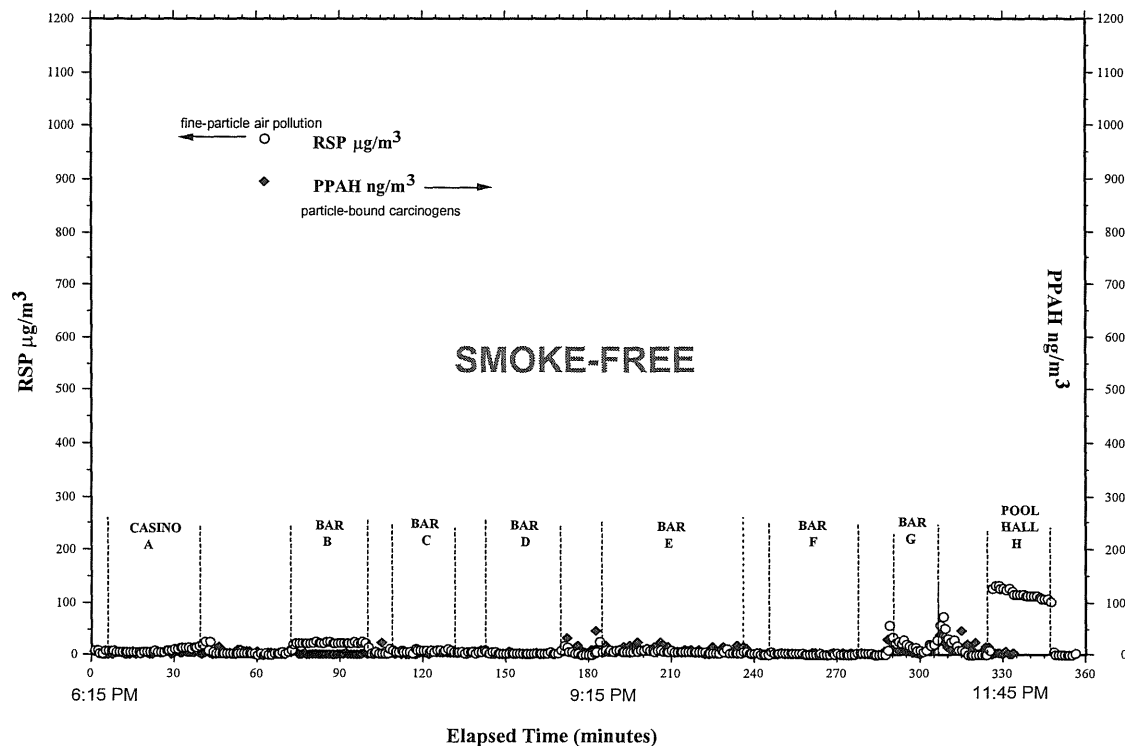


Figure 1. Indoor air pollution in a casino, 6 bars, and a pool-hall before (top) and after (bottom) a smoking ban in Wilmington, Delaware (Repace, 2004).

BIOGRAPHICAL SKETCH

NAME Stephen S. Hecht		POSITION TITLE Professor		
EDUCATION/TRAINING (<i>Begin with baccalaureate or other initial professional education, such as nursing, and include postdoctoral training.</i>)				
INSTITUTION AND LOCATION		DEGREE (if applicable)	YEAR(s)	FIELD OF STUDY
Duke University, Durham, NC		B.S.	1964	Chemistry
Massachusetts Institute of Technology, Cambridge, MA		Ph.D.	1968	Organic Chemistry
Massachusetts Institute of Technology, Cambridge, MA			1968-9	Postdoctoral Fellow

Positions and Employment

1969-1971 Assistant Professor of Chemistry, Haverford College, Haverford, PA
 1971-1973 National Research Council Fellow, Agricultural Research Service, United States Department of Agriculture, Philadelphia, PA
 1973-1996 Director of Research (1987-1996); Chief, Division of Chemical Carcinogenesis (1980-1996); Head, Section of Organic Chemistry, Division of Environmental Carcinogenesis (1973-1980), American Health Foundation, Naylor Dana Institute for Disease Prevention, Valhalla, NY
 1996-present Wallin Professor of Cancer Prevention, and Head, Carcinogenesis and Chemoprevention Program, University of Minnesota Cancer Center; Professor, Dept. of Laboratory Medicine and Pathology; Member, Graduate Program in Medicinal Chemistry, Minneapolis, MN

Other Experience and Professional Activities

Chemical Pathology Study Section, National Institutes of Health, 1981-1985; Ad hoc, 1998
 Grants Review Panel, American Institute for Cancer Research 1984-1987
 Upper Aerodigestive Cancer Working Group, National Cancer Institute, 1986-1989
 Board of Scientific Counselors, Division of Cancer Etiology, National Cancer Institute, 1989-1995
 Advisory Group, Center in Molecular Toxicology, Vanderbilt University, 1991-1997; Chairman, 1995-1997
 Health Research Committee, Health Effects Institute, 1992-1996
 External Advisory Committee, Environmental Health Sciences Center, Oregon State University, 1996-2001
 Board of Scientific Counselors, National Toxicology Program, 1997-2001
 Science Advisory Board, National Center for Toxicological Research, FDA, 1998-2002
 Chair, Division of Chemical Toxicology, American Chemical Society, 1999-2000; Chair-elect, 1997-1998; Program Chair, 1996
 Program Comm., AACR, 1983, 1990, 1993, 1997, 2000, 2003, 2004; Session chair, 1984, 1986, 1988, 1991, 2000, 2003
 Editorial Boards: Cancer Epidemiology, Biomarkers & Prevention; Cancer Letters; Carcinogenesis; Mutation Research; Lung Cancer
 PDQ Screening and Prevention Advisory Board, National Cancer Institute, 2002-
 Peer Review Committee on Carcinogenesis, Nutrition, and the Environment, American Cancer Society, 1998-2001; Chair, 2001
 Lung Cancer Progress Review Group, National Cancer Institute, 2001
 Corporation Visiting Comm., Div of Biological Engineering, Massachusetts Institute of Technology, 2000-2003
 Board of Scientific Counselors, Subcommittee 2, Basic Sciences, National Cancer Institute, 2001-2004
 Contributor, Surgeon General's Report, Passive Smoking and Health, 2004
 National Tobacco Monitoring, Research, and Evaluation Workshop, 2002
 Consultant, WHO, IARC, Monographs on the Evaluation of Carcinogenic Risks to Humans, *Tobacco Habits Other than Smoking*, 1984 (vol. 37); *Tobacco Smoking and Involuntary Smoking*, 2002 (vol. 83); *Betel Quid and Areca Nut*, 2003 (vol. 85, Chair); *Smokeless Tobacco and Tobacco-Specific Nitrosamines* (vol. 89), 2004.
 Consultant, WHO, IARC Handbooks of Cancer Prevention, *Cruciferous Vegetables, Isothiocyanates, and Indole-3-carbinol*, (vol. 9); 2003
 Program Committee Co-Chairperson, AACR Frontiers in Cancer Prevention Meeting, 2004
 External Scientific Advisory Board, Ohio State University Comprehensive Cancer Center, 2002-
 Senior Editor, Journal of Medicinal Chemistry, 2004-

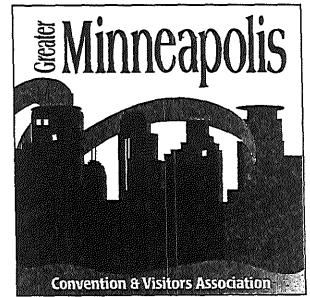
Honors

1969-1973 Phi Beta Kappa
 1975-1980 National Research Council Research Fellow
 1987-2001 Research Career Development Award, National Cancer Institute
 1987-2001 Outstanding Investigator Grant, National Cancer Institute
 1988-2003 Journal Covers, Cancer Res. 3/1/88, 2/15/93; Chem. Res. Toxicol. 6/98; Cancer Epi. Biomarkers Prev. 12/03
 1992-1996 Endowed Chair in Carcinogenesis and Chemoprevention, American Health Foundation
 1996- Wallin Chair in Cancer Prevention, University of Minnesota
 2000- American Cancer Society Research Professor
 2001 Alton Ochsner Award Relating Smoking and Health
 2002 Flight Attendant Medical Research Institute Dr. William Cahan Distinguished Professor Award
 2004 Merit Award, National Cancer Institute

Selected publications (in chronological order).

(Selected from 559 publications)

1. Hecht, S. S. Tobacco smoke carcinogens and lung cancer. *J. Natl. Cancer Inst.*, **91**: 1194-1210, 1999.
2. Wang, M., McIntee, E.J., Cheng, G., Shi, Y., Villalta, P.W., and Hecht, S.S. Identification of DNA adducts of acetaldehyde. *Chem. Res. Toxicol.*, **13**: 1149-1157, 2000.
3. Anderson, K. E., Carmella, S. G., Ye, M., Bliss, R. L., Le, C., Murphy, L., and Hecht, S. S. Metabolites of a tobacco-specific lung carcinogen in the urine of nonsmoking women exposed to environmental tobacco smoke in their homes. *J. Natl. Cancer Inst.*, **93**: 378-381, 2001.
Wang, M., McIntee, E.J., Cheng, G., Shi, Y., Villalta, P.W., and Hecht, S.S. A Schiff base is a major DNA adduct of crotonaldehyde. *Chem. Res. Toxicol.*, **14**: 423-430, 2001.
5. Hecht, S.S., Carmella, S.G., Ye, M., Le, K., Jensen, J.A., Zimmerman, C.L., and Hatsukami, D.K. Quantitation of metabolites of 4-(methylnitrosamino)-1-(3-pyridyl)-1-butanone after cessation of smokeless tobacco use. *Cancer Res.*, **62**: 129-134, 2002.
6. Hecht, S.S. Human urinary carcinogen metabolites: biomarkers for investigating tobacco and cancer. *Carcinogenesis*, **23**: 907-922, 2002.
7. Hecht, S.S., Kenney, P.M.J., Upadhyaya, P., Bliss, R.L., and Wang, M. Inhibition of lung tumorigenesis in A/J mice by *N*-acetyl-*S*-(*N*-2-phenethylthiocarbamoyl)-*L*-cysteine and *myo*-inositol, individually and in combination. *Carcinogenesis*, **23**: 1455-1461, 2002.
8. Carmella, S. G., Chen, M., Villalta, P. W., Gurney, J. G., Hatsukami, D. K., and Hecht, S. S. Ethylation and methylation of hemoglobin in smokers and non-smokers. *Carcinogenesis* **23**: 1903-1910, 2002.
9. Wong, H. L., Murphy, S. E., Wang, M., and Hecht, S. S. Comparative metabolism of *N*-nitrosopiperidine and *N*-nitrosopyrrolidine by rat liver and esophageal microsomes and cytochrome P450 2A3. *Carcinogenesis* **24**: 291-300, 2003.
10. Jalas, J. R., McIntee, E. J., Kenney, P. M. J., Upadhyaya, P., Peterson, L. A., and Hecht, S. S. Stereospecific deuterium substitution attenuates the tumorigenicity and metabolism of the tobacco-specific nitrosamine 4-(methylnitrosamino)-1-(3-pyridyl)-1-butanone (NNK). *Chem. Res. Toxicol.* **16**: 794-806, 2003.
11. Jalas, J. R. and Hecht, S. S. Synthesis of stereospecifically deuterated 4-(methylnitrosamino)-1-(3-pyridyl)-1-butanol (NNAL) diastereomers and metabolism by A/J mouse lung microsomes and cytochrome P450 2A5. *Chem. Res. Toxicol.* **16**: 782-793, 2003.
12. Boysen, G., Kenney, P. M. J., Upadhyaya, P., Wang, M., and Hecht, S. S. Effects of benzyl isothiocyanate and 2-phenethyl isothiocyanate on benzo[*a*]pyrene and 4-(methylnitrosamino)-1-(3-pyridyl)-1-butanone metabolism in F-344 rats. *Carcinogenesis* **24**: 517-525, 2003.
13. Cheng, G., Shi, Y., Sturla, S., Jalas, J., McIntee, E. J., Villalta, P. W., Wang, M., and Hecht, S. S. Reactions of formaldehyde plus acetaldehyde with deoxyguanosine and DNA: formation of cyclic deoxyguanosine adducts and formaldehyde cross-links. *Chem. Res. Toxicol.* **16**: 145-152, 2003.
14. Upadhyaya, P., Sturla, S., Tretyakova, N., Ziegel, R., Villalta, P. W., Wang, M., and Hecht, S. S. Identification of adducts produced by the reaction of 4-(acetoxymethylnitrosamino)-1-(3-pyridyl)-1-butanol with deoxyguanosine and DNA. *Chem. Res. Toxicol.* **16**: 180-190, 2003.
15. Wang, M., Cheng, G., Sturla, S. J., Shi, Y., McIntee, E. J., Villalta, P. W., Upadhyaya, P., and Hecht, S. S. Identification of adducts formed by pyridyloxobutylation of deoxyguanosine and DNA by 4-(acetoxymethylnitrosamino)-1-(3-pyridyl)-1-butanone, a chemically activated form of tobacco-specific carcinogens. *Chem. Res. Toxicol.* **16**: 616-626, 2003.
16. Anderson, K. E., Kliris, J., Murphy, L., Carmella, S. G., Han, S., Link, C., Bliss, R. L., Murphy, S. E., and Hecht, S. S. Metabolites of a tobacco-specific lung carcinogen in nonsmoking casino patrons. *Cancer Epidemiol. Biomarkers & Prev.* **12**: 1544-1546, 2003.
17. Wong, H. L., Murphy, S. E., and Hecht, S. S. Preferential metabolic activation of *N*-nitrosopiperidine compared to its structural homolog *N*-nitrosopyrrolidine by rat nasal microsomes. *Chem. Res. Toxicol.* **16**: 1298-1305, 2003.
18. Carmella, S. G., Han, S., Fristad, A., Yang, Y., and Hecht, S. S. Analysis of total 4-(methylnitrosamino)-1-(3-pyridyl)-1-butanol (NNAL) in human urine. *Cancer Epidemiol. Biomarkers & Prev.* **12**: 1257-1261, 2003.
19. Hecht, S. S., Chen, M., Yagi, H., Jerina, D. M., and Carmella, S. G. *r*-1,*t*-2,3,*c*-4-Tetrahydroxy-1,2,3,4-tetrahydrophenanthrene in human urine: a potential biomarker for assessing polycyclic aromatic hydrocarbon metabolic activation. *Cancer Epidemiol. Biomarkers & Prev.* **12**: 1501-1508, 2003.
20. Hecht, S. S. Tobacco carcinogens, their biomarkers, and tobacco-induced cancer. *Nature Rev. Cancer* **3**: 733-744, 2003.
21. Carmella, S. G., Le, K., and Hecht, S. S. Improved method for determination of 1-hydroxypyrene in human urine. *Cancer Epidemiol. Biomarkers & Prev.* **13**: 1261-1264, 2004.
Hatsukami, D. K., Lemmonds, C., Zhang, Y., Murphy, S. E., Le, C., Carmella, S. G., and Hecht, S. S. Evaluation of carcinogen exposure in people who used "reduced risk" tobacco products. *J. Natl. Cancer Inst.* **96**: 844-852, 2004.
23. Hecht, S. S., Carmella, S. G., Le, K., Murphy, S. E., Li, Y. S., Le, C., Jensen, J., and Hatsukami, D. K. Effects of reduced cigarette smoking on levels of 1-hydroxypyrene in urine. *Cancer Epidemiol. Biomarkers & Prev.* **13**: 834-842, 2004.
24. Hecht, S. S., Carmella, S. G., Kenney, P. M. J., Low, S.-H., Arakawa, K., and Yu, M. C. Effects of cruciferous vegetable constituents on urinary metabolites of the tobacco-specific lung carcinogen 4-(methylnitrosamino)-1-(3-pyridyl)-1-butanone in Singapore Chinese. *Cancer Epidemiol. Biomarkers & Prev.* **13**: 997-1004, 2004.
25. Hecht, S. S., Murphy, S. E., Carmella, S. G., Zimmerman, C. L., Losey, L., Kramarczuk, I., Roe, M. R., Puumala, S. S., Li, Y. S., Le, C., Jensen, J., and Hatsukami, D. (2003) Effects of reduced cigarette smoking on uptake of a tobacco-specific lung carcinogen. *J. Natl. Cancer Inst.* **96**: 107-115, 2004.



MEMORANDUM

DATE: DECEMBER 21, 2004
TO: GREATER MINNEAPOLIS CONVENTION AND VISITORS
ASSOCIATION BOARD OF DIRECTORS
FROM: GREG ORTALE
RE: STATEWIDE SMOKING BAN RESOLUTION

The anti-tobacco coalition is planning to make an effort to pass a statewide ban on smoking in public places. The city of Minneapolis and Hennepin County have already passed a tough ban. St. Paul and Ramsey County have allowed some leeway in their anti-smoking ordinance. Across the metropolitan area, there is a checkerboard of communities that have taken a position or chosen not to.

The original position taken by the Board was to support a statewide ban and oppose bans that could create an economic hardship on the part of bars and restaurants in Minneapolis if the other communities did not pass smoking ban.

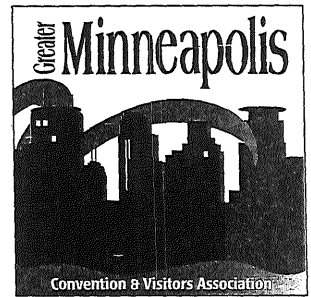
Once the ban was passed, the staff has been working with the hospitality industry, the Mayor's office, City Regulatory Services, and the Anti-Smoking Coalition to put together a marketing campaign to offset potential negative impacts following implementation of the ban on March 31, 2005.

The current situation is there is an uneven playing field of competition, certainly between St. Paul and Minneapolis. While there are numerous technical changes to the ban ordinance that could improve the competitiveness of our bar and restaurant establishments, there is no appetite on the part of the Minneapolis City Council to reopen the discussion. It therefore appears that it is in the best interest of the Minneapolis hospitality industry to support a statewide ban on smoking that would eliminate competitive differential that may negatively impact Minneapolis bars and restaurants.

To that end, staff recommends passing a resolution supporting a comprehensive statewide ban.

250 Marquette Avenue South
Suite 1300
Minneapolis, MN 55401

Tel: 612.767.8000
Fax: 612.767.8001
www.minneapolis.org



Resolution of Support for Enactment of a Statewide Ban on Smoking in Public Places

WHEREAS, tobacco-related disease has proven to be the number one cause of preventable death and chronic disease for Minnesota residents and

WHEREAS, the City of Minneapolis, Hennepin County and other cities and counties in the state of Minnesota have enacted comprehensive ordinance banning smoking in public places and

WHEREAS, it is the best interest of the hospitality industry to have uniform regulation and enforcement of comprehensive smoking ban and

WHEREAS, a lack of uniformity in smoking ban ordinances has proven to create economic hardship for hospitality businesses between communities and

WHEREAS, the Board of Directors of the Greater Minneapolis Convention and Visitors Association has already stated support for a comprehensive statewide ban,

NOW THEREFORE, be it resolved the Greater Minneapolis Convention and Visitors Association supports legislation that will create a comprehensive uniform statewide ban on smoking in public places.

250 Marquette Avenue South
Suite 1300
Minneapolis, MN 55401

Tel: 612.767.8000
Fax: 612.767.8001
www.minneapolis.org

LAW OFFICES

VICTOR L. CRAWFORD AND ASSOCIATES

101 NORTH ADAMS STREET
ROCKVILLE, MARYLAND 20850

VICTOR L. CRAWFORD (MD., D.C.)

WENDY L. SATIN (MD.)

OFFICE MANAGER:

DONNA M. RICUCCI

(301) 782-1000

FAX #: (301) 782-8988

AFFILIATED FIRM

EBERT, DOBIN AND GREEN

2000 L STREET, N.W., #504

WASHINGTON, D. C. 20036-4988

202-659-3232

FAX #: 202-298-1084

Dear Minnesota Legislator:

I am writing to warn you about the tactics that will be used by tobacco lobbyists as Minnesota debates legislation to keep tobacco from addicting kids and killing more people.

You see, I know a great deal about tobacco lobbyists. I used to be one.

And I also know about tobacco-related illness. I am dying of one.

As you consider legislation to keep tobacco away from kids, be aware of the tactics tobacco lobbyists like me will almost certainly use to sabotage the most effective reforms you will consider.

- ▶ **The Local Preemption Scam.** As they have in other states, tobacco lobbyists' top priority will be to water down effective local programs by enacting state laws that preempt tougher local ordinances. If you care about kids, or local control, watch out for more of these preemption scams.
- ▶ **If You Can't Beat 'Em, Gag 'Em.** Since it's difficult to publicly attack pro-health messages, the industry will attempt to silence the messengers by attacking the funding that allows the health groups to disseminate information about kids and smoking.
- ▶ **Baffle Them With Bull.** The tobacco industry's army of lobbyists and lawyers will initiate frivolous legal actions against grassroots health groups in order to divert their extremely limited time and resources away from their primary mission -- telling the truth about tobacco.
- ▶ **Stealth Lobbying.** Tobacco lobbyists will keep a low public profile, preferring to speak through more credible organizations, while privately cutting their deals in back rooms.

- ▶ **Changing the Argument.** Because they can't win the debate on merits, they will change the subject by painting their opponents "health Nazis." "What do they want to regulate next, hamburgers," is the argument used to distract lawmakers from the issues associated with keeping children away from the single product available in stores that addicts and kills when used as intended.
- ▶ **Empty Trojan Horse Reforms.** Tobacco lobbyists will try to prevent the enactment of the most effective measures by pushing proposals that give the phony appearance of reform. For instance, the industry knows that proposals which put the entire onus on entry-level employees historically go unenforced and are much less effective than also holding owners accountable.

I have publicly told my story on CBS-TV's 60 Minutes and elsewhere for one reason -- this is my chance of a lifetime to help prevent another generation of kids from suffering my fate.

You have a similar opportunity. Please, don't blow it.

Very truly yours,

VICTOR L. CRAWFORD & ASSOCIATES



Victor L. Crawford
Former State Legislator and
Tobacco Lobbyist

VLC/bas



March
of Dimes

Saving babies, together

February 7, 2005

The Honorable Scott D. Dibble
111 Capitol
75 Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155-1606

March of Dimes
Birth Defects Foundation

Minnesota Chapter
Pakwa Business Park
5233 Edina Industrial Boulevard
Edina, MN 55439
Telephone (952) 835-3033
Fax (952) 835-8661
www.marchofdimes.com

Bob Gustafson
State Director

Dear Senator Dibble:

The March of Dimes recommends supporting HF405 and SF 404 "Freedom to Breathe Act of 2005" requiring persons to refrain from smoking in certain areas including places of employment, public transportation, and CERTAIN BARS and restaurants.

The mission of the March of Dimes is to improve the health of babies by preventing birth defects and infant mortality. The March of Dimes supports legislative action to reduce exposure to tobacco smoke by pregnant women and adolescents of childbearing age including smoke free policies that will reduce the exposure of environmental smoke to pregnant women and children.

According to a report by the US Surgeon General in 2004, smoking during pregnancy poses many risks for pregnant women and their children, including increased risk of premature delivery and low birth weight babies. Environmental exposure to second hand- smoke during pregnancy and after birth increases the risk of sudden infant death syndrome (SIDS), a key contributor to infant mortality.ⁱ The Surgeon General also reports that in addition to perinatal effects, smoking is detrimental to the overall health of women and has been shown to cause lung disease, heart disease, and various cancers including cervical and lung cancer.

The March of Dimes is committed to improving the health of babies which begins with healthy mothers.

Sincerely,

Robert Gustafson
State Director
MN Chapter, March of Dimes

ⁱArias E. Anderson, RN, Hsiang-Ching K. Murphy, SL, Kochaneck, KD. Deaths: Final data for 2001. National vital statistics reports; vol 52 no 3. Hyattsville, Maryland: National Center for Health Statistics. 2003.

**CHANGE IN RETAIL SALES FOR FOOD AND FOOD w / Alcohol
in DULUTH: YEARS 2003-2004**

	Food Service / no alc (5812)				Food Service w/alc (5800)		
	2003	2004	change		2003	2004	change
Jan	5,180,835	5,437,709	5.0%		5,068,967	5,387,270	6.3%
Feb	4,871,380	5,707,766	17.2%		5,149,158	5,621,661	9.2%
March	5,908,558	6,770,897	14.6%		5,753,362	6,246,201	8.6%
April	5,817,292	6,254,631	7.5%		5,010,841	5,680,902	13.4%
May	6,061,561	6,297,940	3.9%		5,729,311	6,312,170	10.2%
June	6,080,983	7,409,961	21.9%		6,528,993	6,766,177	3.6%
July	6,987,489	7,286,135	4.3%		6,475,604	7,155,482	10.5%
August	6,859,274	7,480,544	9.1%		7,604,716	7,522,708	-1.1%
Sept	6,403,967	7,718,310	20.5%		6,971,028	7,127,434	2.2%
Oct	6,386,336	7,199,548	12.7%		6,105,844	6,360,467	4.2%
Nov	5,346,124	6,488,676	21.4%		5,135,150	5,407,797	5.3%
Dec							
TOTAL	65,903,799	74,052,117	12.4%		65,532,974	69,588,269	6.2%

Change	+	\$8,148,318	+	\$4,055,295
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Data from City of Duluth Sales Tax Department. 5812 and 5800 are Sales Tax Department codes.

Duluth smoke-free ordinances became effective Jan 1, 2001 (first version) and Dec 1, 2001 (second version)

updated 6/15/04



STATEMENT OF SHIRLEY HUNT ALEXANDER,
AARP MINNESOTA STATE ADVOCACY CHAIR ON THE
FREEDOM TO BREATHE ACT

February 8, 2005

Good afternoon. My name is Shirley Hunt Alexander and I am the State Advocacy Chair for AARP Minnesota, representing more than 635,000 AARP members throughout the state.

I want to thank you, Madame Chair, and Members of the Committee, for the opportunity to testify today in support of the Freedom to Breathe Act, legislation to protect workers and customers of all workplaces in Minnesota, including both bars and restaurants.

AARP Minnesota supports this legislation because it serves to improve the health of older Minnesotans and their entire families. Secondhand smoke is a serious health hazard that causes significant health problems in thousands of non-smoking children and adults each year. The scientific evidence on the health risks associated with exposure to secondhand smoke is overwhelming. AARP strongly believes that the Minnesota Legislature should take this common sense step to reduce preventable deaths in Minnesota caused by exposure to second-hand smoke.

People spend up to 90 percent of their time indoors, so the health risks posed by indoor air pollutants like tobacco smoke are a serious concern. Older people, along with young children and individuals with respiratory concerns, face the greatest risks from poor indoor air quality.

Long-term and chronic effects linked to tobacco smoke include cancer, asthma, bronchitis and emphysema, as well as liver and kidney disease.

AARP opposes and will oppose any attempts to add preemptive language to a statewide smoke-free law that would prohibit local governments from enforcing a smoke-free law on their books that is more restrictive.

Preemption significantly undermines Minnesota's ability to reduce the death, disease, and disability caused by exposure to secondhand smoke through enacting effective smoke-free policies at the state and local level.

We urge the Committee to reduce the incidences of cancer, heart attack, stroke and respiratory disease in Minnesota by enacting the Freedom to Breathe Act.

Thank you.

Provided by Sue Jeffers, Owner, Stub & Herb's

The Top Ten Lies Smoke Haters Tell: Elected Officials Version

The Lie: Smoking Bans are Good for Business

The Truth: As the negative financial results are being felt in many different cities from the implementation of a smoking ban, it is becoming painfully obvious that many businesses are being irreparably harmed. According to these business owners, a smoking ban will cost local businesses 30-80% of our revenues, some will be forced to close. These lost revenues, wages, jobs and businesses will somehow have to be replaced at local and state levels.

Many cities and states alter sales figures to make their hospitality numbers to prove this point. This is easy to do by manipulating data to arrive at valid conclusions but invalid assumptions. Looking at data, like sales tax revenue, and concluding an increase means smoking bans are good for business is inaccurate. Failing to take into account industry growth, which would have been much higher with out a smoking ban. For example, when California instituted a smoking ban, sales tax revenues in the hospitality industry rose 8%. Not mentioned is the rest of the country was showing an increase of 33%. California's smoking ban forced the closure of over 1000 businesses and its employees.

Another way the smoke haters alter the data is to add new revenue sources to the hospitality numbers. For example, NY included liquor stores and fast food in their hospitality numbers to show an increase. NY has lost \$77 million in revenues, \$50 million in lost wages and almost 3000 jobs.

Thunder Bay, Canada almost 93% of the bars reports an average loss of 43% after the implementation of a smoking ban. The nearby non-taxable casinos, not forced to comply with non-smoking ordinances, report an increase in business. After 80 days British Columbia reported 730 employees had been laid off, 9 businesses closed and over \$16 million in revenues were lost. Winnipeg, the city casinos lost \$21 million in revenue with 269 employees laid off. Vancouver lost 600 jobs.

The Duluth Grill closed after 16 years due to the ban and one Duluth bar owner lost everything after the smoking ban destroyed her business called the 21st Delight. Go to smokersclub.com/bandamage for a much larger list, or FORCES-Duluth for the story: How to buy a smoking ban using public funds.

The Lie: My Business is Public Property

The Truth: Because bars and restaurants are open to the public they are deemed "public property". While it is true that bars and restaurants may not discriminate

against fundamental rights as guaranteed in the U.S. Constitution, that does not mean that bars and restaurants have no private property rights. The bars and restaurants retain the fundamental right to determine what otherwise legal activities may be engaged in on their properties. The right to a smoke free environment on another's property is not.

The Lie: The People Want Smoking Bans

The Truth: Residents in Minnesota spoke at the ballot box last November, they choose the least restrictive ban available to them in Duluth and Moorhead. In NY 72% believe the smoking ban goes to far, with 68% believing smoking should be allowed in bars. See Twin Cities Bar Survey attached for our local results.

The Lie: Technology Does Not Work

The Truth: The CDC and reputable biotech labs have disputed this claim. Ask the MPLS/STP Airport whose 500 planes landing and taking off daily produce the equivalent of billions of cigarettes. The air uses filtration technology to clean the air of jet exhaust before it enters our smoke free airport. St. Louis Park businesses and the health department studied the air quality in local bars, they proved SHS could be eliminated by technology (study available on request). An average employee working 8 hours in a heavy smoking environment "smoke" the equivalent of 1/1000 of a smoker. In the smokiest city in the world, Barcelona, Spain a bartender would inhale the equivalent of 4.3 CIGARETTES PER YEAR. Welcome to 2005, technology works.

The Lie: SHS causes 3000 lung cancer and 35,000 heart disease deaths each year.

The Truth: This number is a computer generated "body count" based on a single "study" from the EPA in 1992. The EPA initially lied using a much larger number that they published even before running their "study". For 5 years the American Cancer Society used a "body count" number of 50,000 deaths from SHS. These numbers were used, despite the fact that there existed no scientific procedure to determine that SHS caused a single death. The evidence shows correlation, not causation, the correlation is in virtually all studies **statistically insignificant**.

A judge ruled the EPA was using a deliberate lie foisted on an unsuspecting public. While the judgement was partially overturned on purely judicial reasons, they DID NOT repudiate the basic premise concerning his comments about the EPA or their motives.

A little background on this "study". It is not a study, it is a meta-analysis that took a group of 33 epidemiological studies. Eighty percent of the studies showed no relative risk between second hand smoke and lung cancer: those studies were eliminated. Removing these studies effectively doubled the margin of error leading to the conclusion that second hand smoke increased the lung cancer risk to 1.19. This is well below the 2.0 accepted standard for reliable identification of a

health risk. A list of almost 100 SHS studies is included in this package for your review.

The "death's attributed to SHS by the EPA occur at an average age of 72, with almost 20 percent occurring past the age of 85.

The Heart disease has 300 co-factors that include obesity, genetics, diet and exercise, socioeconomic factors, education, recall, race, exposure, bird keeping, beer drinking and a host of other cofactors.

The Lie: SHS or ETS causes Cancer

The Truth: The cause of cancer is unknown. With all the testing that has been done with every type of chemical, gas, inert matter and substances that have been altered through exposure to heat or chemical reaction, nothing has been proven to cause cancer.

Not one study of second hand smoke has a statistical scientific significance and the epidemiological standard test of the minimum relative risk. Fraud, deceit, faulty science, exaggerated claims and even outright lies are repeated by the smoke haters, spouted by the media and funded lavishly by billions of our tax dollars propel these smoking bans.

Will someone please tell the Governor they lied about asthma too, it is embarrassing to hear him make uninformed comments like that. See minnesotansagainstsmokingbans.com for response to ALA by Sue Jeffers.

THE LIE: SHS is a Public Health Issue

The Truth: Public health is defined as government intervention when people are exposed to risks to which they have not consented, which pose dangers to the community at large, or from which individuals cannot realistically protect themselves. Carried to the extreme everything could be considered a public health issue. Second hand smoke does not meet the criteria to be a public health issue.

The more government gets into the health care business the more our lives and activities will be restricted in the name of public health. Smoking bans are a symptom of government abusing its authority to regulate its citizens as they impose their own prejudices against almost a quarter of our state adults.

Governments can and should not interfere in private decisions. Long established codes govern the ways a person may use his private property. It is unjust for government to arbitrarily change established conditions of the marketplace without compensating private businesses for losses they might suffer.

With almost 80% of the workplaces in Minnesota smoke free, no one is forced to patronize or seek employment at a smoking establishment. It is easy to "protect" people from the minimal risk of SHS without banning a legal product. Posting a sign allows a person to know and accept or not accept the "risk" of entering our private property without damaging revenues, jobs and businesses from the negative impact of a ban of any kind.

The LIE: Smokers Cost Society Billions

The Truth: By aggregating both objective costs and subjective costs we ignore the impact of smokers economically positive impact of the same data. Smokers die 10 months earlier than their nonsmoking counterpart. Almost 9 out of 10 smokers will not get lung cancer. Through out the smoker's life they pay higher taxes and cigarette excise taxes that more than cover their cost to society. One study determined smokers should be re-paid by the government for the extra contributions to the tax base. There are so many reasons people miss work it is impossible to determine whether smoking was a significant cause or not. Although a personal tragedy, persons that prematurely die from tobacco use (a personal choice issue) reduce state expenses associated with the elderly including health care and retirement benefits. In the case of my bar, I have had two employees out sick in the last 4 months, both were non-smokers.

The Lie: Those 4,000 Chemicals in a Cigarette

The truth: This is a scare tactic aimed at the uneducated, ill informed and scientifically illiterate.

Your daily diet has 10,000 chemicals and no one knows the cause of cancer. Coffee contains over 1000 chemicals, 19 of which are known to be rat carcinogens. Those chemicals are measurable in units like a picogram. A single grain of salt weighs 100 million picograms. A lot of those chemicals are present as only a few single picograms or less. There is more arsenic in a glass of water than in a cigarette.

The first rule of toxicology, the dose equals the poison (or the medicine). Milk, water, sun, and cell phones have higher risk factors than SHS.

THE LIE: The Smoke "Experts" are Doctors

THE TRUTH: Abusing our trust and tax dollars, and counting on our ignorance, these so called experts actually started out with a few guys who hated smoking. This same type warned us of Y2K, the earth is flat, killer bees, red meat, orange juice, and salt. In the majority of cases these self-proclaimed "experts" use their research findings to support a political opinion rather than actual scientific fact that would benefit the public health of all of us.

Dr. James Repace, a physicist, and self appointed expert on second hand smoke. He states winds in excess of 300-750 miles per hour could not eliminate the danger from second hand smoke. This ex-EPA employee who sued the EPA

for dirty air in his office AFTER they banned smoking was featured on 60 minutes wearing a full gas mask. He also claims that tobacco smoke does not dissipate outside. Instead, it rises a bit, forms little tiny tornadoes that magically hunt down nonsmokers and attack their tender lungs. This pharmaceutical marionette with anti-smoking grants of over \$100,000 a year has become famous as the biggest liar and manipulator of "scientific evidence" out there.

John Banzhaf, lawyer, used to head ASH, anti-smoker group has now carted his legal circus to Big Food. He noted the obese were "a visible blight" and may soon suggest we ban them from parks. Famous quote: "Nice restaurant you got here. Hate to see anything bad happen to it". ASH used to promote a book, Gasp: A Novel of Revenge, on its web site, which contains a tested and proven way to tamper with cigarette packages to insert cyanide.

Stanton Glantz, mechanical engineer, a self-described "lunatic" smoke hater, who twists the truth with callous disregard for those whose lives and businesses he is helping to destroy. Glantz provides testimony on every conceivable smoking-related topic including, but not limited to, health, entertainment (read censorship) economics and social policy. He was called to task personally and professionally at UCSF but continues spreading his lies ironically using tobacco money. He, like Repace, have made a nice living for themselves publishing smoke hater lies and selling their "expertise" to any nicotine nanny organizations willing to pay for it.

The Robert Wood Johnson Foundation operates with the billions of dollars of the antismoking grants of the Master Settlement Agreement. They are tied to Johnson and Johnson, the manufacturers of NICITROL.

American Lung (include all organs) Association recently "graded" 35 states and Canada with their tobacco report card. In January of 2005 they assaulted the capitol in Minnesota to the tune of \$100,000 of taxpayer dollars to promote smoking bans.

ANSR's avowed purpose is to propagate the vision of smokers as "social outcasts" and lobby for government legislation to make it illegal.

MPAAT and the MDH, like other anti-smoking groups, are funded from both general taxpayers' money and from the Master Settlement Agreement, also known as the Tobacco Lawsuit Money. Minnesota Partnership for Action Against Tobacco was created in 1998 with \$650 million (\$35 million a year for the next 25 years) in tobacco settlement money to finance tobacco cessation and research programs. This is a classic case of the fox watching the hen house. Latest trend, use the money to buy local smoking bans and lobby for a state ban. See MDH web site for list of targeted communities.

This so called "grass roots" movement is funded by billions of dollars from the Master Tobacco Settlement. Promoting smoking bans is big business for the

pharmaceutical corporations as they reap the huge profits on their almost worthless smoking cessation products. Products that are not taxed at the outrageous rate cigarettes are. Over \$1.5 BILLION has been wasted buying smoking bans across the nation to 155 municipalities, that averages to a cost of over \$9 million per ban and the smoke haters are just beginning.

Additional details and sources: minnesotansagainstsmokingbans.com

Provided by Sue Jeffers, Owner, Stub & Herb's

MINNESOTANS AGAINST SMOKING BANS

227 OAK ST. S.E. MINNEAPOLIS, MN 554146
PHONE: 612-384-4374 FAX: 651-458-5649

ETS Studies and how to understand them:

This is one of the most complete lists of the studies on secondary smoke exposure and lung cancer that you will find. The numbers to pay attention to are located in the columns that are titled Relative Risk and Confidence Interval.

Relative risks below 2.0 or 3.0 are generally viewed with suspicion by epidemiologists because of the risk of contamination of the studies by confounding variables or biases and statistical error. In the Confidence Interval column if it includes a 1.0 the study is NOT statistically significant and is viewed by statisticians as affirming the hypothesis that there is no connection between the hypothesized cause the speculated event.

Keep in mind this is merely a minimum standard used to determine if the results merit further examination.

Under 1: might be beneficial.
Under 2: No Casual Relationship
3-4 Mild casual relationship
5-6 casual relationship
7 certainty

Examine this list of studies on SHS and you will notice the antismoking advocates no longer even pretend to be constrained by obstacles such as science, integrity, ethics, and respect of individual choice or constitutional freedoms. While some government leaders and the mainstream media are behind the curve, we have done our

research. The following charts will prove one thing, you have been lied to about the dangers of second hand smoke. Read on!

TABLE I

**EPIDEMIOLOGICAL STUDIES RELATING TO LUNG CANCER
AMONG NONSMOKERS MARRIED TO SMOKERS**

Author	Year	Location	Sex of the subject	Number of lung cancers	Average Relative Risk	Relative Risk fluctuation (min/max) (95% confidence interval)
Garfinkel 1	1981	USA	F	153	1.18	(0.90 - 1.54)
Chan	1982	Hong Kong	F	84	0.75	(0.43 - 1.30)
Correa	1983	USA	F M	22 8	2.07 1.97	(0.81 - 5.25) (0.38-10.32)
Trichopoulos	1983	Greece	F	77	2.08	(1.20-3.59)
Buffler	1984	USA	F M	41 11	0.80 0.51	(0.34-1.90) (0.14-1.79)
Hiramaya	1984	Japan	F M	200 64	1.45 2.24	(1.02-2.08) (1.19-4.22)
Kabat 1	1984	USA	F M	24 12	0.79 1.00	(0.25-2.45) (0.20-5.07)
Garfinkel 2	1985	USA	F	134	1.23	(0.81-1.87)
Lam W	1985	Hong Kong	F	60	2.01	(1.09-3.72)
Wu	1985	USA	F	29	1.20	(0.50-3.30)
Akiba	1986	Japan	F M	94 19	1.50 1.80	(0.90-2.80) (0.40-7.00)
Lee	1986	UK	F M	32 15	1.00 1.30	(0.37-2.71) (0.38-4.39)
Brownson 1	1987	USA	F	19	1.68	(0.39-6.90)
Gao	1987	China	F	246	1.19	(0.82-1.73)
Humble	1987	USA	F M	20 8	2.20 4.82	(0.80-6.60) (0.63-36.56)
Koo	1987	Hong Kong	F	86	1.64	(0.87-3.09)

Lam T	19 87	Hong Kong	F	199	1.65	(1.16-2.35)
Pershagen	19 87	Sweden	F	70	1.20	(0.70-2.10)
Butler	19 88	USA	F	8	2.02	(0.48-8.56)
Geng	19 88	China	F	54	2.16	(1.08-4.29)
Inoue	19 88	Japan	F	22	2.25	(0.80-8.80)
Shimizu	19 88	Japan	F	90	1.08	(0.64-1.82)
Choi	19 89	Korea	F M	75 13	1.63 2.73	(0.92-2.87) (0.49-15.21)
Hole	19 89	Scotland	F M	6 3	1.89 3.52	(0.22-16.12) (0.32-38.65)
Svensson	19 89	Sweden	F	34	1.26	(0.57-2.81)
Janeric	19 90	USA	F M	144 44	0.75 0.75	(0.47-1.20) (0.31-1.78)
Kalandidi	19 90	Greece	F	90	2.11	(1.09-4.08)
Sobue	19 90	Japan	F	144	1.13	(0.78-1.63)
Wu- Williams	19 90	China	F	417	0.70	(0.60-0.90)
Liu Z	19 91	China	F	54	0.77	(0.30-1.96)
Brownson 2	19 92	USA	F	431	1.00	(0.80-1.20)
Stockwell	19 92	USA	F	62	1.60	(0.80-3.00)
Liu Q	19 93	China	F	38	1.66	(0.73-3.78)
Du	19 93	China	F	75	1.09	(0.64-1.85)
Fontham	19 94	USA	F	651	1.29	(1.04-1.60)
Layard	19 94	USA	F M	39 21	0.58 1.47	(0.30-1.13) (0.55-3.94)
Zaridze	19 94	Russia	F	162	1.66	(1.12-2.46)
Kabat 2	19 95	USA	F M	67 39	1.08 1.60	(0.60-1.94) (0.67-3.82)
Schwartz	19 96	USA	F M	185 72	1.10 1.10	(0.72-1.68) (0.60-2.03)
Sun	19 96	China	F	230	1.16	(0.80-1.69)
Wang S-Y	19 96	China	F	82	2.53	(1.26-5.10)
Wang T-J	19	China	F	135	1.11	(0.67-1.84)

	96					
Cardenas	19	USA	F	150	1.20	(0.80-1.60)
	97		M	97	1.10	(0.60-1.80)
Jöckel-BIPS	19	Germany	F	53	1.58	(0.74-3.38)
	97		M	18	1.58	(0.52-4.81)
Jöckel-GSF	19	Germany	F	242	0.93	(0.66-1.31)
	97		M	62	0.93	(0.52-1.67)
Ko	19 97	Taiwan	F	105	1.30	(0.70-2.50)
Nyberg	19	Sweden	F	89	1.20	(0.74-1.94)
	97		M	35	1.20	(0.57-2.55)

The data in this table were obtained from the studies listed. In the Swartz (1996), Jöckel-BIPS (1997) and Nyberg (1997) studies, relative risk and confidence interval data were reported for the sexes combined. These data were separated based on the respective number of cases by sex, assuming the same relative risk for each sex.

TABLE II
EPIDEMIOLOGICAL STUDIES RELATING TO LUNG CANCER AMONG
NONSMOKERS REPORTEDLY EXPOSED TO ETS IN THE WORKPLACE

Author	Year	Location	Sex of the subject	Average Relative Risk	Relative Risk fluctuation (min/max) (95% confidence interval)
Kabat 1	1984	USA	F	0.68	(0.32-1.47)
			M	3.27	(1.01-10.62)
Garfinkel 2	1985	USA	F	0.93	(0.55-1.55)
Wu	1985	USA	F	1.30	(0.50-3.30)
Lee	1986	UK	F	0.63	(0.17-2.33)
			M	1.61	(0.39-6.60)
Koo	1987	Hong Kong	F	1.19	(0.48-2.95)
Shimizu	1988	Japan	F	1.18	(0.70-2.01)
Janerich	1990	USA	F & M	0.91	(0.80-1.04)
Kalandidi	1990	Greece	F	1.70	(0.69-4.18)
Wu-Williams	1990	China	F	1.10	(0.90-1.60)
Brownson 2	1992	USA	F	0.79	(0.61-1.03)
Stockwell	1992	USA	F	no statistically	significant association
Fontham	1994	USA	F	1.39	(1.11-1.74)
Zaridze	199	Russia	F	1.23	(0.74-2.06)

	4				
Kabat 2	1995	USA	F M	1.15 1.02	(0.62-2.13) (0.50-2.09)
Schwartz	1996	USA	F & M	1.50	(1.00-2.20)
Sun	1996	China	F	1.38	(0.94-2.04)
Wang T-J	1996	China	F	0.89	(0.46-1.73)
Jöckel-BIPS	1997	Germany	F & M	2.37	(1.02-5.48)
Jöckel-GSF	1997	Germany	F & M	1.51	(0.95-2.40)
Ko	1997	Taiwan	F	1.10	(0.40-3.00)
Nyberg	1997	Sweden	F & M	1.60	(0.90-2.90)

TABLE III
EPIDEMIOLOGICAL STUDIES RELATING TO LUNG CANCER AMONG
NON-SMOKERS REPORTEDLY EXPOSED TO ETS IN CHILDHOOD

Author	Year	Location	Sex of the subject	Average Relative Risk	Relative Risk fluctuation (min/max) (95% confidence interval)
Correa	1983	USA	F	no statistically	significant association
Garfinkel 2	1985	USA	F	0.91	(0.74-1.12)
Wu	1985	USA	F	0.60	(0.20-1.12)
Akiba	1986	Japan	F & M	no statistically	significant association
Gao	1987	China	F	1.10	(0.70-1.70)
Koo	1987	Hong Kong	F	0.55	(0.17-1.77)
Pershagen	1987	Sweden	F	1.00	(0.40-2.30)
Svenson	1989	Sweden	F	3.30	(0.50-18.80)
Janarich	1990	USA	F & M	1.30	(0.85-2.00)
Sobue	1990	Japan	F	1.28	(0.71-2.31)
Wu-Williams	1990	China	F	0.85	(0.65-1.12)
Brownson 2	1992	USA	F	0.80	(0.60-1.10)
Stockwell	199	USA	F	1.70	(1.00-2.90)

	2				
Fontham	1994	USA	F	0.89	(0.72-1.10)
Zaridze	1994	Russia	F	0.98	(0.66-1.45)
Kabat 2	1995	USA	F	1.63	(0.91-2.92)
Sun	1996	China	F	2.29	(1.56-3.37)
Wang T-J	1996	China	F	0.91	(0.56-1.48)
Jöckel-BIPS	1997	Germany	F & M	1.05	(0.50-2.22)
Jöckel-GSF	1997	Germany	F & M	0.95	(0.64-1.40)
Ko	1997	Taiwan	F	0.80	(0.40-1.60)

TABLE IV

**EPIDEMIOLOGICAL STUDIES RELATING TO LUNG CANCER AMONG
NON-SMOKERS REPORTEDLY EXPOSED TO ETS IN NON-HOME/NON-
WORKPLACE SETTINGS**

Author	Year	Location	Sex of the subject	Average Relative Risk	Relative Risk fluctuation (min/max) (95% confidence interval)
Garfinkel 2	1985	USA	F	1.42	(0.75-2.70)
Lee	1986	UK	F M	0.61 1.55	(0.29-1.28) (0.40-6.02)
Janerich	1990	USA	F & M	0.59	(0.43-0.81)
Stockwell	1992	USA	F	no statistically	significant association
Fontham	1994	USA	F	1.50	(1.19-1.89)
Kabat 2	1995	USA	F M	1.22 1.39	(0.69-2.15) (0.67-2.86)

SUPPLIED BY Ryan M. Pacyga, Pacyga & Associates, PA
LETTER FROM TOLEDO, OH TAVERN OWNER RE ADVERSE
ECONOMIC EFFECTS OF SMOKING BAN

3 of my pool teams left to go to the suburbs where they could smoke. I have a small blue collar tavern where 95% smoke. The first week the ban went into effect and I complied, my liquor order was done from 23 to 5 bottles and I lost 75% business. My bartender had one person in on a Saturday night. The bars near the Michigan line were severely hurt. Five minutes away, the Michigan bars were full. I took my chances and still smoked, as most of the bars did to survive. Always watching the door. I was raided by the health inspector and 4 police officers one night and resulted in a warrant for my arrest. My business continued to fall even while smoking. I was down 45% and put all of my savings into the place to keep it afloat. 45K. I was not going to give in to building the smoke room which would have cost 10 to 40K when it was all said and done to comply with city code. I even went so far as to put a keyless entry system on the door with a camera. Got a clipboard? Sorry, you can't come in. It was a living hell.

After 2 attempts, we finally got an amendment on the ballot and won by a narrow margin. Now bars can smoke. Our group still meets (what's left of us) and get involved with trying to fight the cities dirty politics. As a whole and including myself, our businesses have turned around. I am not where I should be.

(People get comfortable on other bar stools) But, I can reasonably pay my bills.

In Toledo, 17 bars have shut down along with numerous diners. We did an independent survey with forty bars and restaurants. The revenue lost to the already struggling city was 7 million and 600 jobs. People do not realize the horrific trickle down effect from this situation.

The fight is never over as I expect this to go statewide. I am now trying to help other business owners

raise money for smoking ban expenses at my web site:

www.smokershaverights.com

Check it out.

I hope I have been of some help. Please don't hesitate to ask me for more info as I am happy to help.

Have a great day Ryan!

Joyce Welling, Public House Inc. dba Geo. Fitzpatrick's Tavern



Minnesota Gambling Control Board

Suite 300 South
1711 W. County Road B
Roseville, MN 55113
651-639-4000

Annual Report of the Minnesota Gambling Control Board

**Fiscal Year
2004**

July 1, 2003 - June 30, 2004



Message from the Board Chair and Executive Director

January 2, 2005

The mission of the Gambling Control Board (Board) is to regulate lawful gambling in Minnesota, so that citizens are assured of the integrity of the industry and nonprofit organizations may continue to raise funds for charitable contributions.

The Board continues to provide education, outreach, and guidance to the lawful gambling industry through its ongoing programs, including:

- compliance reviews and site inspections,
- issuing licenses and permits,
- continuing education classes throughout the state,
- speaking engagements at state-level conventions
- gambling manager seminars,
- an individualized mentoring program,
- a comprehensive web site, and
- a bi-monthly newsletter.

This annual report provides information for the fiscal year beginning July 1, 2003, through June 30, 2004. Portions of the data were obtained from the Minnesota Department of Revenue.

Respectfully submitted,

Peggy Moon, Chair

Tom Barrett, Executive Director

Gambling Control Board Members and Staff

The Board has the power to issue, suspend, and revoke licenses. Under Minnesota Statutes, section 349.11, the Board's purpose is "to regulate lawful gambling to prevent its commercialization, to insure the integrity of operations, and to provide for the use of net profits only for lawful purposes."

The Gambling Control Board is comprised of seven citizens. Five of the members are appointed by the Governor, and the Attorney General and Commissioner of Public Safety each appoint one member.

Members	City	Appointed by	Term
Peggy Moon, Chair	St. Joseph	Governor	7/01 to 6/05
Howard Register, Vice Chair	Inver Grove Heights	Public Safety	7/03 to 6/07
Don McHale, Secretary	Nisswa	Governor	8/02 to 6/06 (resigned April 2004)
James Hynes	St. Paul	Governor	1/01 to 6/04
William Barbknecht	Underwood	Governor	1/01 to 6/04
Pat Davies	Mendota Heights	Attorney General	7/03 to 6/07
Jerry Dexter	White Bear Lake	Governor	8/02 to 6/06

Executive Director

Tom Barrett

Board Counsel

E. Joseph Newton, Assistant Attorney General

FY 2004 expenditures: \$2,304,500
Board staff: 30 (FTE 28.5)

Statement of Cash Receipts and Industry Overview

Cash Receipts

	Fee	Total Collected*
Manufacturer license	\$9,000	\$ 95,000
Game approval and testing (manufacturer)	\$25/\$100	148,471
Distributor license	6,000	134,000
Distributor salesperson license	100	17,483
Bingo hall license	4,000	32,000
Organization license	350	372,866
Gambling manager license	100	153,850
Premises permit	150	501,037
Annual license and permit fee (organization \$350, gambling manager \$100, and premises permit \$150; prorated based on number of months license or permit was issued for from 7/1/03 to end date)		379,673
Regulatory fee (monthly fee of 0.1% of gross receipts from gambling conducted by licensed organizations at each site)		1,292,449
Excluded Permit (limited bingo, less than \$1,500 value in cumulative raffle prizes)	none	0
Exempt Permit (up to 5 days of activity, total prizes valued at \$50,000 or less)	50	148,425
Total fees collected		3,275,254*
Civil penalties and fines	vary	79,150
State gambling taxes, after refunds (collected by Department of Revenue)		56,639,000
Total fees, penalties, and taxes collected		\$59,993,404

* New fees went into effect on 7-1-03 and are now deposited into an account dedicated for lawful gambling regulation. \$232,100 was collected in FY03 for licenses beginning 7/1/03 or later, and transferred to the FY04 dedicated fund. Fees were prorated for licenses and permits already in effect.

Industry Overview

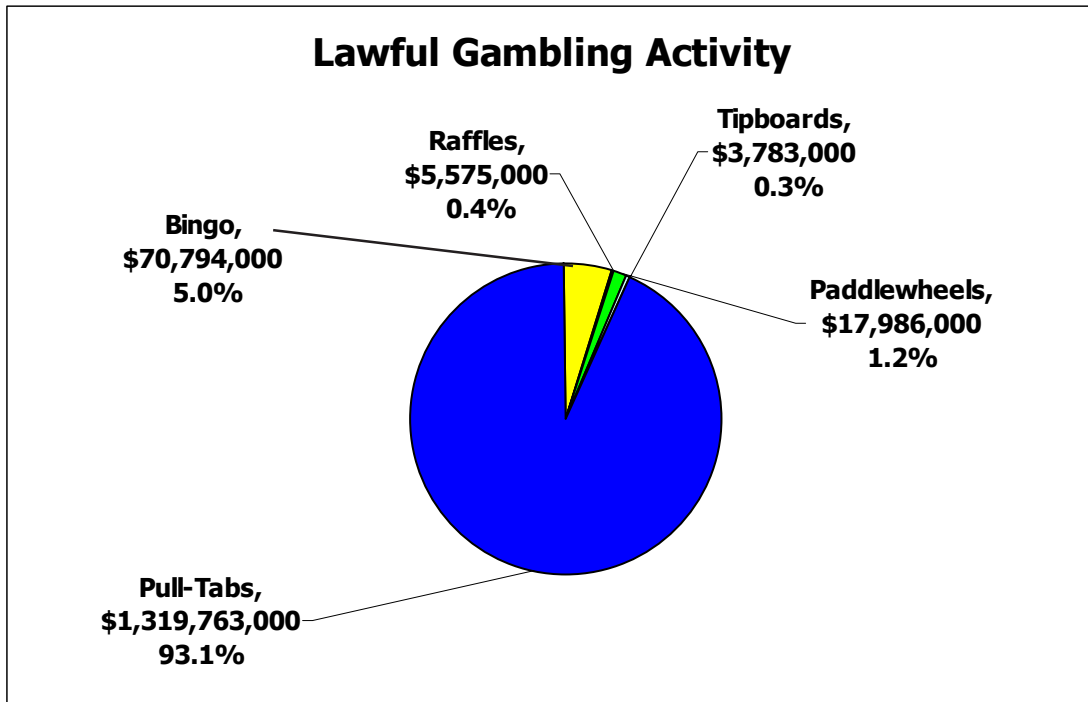
During fiscal year 2004, the Minnesota lawful gambling industry consisted of:

Licensees and Activities	Description		
8 manufacturers	Sold product to licensed distributors. In FY04, 3,838 new games and product were approved for sale in Minnesota.		
18 distributors	Sold product to licensed lawful gambling organizations.		
165 distributor salespersons	Persons licensed to sell gambling equipment.		
11 bingo halls	Locations where more than one organization leases space to conduct bingo.		
1,468 nonprofit organizations	Nonprofit organizations licensed to conduct gambling at permitted premises.		
	Type of Organization		
	Number		
	Percent		
	FRATERNAL - Lions, Eagles & Auxiliary, Moose, Elks, Knights of Columbus	192	13%
	VETERANS - American Legion, VFW, & Auxiliaries	408	28%
	RELIGIOUS - Church/Cathedral	34	2%
	OTHER NONPROFIT - Fire relief, hockey, Jaycees, baseball, athletic, rod and gun, snowmobile, business/chamber/development, sportsman, community, other	834	57%
	TOTAL:	1,468	100%
1,542 gambling managers	Gambling managers are members of licensed nonprofit organizations and are responsible for supervising the organizations' lawful gambling operations.		
3,069 premises permits	1,468 licensed nonprofit organizations were issued 3,069 premises permits.		
2,093 exempt organizations	Permitted organizations conduct limited gambling up to five days per calendar year. In fiscal year 2004, exempt organizations conducted 2,888 activities, with gross receipts of \$27,000,000.		
1,151 excluded organizations	Nonprofit organizations may apply for authorization to conduct excluded raffle or bingo activities. In fiscal year 2004, 1,534 excluded activities were conducted.		

Lawful Gambling Statistics

Fiscal Year 2004 Summary

ACTIVITY	Gross Receipts (sales)		Prizes Paid	Net Receipts (gross less prizes)		% Payout	
	FY 2004	% Change from FY03	FY 2004	FY 2004	% Change from FY03	FY04	FY03
Pull-Tabs	1,319,763,000	0.1	1,086,211,000	233,552,000	1.4	82.3	82.5
Bingo	70,794,000	-1.7	55,261,000	15,533,000	- 0.1	78.1	78.4
Paddlewheels	17,986,000	-7.0	14,046,000	3,940,000	-1.3	78.1	79.4
Raffles	5,575,000	15.9	2,778,000	2,797,000	22.2	49.8	52.4
Tipboards	3,783,000	26.2	2,457,000	1,326,000	20.4	64.9	63.3
Interest Income	208,000	-24.9	- 0 -	208,000	-24.9		
TOTALS	\$1,418,109,000	0.0	\$1,160,753,000	\$ 257,356,000	1.5	81.9	82.1



Ten-Year Comparison (percent change from previous fiscal year)						
FY	Gross Receipts		Prizes Paid		Net Receipts	
04	\$1,418,109,000	0.0%	\$1,160,753,000	-0.3%	\$257,356,000	1.5%
03	1,418,200,000	-1.2%	1,164,591,000	-1.0%	253,609,000	-2.1%
02	1,435,426,000	-0.1%	1,176,268,000	0.2%	259,158,000	-1.1%
01	1,436,603,000	-4.2%	1,174,490,000	-4.2%	262,113,000	-4.4%
00	1,500,042,000	3.5%	1,225,813,000	3.8%	274,229,000	2.2%
99	1,449,055,000	3.0%	1,180,608,000	3.1%	268,447,000	2.6%
98	1,407,137,000	4.0%	1,145,509,000	4.3%	261,628,000	2.8%
97	1,352,740,000	-1.3%	1,098,294,000	-1.0%	254,446,000	-2.3%
96	1,369,932,000	0.7%	1,109,528,000	0.6%	260,404,000	1.2%
95	1,359,843,000	7.6%	1,102,514,000	7.6%	257,329,000	7.4%

Lawful Purpose Expenditures

Organizations may contribute for lawful purpose expenditures (contributions) in the following categories.



Youth activities



Grooming and maintaining snowmobile and all-terrain vehicle trails approved by the Department of Natural Resources



Programs recognizing military service or humanitarian service



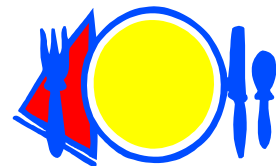
Scholarship funds, and private or public nonprofit educational institutions



Board-approved repair and maintenance projects of organizations' buildings



Congregate dining, nutritional programs, or food shelves for the disabled or persons age 62 and older



Programs and projects by the United States, the state of Minnesota, or local units of government



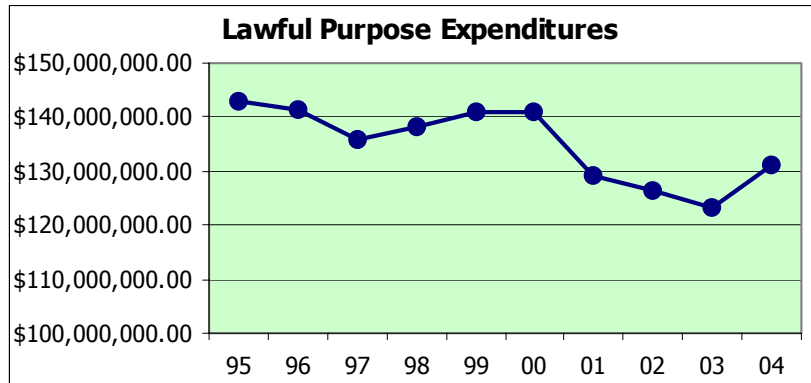
Other Lawful Purpose Expenditure Categories

- Community arts organizations or program sponsorships
- Religious purposes
- Donations to or by nonprofit organizations designated by the Internal Revenue Service as 501(c)(3) organizations or as 501(c)(4) festival organizations
- Relieving effects of poverty, homelessness, physical or mental disabilities
- Treatment for compulsive gambling or posttraumatic stress syndrome
- State agency-approved wildlife management projects
- Cost of audit of the lawful gambling financial records
- Real estate taxes within defined limits
- State, local, and federal gambling taxes; state lawful gambling license fees
- Specific utility costs and membership events by licensed veterans organizations

Lawful Purpose Expenditures

Ten-Year Comparison

04	\$130,944,000
03	\$123,138,000
02	\$126,514,000
01	\$129,153,000
00	\$140,841,000
99	\$141,071,000
98	\$138,176,000
97	\$135,632,000
96	\$141,427,000
95	\$142,878,000



	<u>FY 2004</u>	<u>FY 2003</u>	<u>% Change</u>
Charitable Contributions	\$ 74,305,000	\$ 67,006,000	10.9
State Gambling Taxes Paid	56,639,000	56,132,000	0.9
Gross Receipts State Tax	22,889,000	22,605,000	1.3
Net Receipts State Tax	1,907,000	1,888,000	1.0
Combined Receipts State Tax	31,843,000	31,639,000	0.6
TOTALS	\$ 130,944,000	\$ 123,138,000	6.3%

State Gambling Taxes

	<u>Taxes Paid</u>	<u>Refund*</u>	<u>Taxes After Refund</u>
04	\$63,539,000	\$6,900,000	\$56,639,000
03	62,698,000	6,566,000	56,132,000
02	62,655,000	6,232,000	56,423,000
01	62,147,000	6,246,000	55,901,000
00	68,765,000	6,209,000	62,556,000
99	68,709,000	6,088,000	62,621,000
98	68,828,000	5,780,000	63,048,000
97	64,717,000	2,700,000	62,017,000
96	65,849,000		
95	64,773,000		

The three state gambling taxes included as lawful purpose expenditures are:

Gross Receipts Taxes: 1.7 percent of the gross receipts on pull-tab and tipboard games.

Net Receipts Taxes: 8.5 percent on the net receipts on bingo, raffles, and paddlewheels.

Combined Receipts Taxes: A progressive tax calculated on the gross receipts from pull-tab games, tipboards, and interest.

* Refund on unsold pull-tab and tipboard tickets, effective 7/1/96.

Allowable Expenses

An allowable expense is an expense or a proportion of an expense directly related to the conduct of lawful gambling. Organizations are allowed to spend up to 55 percent of net receipts toward these types of operating costs. A higher limit is authorized for the net receipts from bingo.

Allowable expenses as reported to the Department of Revenue included:

Operating Cost	FY04	FY03	% Change
Compensation and payroll taxes	\$62,080,000	\$65,409,000	- 5.1
Gambling equipment (pull-tabs, bingo paper, tipboards, paddletickets)	25,189,000	25,271,000	- 0.3
Rent	23,986,000	23,439,000	2.3
Accounting and legal work	4,661,000	4,667,000	- 0.1
Office supplies and miscellaneous expenses	5,682,000	5,928,000	- 4.1
Gambling device purchase (paddlewheel & table, bingo selection device, pull-tab dispensing device), storage, and maintenance	2,294,000	2,302,000	- 0.3
Penalty and interest paid	30,000	80,000	-62.5
Cash shortages (see next page)	1,681,000	1,600,000	5.1
Utilities	1,154,000	1,433,000	-19.5
Bond, license, permits (Percent change due to two-year licensing cycle & 7/1/03 change for license/permit fees to lawful purpose)	465,000	606,000	-23.3
Advertising	562,000	534,000	5.2
Theft and liability insurance	874,000	771,000	13.4

Expenses were offset by reimbursements from a source of nongambling funds for the following:

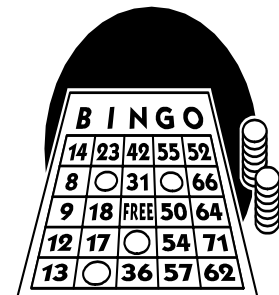
Excess cash shorts	(549,000)	(217,000)	153.0
Negative expense calculations	(1,697,000)	(1,351,000)	25.6

STATUTE CHANGES: For leases negotiated after May 31, 2003, rent is all-inclusive (utilities, etc) and for bar operations, the lessor must reimburse all cash shortages. Lessors and their employees may not be paid compensation. Effective July 1, 2003, license and permit fees are reported as a lawful purpose instead of allowable expense.



Ten-Year Comparison of Allowable Expenses

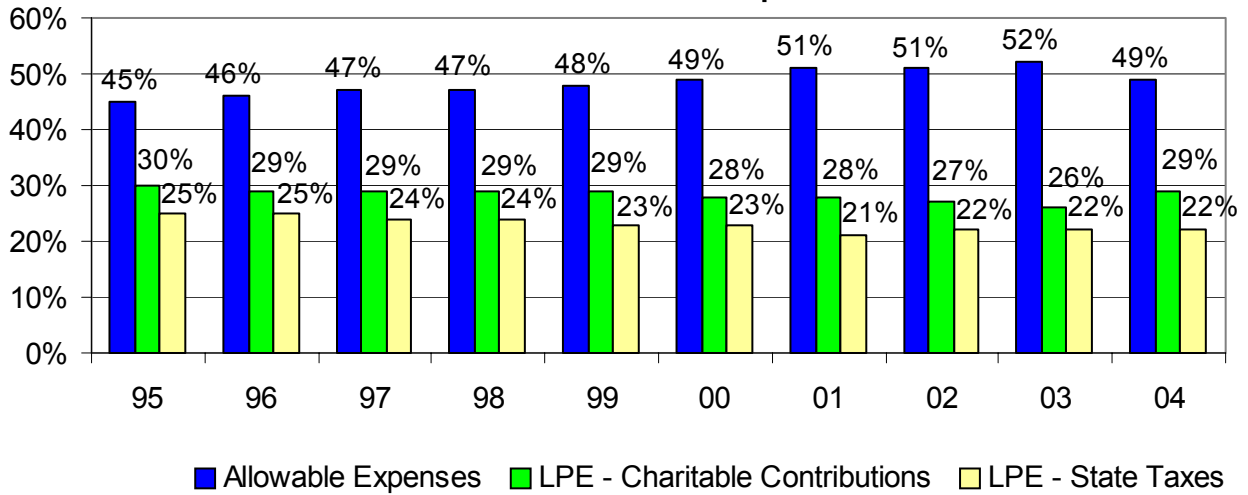
04	\$126,412,000
03	\$130,471,000
02	\$132,644,000
01	\$132,960,000
00	\$133,388,000
99	\$127,376,000
98	\$123,452,000
97	\$118,814,000
96	\$118,977,000
95	\$114,451,000



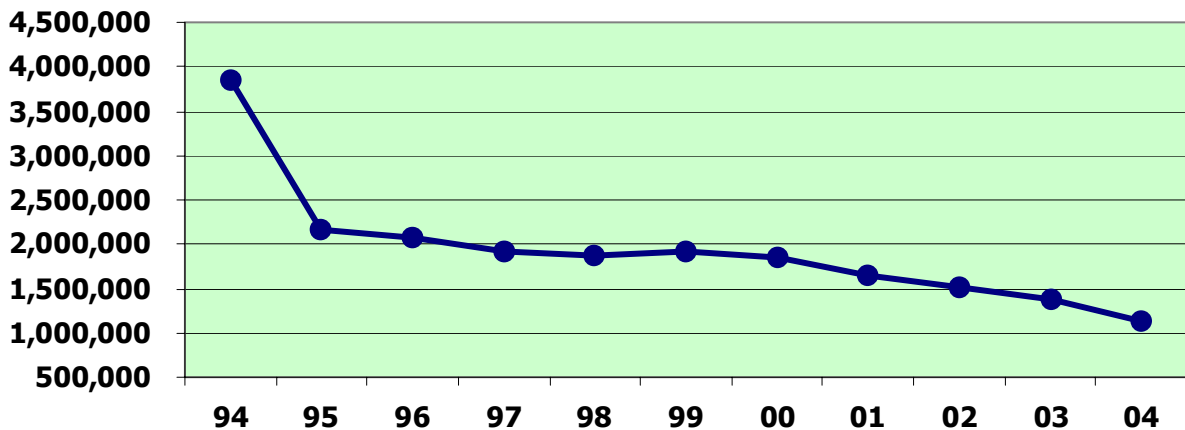
Gambling Equipment

Lawful Gambling Statistics

Distribution of Net Receipts



Net Cash Shortages



FY Net Cash Shortages

04	\$1,132,000
03	1,383,000
02	1,513,000
01	1,656,000
00	1,840,000
99	1,924,000
98	1,877,000
97	1,923,000
96	2,069,000
95	2,158,000
94	3,848,000

A cash shortage is the difference between the reported net receipts for a game and the actual cash on hand to be deposited for that game.

For reporting purposes effective 8/1/95, shortages may not exceed three-tenths of one percent (.3%) of gross receipts (sales) and are treated as an allowable expense.

For bar operation leases negotiated after May 31, 2003, cash shortages must be reimbursed by the lessor.

The Board closely monitors cash shortages, because shortages may indicate theft or mismanagement.

Lawful Gambling Activity within a County

COUNTY	G R O S S			N E T (after prizes)		
	FY04	RECEIPTS FY03	% CHANGE since FY03	FY04	RECEIPTS FY03	% CHANGE since FY03
Aitkin	14,808,000	14,224,000	4.1%	2,575,000	2,448,000	5.2%
Anoka	101,584,000	100,779,000	0.8%	18,559,000	17,981,000	3.2%
Becker	12,463,000	12,641,000	-1.4%	2,186,000	2,177,000	0.4%
Beltrami	8,627,000	9,112,000	-5.3%	1,451,000	1,435,000	1.1%
Benton	11,285,000	11,221,000	0.6%	2,221,000	2,201,000	0.9%
Big Stone	542,000	473,000	14.6%	98,000	72,000	36.1%
Blue Earth	16,786,000	16,453,000	2.0%	3,400,000	3,375,000	0.7%
Brown	5,757,000	6,273,000	-8.2%	1,104,000	1,106,000	-0.2%
Carlton	13,211,000	15,354,000	-14.0%	1,979,000	2,094,000	-5.5%
Carver	16,012,000	13,839,000	15.7%	2,799,000	2,426,000	15.4%
Cass	12,046,000	12,225,000	-1.5%	2,071,000	2,038,000	1.6%
Chippewa	4,839,000	4,507,000	7.4%	763,000	723,000	5.5%
Chisago	11,898,000	10,838,000	9.8%	2,134,000	1,909,000	11.8%
Clay	13,641,000	13,295,000	2.6%	2,569,000	2,495,000	3.0%
Clearwater	3,461,000	3,363,000	2.9%	597,000	565,000	5.7%
Cook	0	48,000	-100.0%	0	12,000	-100.0%
Cottonwood	1,809,000	1,710,000	5.8%	347,000	315,000	10.2%
Crow Wing	35,184,000	34,416,000	2.2%	6,400,000	6,277,000	2.0%
Dakota	67,964,000	65,616,000	3.6%	12,467,000	11,886,000	4.9%
Dodge	4,407,000	4,001,000	10.1%	816,000	752,000	8.5%
Douglas	20,018,000	20,714,000	-3.4%	3,209,000	3,102,000	3.4%
Faribault	5,240,000	4,879,000	7.4%	955,000	896,000	6.6%
Fillmore	7,430,000	7,719,000	-3.7%	1,382,000	1,459,000	-5.3%
Freeborn	11,453,000	12,075,000	-5.2%	2,188,000	2,298,000	-4.8%
Goodhue	9,421,000	10,048,000	-6.2%	1,672,000	1,763,000	-5.2%
Grant	3,462,000	3,646,000	-5.0%	525,000	522,000	0.6%
Hennepin	200,761,000	203,607,000	-1.4%	36,050,000	36,246,000	-0.5%
Houston	5,982,000	5,916,000	1.1%	1,101,000	1,115,000	-1.3%
Hubbard	13,597,000	13,350,000	1.9%	1,894,000	1,796,000	5.5%
Isanti	10,635,000	9,996,000	6.4%	1,835,000	1,707,000	7.5%
Itasca	17,759,000	19,295,000	-8.0%	3,161,000	3,237,000	-2.3%
Jackson	1,093,000	1,170,000	-6.6%	210,000	226,000	-7.1%
Kanabec	5,007,000	4,227,000	18.5%	958,000	790,000	21.3%
Kandiyohi	9,021,000	9,146,000	-1.4%	1,635,000	1,622,000	0.8%
Kittson	1,549,000	1,206,000	28.4%	257,000	206,000	24.8%
Koochiching	6,325,000	6,397,000	-1.1%	1,095,000	1,114,000	-1.7%
Lac qui Parle	1,733,000	1,263,000	37.2%	302,000	213,000	41.8%
Lake	3,509,000	4,253,000	-17.5%	673,000	743,000	-9.4%
Lake of the Woods	5,556,000	5,909,000	-6.0%	893,000	874,000	2.2%
Le Sueur	10,207,000	8,656,000	17.9%	1,849,000	1,569,000	17.8%
Lincoln	955,000	1,045,000	-8.6%	205,000	230,000	-10.9%
Lyon	3,916,000	3,624,000	8.1%	777,000	722,000	7.6%
Mahnomen	540,000	724,000	-25.4%	70,000	110,000	-36.4%
Marshall	4,797,000	4,628,000	3.7%	793,000	737,000	7.6%
Martin	7,715,000	8,377,000	-7.9%	1,339,000	1,450,000	-7.7%

Lawful Gambling Activity within a County

COUNTY	G R O S S			N E T (after prizes)		
	RECEIPTS		% CHANGE since FY03	RECEIPTS		% CHANGE since FY03
	FY04	FY03		FY04	FY03	
McLeod	13,647,000	13,671,000	-0.2%	2,492,000	2,475,000	0.7%
Meeker	7,513,000	7,409,000	1.4%	1,447,000	1,433,000	1.0%
Mille Lacs	15,395,000	14,872,000	3.5%	2,777,000	2,694,000	3.1%
Morrison	21,269,000	21,213,000	0.3%	3,761,000	3,698,000	1.7%
Mower	13,071,000	13,848,000	-5.6%	2,670,000	2,879,000	-7.3%
Murray	1,221,000	1,429,000	-14.6%	249,000	287,000	-13.2%
Nicollet	6,488,000	6,519,000	-0.5%	1,217,000	1,269,000	-4.1%
Nobles	3,056,000	2,886,000	5.9%	631,000	559,000	12.9%
Norman	1,865,000	2,536,000	-26.5%	283,000	392,000	-27.8%
Olmsted	20,838,000	21,310,000	-2.2%	4,350,000	4,522,000	-3.8%
Otter Tail	23,337,000	22,747,000	2.6%	4,122,000	3,905,000	5.6%
Pennington	6,896,000	6,607,000	4.4%	1,202,000	1,143,000	5.2%
Pine	11,447,000	11,546,000	-0.9%	2,012,000	1,997,000	0.8%
Pipestone	551,000	523,000	5.4%	124,000	117,000	6.0%
Polk	19,463,000	19,341,000	0.6%	3,211,000	3,179,000	1.0%
Pope	6,327,000	6,324,000	0.0%	1,152,000	1,121,000	2.8%
Ramsey	140,343,000	139,565,000	0.6%	26,957,000	26,772,000	0.7%
Red Lake	1,883,000	2,169,000	-13.2%	335,000	364,000	-8.0%
Redwood	2,508,000	2,682,000	-6.5%	461,000	491,000	-6.1%
Renville	4,383,000	3,844,000	14.0%	755,000	652,000	15.8%
Rice	15,129,000	15,858,000	-4.6%	3,014,000	3,067,000	-1.7%
Rock	1,649,000	1,582,000	4.2%	288,000	272,000	5.9%
Roseau	5,565,000	4,784,000	16.3%	933,000	808,000	15.5%
Scott	21,810,000	22,170,000	-1.6%	3,879,000	3,938,000	-1.5%
Sherburne	29,236,000	30,634,000	-4.6%	4,897,000	5,017,000	-2.4%
Sibley	5,888,000	5,516,000	6.7%	1,046,000	966,000	8.3%
St. Louis	70,022,000	69,475,000	0.8%	11,448,000	11,046,000	3.6%
Stearns	56,363,000	56,936,000	-1.0%	11,361,000	11,288,000	0.6%
Steele	11,764,000	11,709,000	0.5%	2,138,000	2,096,000	2.0%
Stevens	2,516,000	2,130,000	18.1%	471,000	394,000	19.5%
Swift	3,916,000	4,237,000	-7.6%	735,000	779,000	-5.6%
Todd	13,217,000	12,927,000	2.2%	2,323,000	2,224,000	4.5%
Traverse	454,000	445,000	2.0%	79,000	75,000	5.3%
Wabasha	10,135,000	10,202,000	-0.7%	1,838,000	1,818,000	1.1%
Wadena	5,143,000	5,262,000	-2.3%	871,000	875,000	-0.5%
Waseca	6,205,000	6,271,000	-1.1%	1,183,000	1,131,000	4.6%
Washington	48,382,000	44,351,000	9.1%	9,250,000	8,338,000	10.9%
Watonwan	3,694,000	3,459,000	6.8%	669,000	618,000	8.3%
Wilkin	1,219,000	1,344,000	-9.3%	207,000	229,000	-9.6%
Winona	17,212,000	17,224,000	-0.1%	3,389,000	3,377,000	0.4%
Wright	41,329,000	39,520,000	4.6%	7,135,000	6,659,000	7.1%
Yellow Medicine	1,490,000	1,275,000	16.9%	292,000	239,000	22.2%
TOTAL	1,417,844,000	1,410,610,000	0.5%	257,218,000	252,237,000	2.0%

NOTE: Receipts are based on **sites** located within a county (in annual reports prior to FY03, receipts were based on **organizations** located within a county). Variances between the above totals and those listed on page 5 are due to rounding and reports being generated at different times.

Legislative Changes - Effective May 1, 2004

Rent limit amended for "bar operation"	<p>For sites where any licensed organization uses a bar operation, rent is based on the following:</p> <ul style="list-style-type: none"> • Up to 20% of gross profits (net after prizes) with a cap (maximum) of \$2,500 paid per month (increase from \$2,000). • For sites with less than \$1,000 gross profit per month, the maximum rent allowed is \$200 (no change). • The maximum rent allowed may not exceed \$2,500 in total per month for all organizations at the premises. <p><i>[Minnesota Statute 349.18, Subd. 1(b)(4)]</i></p>
Lease clarification	<p>Language was added that clarifies that all services or expenses provided or contracted by the lessor are all-inclusive in the rent amount.</p> <p><i>[Minnesota Statute 349.18, Subd. 1(c)]</i></p>
Lessor's family - compensation prohibited	<p>A member of the lessor's immediate family may not be a compensated employee of an organization leasing space at the premises. A "member of the immediate family" is defined as a spouse, parent, child, or sibling (brother or sister).</p> <p><i>[Minnesota Statute 349.18 Subd. 1(j)]</i></p>
Off-site activities increased	<p>A licensed organization may conduct lawful gambling (pull-tabs, bingo, tipboards, paddlewheels, and/or raffles) on a premises other than the organization's permitted premises for:</p> <ul style="list-style-type: none"> • four days per calendar year, plus • one event of up to 12 consecutive days in a calendar year in connection with a county fair, the state fair, a church festival, or a civic celebration. <p>Approval is required from the appropriate local unit of government (city or county). <i>[Minnesota Statute 349.18 Subd. 2(c)]</i></p>
Bingo prize limits increased	<p>Total prizes awarded at a bingo occasion may not exceed \$2,800, unless a cover-all game is played in which case the limit is \$3,800. (Previous limits were \$2,500 and \$3,500 respectively.) <i>[Minnesota Statute 349.211, Subd. 1]</i></p>
Age limit for bingo modified	<p>A person under the age of 18 years may participate in a bingo game at one bingo occasion conducted by a licensed organization as part of an annual community event if the person under age 18 is accompanied by a parent or guardian.</p> <p><i>[Minnesota Statute 349.2127, Subd. 8]</i></p>
Lawful purpose amended for veterans organizations	<ul style="list-style-type: none"> • Expenditures may be made by a licensed veterans organization to send up to two World War II veterans per local veterans post to Washington, D.C. for the WWII memorial dedication on May 27-30, 2004. • Up to \$1,500 may be spent per WWII veteran. • The maximum amount that may be spent by each licensed post is \$6,000. <p><i>[Minnesota Statute 349.12, Subd. 25(a)(6)]</i></p>

Legislative Changes - Effective May 1, 2004

Technical changes

- Changes were made to be consistent with a statutory change in 2003 which eliminated the class of organization license.
- Deleted language that allowed the board to provide by rule for different training requirements for gambling managers based upon the class of organization license. [Minnesota Statute 349.167, Subd. 4]
- Deleted language that referenced "class C license" for reporting exceptions. [Minnesota Statute 349.19, Subd. 5]
- Clarified that the \$100 gambling manager license fee is an annual fee. [Minnesota Statute 349.167, Subd. 2]
- Clarified that a licensed manufacturer must make all gambling equipment (not just pull-tabs) available for sale to distributors (except for exclusive games). [Minnesota Statute 349.163, Subd. 9]
- Repealed statutory language that allowed the board to promulgate rules for tipboard games with multiple seals and for cumulative or carryover tipboard prizes, and added new language that required the board to develop tipboard rules. [Minnesota Statute 349.1711 Subd. 4 and Subd. 5].

Legislative Changes - Effective July 1, 2004

Cash shortages required to be reported by site and by fiscal year

Reported by premises

Effective July 1, 2004, organizations must report cash shortages for each permitted premises based on the organization's gross receipts from lawful gambling at that site.

Reported for fiscal year (July 1 - June 30)

The amount reported for the fiscal year (July 1 through June 30) may not exceed three-tenths of one percent (.3%) of the gross receipts per site.

If the amount is exceeded for the fiscal year, the organization must reimburse its gambling account from a source of nongambling funds by July 20.

[Minnesota Statute 349.15, Subd. 2]

Although no rule changes occurred in fiscal year 2004, the Board set a target date of late 2004 for completion of the comprehensive review of Minnesota Rules, Chapters 7861 through 7865 process.

The Request for Comments on the rule review was published in 2001 in the State Register. During the 2003 legislative session, the Board was granted the authority to promulgate rules governing linked bingo. Linked bingo rules were incorporated as part of the comprehensive rule review and amendments package. On February 9, 2004, a notice was published in the State Register seeking comments on planned new rules governing linked bingo and variances, and amendments to existing rules.

The Public Advisory Committee, which was formed to advise the Board on the provisions of the rule amendments and to comment on rules drafts, met on several occasions during the past year to review rule drafts and provide opinions on rules issues and concerns.

Proposed permanent rules relating to lawful gambling were approved to form by the Revisor on May 19, 2004. The statement of need and reasonableness was prepared on May 25, 2004.

On June 28, 2004, a "Notice to adopt rules without a public hearing unless 25 or more persons request a hearing, and a Notice of hearing if 25 or more requests for a hearing are received" was published in the State Register. No requests for a public hearing were received.

The Board's rulemaking docket and other rule related notices can be accessed at www.gcb.state.mn.us.

Post Fiscal Year Information

Modifications which did not substantially change the rules were made to correct technical and grammatical errors. The rules were approved by the administrative law judge on September 30, 2004 and by the Governor on October 14, 2004. The Notice to Adopt was published in the State Register on October 25, 2004, with the rules becoming effective on November 1, 2004.

Education Program

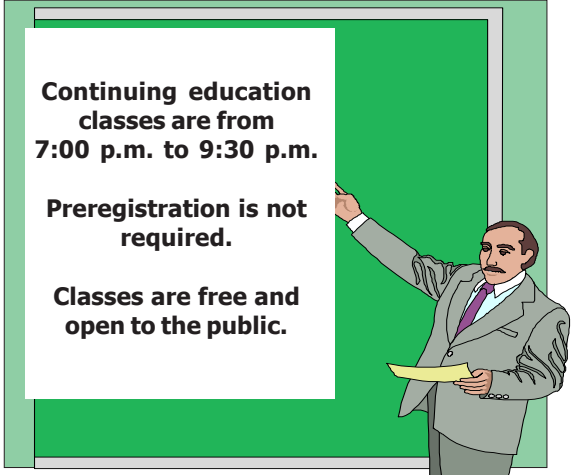
An integral part of the Board’s mission is educating the lawful gambling industry. To ensure the integrity of the industry, education is provided to organizations through the following opportunities.

Continuing Education Classes

Gambling managers are required to attend one class during each year of their two-year license period.

Continuing education classes are conducted at various locations throughout the state free of charge and are open to the public. The chief executive officer, members, and employees of the organizations are invited as well.

During the fiscal year, 60 continuing education classes were conducted.



Gambling Manager Seminars

Gambling manager seminars were conducted each month by Board staff. Each seminar consisted of two days of training and included information on statutes, rules, conduct of lawful gambling, internal controls, reporting and licensing requirements, and the responsibilities of organizations conducting lawful gambling. An optional one-half day of training was provided for new organizations.

Mentoring

The Board’s mentoring program provides one-on-one training to organizations on how to properly manage their gambling operation and comply with all reporting requirements. The program also provides guidance to licensed organizations that have experienced serious operational difficulties.

New organizations or existing organizations with a new gambling manager may voluntarily participate in this program.

Speaking Engagements

Staff participated in speaking engagements throughout the state at conferences and conventions, such as American Legion, VFW, Eagles, and Lions. Attending these functions allows the staff to reach a large number of people and provide up-to-date pertinent lawful gambling information.

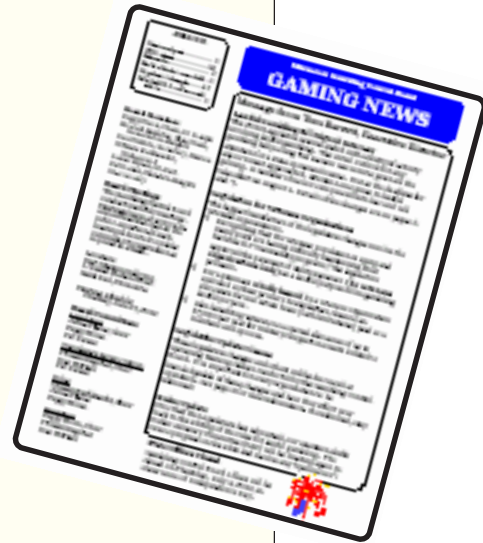
Gaming News

The Board publishes the bi-monthly *Gaming News* newsletter on its web site at www.gcb.state.mn.us. Subscriptions to the newsletter are available through Minnesota's Bookstore.

Gaming News provides up-to-date information on compliance, licensing, and education issues.

Gaming News also includes information on legislative and rule changes, scheduled continuing education classes, forms, and Board activities.

The Departments of Revenue and Public Safety and the Internal Revenue Service periodically contribute articles for the newsletter.



The *Lawful Gambling Manual* is a handy reference guide for CEO's, gambling managers, and organizations--whether new or experienced.

The *Manual* provides information on statute and rule requirements in an easy to understand format.

The *Manual* is divided into chapters that are easily referenced for:

- ✓ licensing requirements,
- ✓ conduct for each form of lawful gambling: pull-tabs, bingo, paddlewheels, tipboards, and raffles,
- ✓ managing gambling equipment inventory,
- ✓ guidelines for internal controls of the gambling operation including accounting and administrative controls, with a section on monthly oversight,
- ✓ how net receipts may be spent, and
- ✓ a comprehensive cross-reference index.



“Everything you always wanted to know about lawful gambling...”

can be found on the Board’s web site at

www.gcb.state.mn.us

- √ **Board information**
- √ **Meeting dates**
- √ **Phone numbers**

Get connected!

- ➔ **Links to other agencies**
- ➔ **Link to legislature**
- ➔ **E-mail links to staff**
- ➔ **Automatic updates**

- **Education information**
- **Training dates**
- **Request for mentoring**

- √ **Licensing information**
- √ **Forms**
- √ **Lawful gambling statutes and rules**
- √ **Local unit of government information**

- ➔ **List of Distributors**
- ➔ **List of Manufacturers**
- ➔ **List of Bingo Halls**

- **CEO Guidebook**
- **Restrictions on Who May Play**
- **Pull-tab Requirements**
- **Illegal Gambling**
- **Raffle Ticket Requirements**
- **Frequently Asked Bingo Questions**
- **Lawful Gambling Manual**
- **Gaming News**

Strategic Operating Plan

The Gambling Control Board's strategic operating plan reviews strengths, weaknesses, threats and opportunities; presents a series of statements relating to the Gambling Control Board's mission, vision, values and objectives; and sets out its proposed strategies and goals.

STRENGTHS

- Knowledgeable staff and effective training
- Expertise in game testing
- Efficient operation
- Support of the industry
- Cooperative assistance from other agencies

WEAKNESSES

- Obsolete computer equipment and software
- Inconsistent regulation - local government
- Lack of authority – criminal investigations
- Limited access to shared information
- Manual reporting by licensed organizations
- Minimal staffing – investigations and compliance
- Ambiguous definitions – lawful donations

THREATS

- No increase in funding for operations
- Increasing caseload and activity
- Increasing expenses for charities
- Competition from other gambling venues
- Risk takers increasing
- Fraud detection decreasing
- New schemes to hide fraud

OPPORTUNITIES

- Improve automation
- Increase site visits
- Better analysis of data
- Increase mentoring
- Educate legislators
- Dedicated funding available
- Less dependence on other agencies
- Minimize duplication of effort (local)

VISION: THE NEXT 1-4 YEARS

- There will be more gambling taking place in Minnesota (legal and illegal)
- Smoking bans in bars/restaurants will impact lawful gambling
- Better automation, electronic gaming, and monitoring will be available
- There will be fewer but bigger charities
- Veteran organizations will consolidate and be coordinated at the "state" level
- There will be more demands for donations but fewer allowances
- More sophisticated fraud will develop
- Responsibilities of the Board will be refined

Strategic Operating Plan (continued)

MISSION STATEMENT

The central purpose and role of the Gambling Control Board is to "Regulate lawful gambling in Minnesota so that the citizens are assured of the integrity of the industry and nonprofit organizations continue to raise funds for allowable charitable contributions."

AGENCY VALUES

- Integrity – doing what is honest and fair and producing results. Being proactive in regulation and training and providing guidance when necessary.
- Change – The vision to see opportunities and the courage to change. To seek more effective and efficient ways to deliver services.

LONG TERM OPERATION OBJECTIVES

- Increase frequency of compliance reviews and site inspections
- Reduce processing time for license applications and Board approval requests
- Clarify definitions and allowance for lawful purpose expenditures
- Target problem organizations and increase mentoring efforts
- Reduce organization's dependence on "outside" consultants

CRITICAL STRATEGIES TO BE PURSUED

- Automate licensing and on-line reporting
- Increase staffing – compliance and investigations
- Increase staffing – information systems/ technical support
- Obtain more legal authority for investigations and prosecution

OTHER STRATEGIES TO CONSIDER

- Refine responsibilities of the Board
- Eliminate duplication of effort (local government)
- Review all licensing requirements
- Review all applicable fees and tax schedules for modification
- Consider consolidation with another agency

MAJOR GOALS IN NEXT 1-4 YEARS

- Increase the frequency of reviews
- Create on-line license applications
- Allow electronic reporting
- Establish automated validation of games
- Produce effective reports for monitoring

STRATEGIC ACTION PLAN TO BE IMPLEMENTED

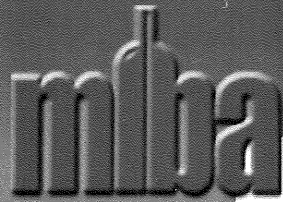
- Upgrade computer system
- Request additional compliance staffing
- Increase frequency of reviews
- Clarify lawful purpose definitions
- Refine Board responsibilities
- Gain more authority for prosecution
- Establish bar-code game validation

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(large print, Braille) upon request. If you use a TTY, you may call us
by using the Minnesota Relay Service and
ask to place a call to 651-639-4000.



Legislative Issues

...Nickel

MLBA's Position Statement on Smoking Bans

At the 2004 Annual Meeting of the Minnesota Licensed Beverage Association (MLBA) the Board of Directors created the following position statement as a guide for use during the 2005 legislative session.



It is the position of the Minnesota Licensed Beverage Association (MLBA) to oppose all attempts to manipulate government authority to prohibit smoking in licensed alcohol on-premise establishments as long as the act of smoking tobacco products is lawful. MLBA takes the position that the decision to allow smoking to occur in a lawfully licensed alcohol on-premise establishment is a decision best left to the individual licensee, their employees and customers.

Should a majority of elected officials disagree with MLBA and determine that the Minnesota Clean Indoor Air Act should be amended to prohibit smoking, MLBA takes the position that partial prohibitions similar to those adopted in Olmsted and Ramsey Counties, the cities of Duluth and Moorhead are preferable to a total prohibition provided that all licensed establishments are treated the same regardless of whether operated as a public establishment, private club or municipal operation.

Should a partial prohibition be adopted as stated, MLBA strongly believes that a statewide solution is better than a patchwork approach supported by anti-tobacco advocates. To achieve the goal of a statewide solution, MLBA supports preemption of local governments unilaterally adopting city ordinances that arbitrarily pick winners and losers based on political boundaries.

MLBA requests that any remaining revenue sources continuing from the creation of the tobacco endowments be used to assist our members and employees by covering the costs associated with individual members and employees seeking access to smoking cessation programs.

This is the unanimous position of the MLBA Board of Directors on behalf of its members statewide.

It is clear that the smoking prohibition is an emotional issue for many involved, both pro and con. It is best for all involved to remember that civility during political debate is the cornerstone for the success of a democracy and to keep that in mind while members approach legislators this year.

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ALLIED MEMB.

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