2424 HJ HB 84 (FILE 2)

2424

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 84
Title "An Act relating to smoking in public places and vehicles."
Requested by House State Affairs Committee Date 2/8/83

II. FISCAL DETAIL
Agency Affected Department of Law
Program Category Affected Legal Services
BRU, Program, Or Subprogram(s) Affected Legal Services
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL		48.4	51.1	54.2		

FUNDING (Thousands of Dollars)

GENERAL FUND		48.4	51.1	54.2		
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)
This bill extends the state's current mandatory prohibition of smoking in public places to include public meetings of municipalities and most places of business such as retail stores, restaurants, banks, offices, factories, warehouses, and other places of employment. Under existing statute, this extended prohibition is at the option of the person having control of such places of employment. The bill would also make the existing mandatory requirement to provide reasonable smoking areas, in most prohibited areas, optional. Because of the very broad changes to the existing law, requiring mandatory compliance by nearly every place of business in the state, except for cocktail lounges, taverns and tobacco shops, it is anticipated that the department will have to devote additional resources to provide the enforcement actions required by the bill such as seeking injunctions and the collection of fines and penalties.

IV. DATE February 9, 1983 PREPARED BY Richard I. Pegues, Dir. Adm. Svcs.
AGENCY Department of Law
PHONE 465-3672

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/82)

STATE OF ALASKA
FINAL STATEMENT OF FISCAL IMPACT

Bill No: HB 84 Date on Bill: January 20, 1983
Title: "An Act relating to smoking in public places and vehicles."
Sponsor: Fritz et al
Requestor:

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital				-0-				
Operating				$10,000.00				
Total				$10,000.00				

b. Revenues:

Revenue				-0-				

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

18 AAC 55 "Smoking In Public Places" will be amended if this legislation passes. It would necessitate printing new regulations and public education to inform affected public facility operators and the general public of their rights and responsibilities under the new law.

4. This statement has been reviewed by the OMB in the Office of the Governor. It may be considered to represent the policy of the Sheffield Administration and the final estimate of fiscal impact.

Prepared By: Joe Cladouhos Phone: 465-2640
Division: Environmental Quality Management Date: 2-14-83

Approved by Commissioner: Carl Fasching for R. A. Neve Date: 2/14/83
Department: Environmental Conservation

Reviewed by OMB: Date:
Phone:

5. Distribution:
Original to Legislative Finance
Copy to Department
Copy to Sponsor
Copy to Requestor

2/8/83

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: House Bill No. 84 Date on Bill: 1/20/83
Title: "An Act relating to smoking in public places and vehicles"
Sponsor: Rep. Fritz, et al.
Requestor: HESS

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital			0	0	0	0		
Operating			0	0	0	0		
Total			0	0	0	0		

b. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It d
not represent the policy of the Sheffield Administration or the final estimate of fi
impact.

Prepared By: Dean Tirador Phone: 465-3090
Division: Public Health Date: 2/10/83

Approved by Commissioner: Date: 2/17/83
Department: Health and Social Services

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor

House Bill No. 84

"An Act Related to Smoking in Public Places and Vehicles"

BACKGROUND INFORMATION:

First, there is mounting evidence in the medical literature that passive smoking by children, particularly young children, and adults with heart or lung ailments cause them to suffer physiological and eventually anatomic consequences that adversely affect their health status. Second, there is a mounting public awareness of the annoyance caused by persons smoking indoors in public areas. Third, and this is the fact of greatest significance, in 1981, there were 92 deaths in Alaska due to cancer of the respiratory system and 145 premature deaths due to coronary disease. Smoking undoubtedly contributed heavily to these numbers.

WHAT THE BILL DOES:

This bill strengthens the rights of persons who choose not to damage their lungs and cardiovascular systems by smoking - either active or passive smoking. It recognizes several features of indoor air quality that are not adequately recognized by the present statute.

SUGGESTION FOR IMPROVEMENT:

On page 3 line 13: Due to the difficulty of defining a "smoker" this line could be more effectively stated; "(4) a place of employment if all the employees consent to the designation in entirety,".

On page 3, line 27: Addition of "per Alaska statute 18.35.300" would make the sign more effective.

On page 4, Section 6 would add a potential case load to already overcrowded district and superior courts. The personal injury sustained by a violation, or even a brief series of violations, of this statute would be minimal and difficult to prove. The remedies contained in Sections 7 and 8 of this bill set forth adequate avenues for correction of violations.

POSITION PAPER/Department of Health & Social Services

DEPARTMENT POSITION:

This bill is an enlightened public health policy statement and is strongly endorsed by this department.

RECOMMENDED BY: E. S. Rabeau, M.D.

E.S. Rabeau, M.D.
Director
Division of Public Health

DATE: Feb. 10, 1983

APPROVED BY: Robert London Smith

Robert London Smith, Ph.D.
Commissioner
Department of Health and Social Services

DATE: 2/14/83

APPROVED BY: _____

Emil Notti
Legislative Assistant to the Governor

DATE: _____

2/15

(7)

COMMITTEE REPORT

HOUSE

FURTHER: RESOURCES JUDICIARY

1/20/83

Date: 2/14/83

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 84

An Act relating to smoking in public places and vehicles.

under consideration and reports it back as follows:

[X] do pass if amended [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [2] ~~New~~ Fiscal Notes Sup 9

[ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the ~~Resources~~ _____ Committee

MEMBERS SIGNING DO PASS

M. M. Miller - DO PASS

MEMBERS HAVING OTHER RECOMMENDATIONS:

Ronald J. Larson - Pass if Amended.

Mike Hess - Pass if amended

Dick Shultz - Pass if amended

Rep Mike Hess

CHAIRMAN

H 60

HOUSE STATE AFFAIRS
STANDING COMMITTEE
February 14, 1983
1:00 p.m.

Members Present: Rep. Abood, Chairman
Rep. Cowdery, Vice-Chairman
Rep. Larson
Rep. Furnace
Rep. M. M. Miller
Rep. Shultz

Members Absent: Rep. Vaska

COMMITTEE CALENDAR

HB 85: "An Act relating to the use of the income of the Alaska permanent fund (AS 37.13); repealing the permanent fund dividend program (AS 43.23); and providing for an effective date."

HB 84: "An Act relating to smoking in public places and vehicles."

WITNESS REGISTER

Rep. Fritz
Pouch V
Juneau, Alaska 99811
465-4833
Position Statement: Original sponsor of the bill; urged passage of HB 84.

Rep. M. M. Miller
Pouch V
Juneau, Alaska 99811
465-4841
Position Statement: Co-sponsor of HB 84; urged passage of legislation.

Don Kubely
Cabaret Hotel and Restaurant Association
CHAR
6310 Glacier Hwy.
Juneau, Alaska 99801
789-4849
Position Statement: Representing CHAR; wanted Lines 6-7, Page 2 to be deleted from HB 84.

Donna Reeder
3713 Amalgo

Juneau, Alaska 99801
465-2176
Position Statement: Representing herself and other non-smoking state employees; urged passage of HB 84.

Beverly Bradon
P.O. Box 1424
Juneau, Alaska 99802
465-2176
Position Statement: Representing herself as a non-smoking state employee; supported passage of HB 84.

Cherie Shelley
Alaska Public Employees Association
340 N. Franklin St.
Juneau, Alaska 99801
586-2334
Position Statement: Representing APEA; did not indicate whether APEA supported HB 84 or not.

Rosalee T. Walker
7677 N. Douglas Hwy.
Juneau, Alaska 99801
586-2873
Position Statement: Representing herself; opposed HB 84.

Dove Kull
326 4th Street
Juneau, Alaska 99801
586-2670
Position Statement: Representing herself as an older Alaskan; urged passage of HB 84.

Leo Kaye
Director
Alaska Lung Association
P.O. Box 103056
Anchorage, Alaska 99510
Position Statement: On behalf of the Alaska Lung Association; urged passage of HB 84.

Richard Lauber
Tobacco Institute
120 W. 1st.
Juneau, Alaska 99801
586-1324
Position Statement: Representing the Tobacco Institute; opposed HB 84.

Tom Coyne
Box 5283
Ketchikan, Alaska 99901
225-4154
Position Statement: Representing himself; urged passage of HB

84.

Alice Hovena
General Delivery
Auke Bay, Alaska 99821
789-2649
Position Statement: Representing herself as a former state employee; supported HB 84.

Don Hagmason
Retail Association
Juneau, Alaska 99801
Position Statement: Representing Retail Association; opposed HB 84.

Ken Richardson
1521 Sunrise Drive
Anchorage, Alaska 99504
277-5770
Position Statement: Representing himself and being an individual with breathing difficulties; urged passage of HB 84.

Joe Clodauis
Department of Environmental Conservation
Pouch O
Juneau, Alaska 99811
465-2640
Position Statement: Representing DEC; supported HB 84.

Susan Scott
Alaska Council on Health
217 E. 11th Ave.
Anchorage, Alaska 99504
276-0217
Position Statement: Representing herself and Alaska Council on Health; urged passage of HB 84.

Alice Richardson
1521 Sunrise Drive
Anchorage, Alaska 99504
277-5770
Position Statement: Retired Nurse and representing herself; urged passage of HB 84.

Debbie Sharpe
Box 7996
Ketchikan, Alaska 99901
225-5747
Position Statement: Representing herself; urged support of HB 84.

Jeff Sharpe
Box 7996

Ketchikan, Alaska 99901
225-5747
Position Statement: Representing himself; supports HB 84.

Gary Miller
P.O. Box 2436
Juneau, Alaska 99803
789-3757
Position Statement: Representing himself and numerous other individuals; supports HB 84.

Roberta Banko
P.O. Box 803
Juneau, Alaska 99802
586-9874
Position Statement: A state employee representing herself; urged passage of HB 84.

Ric Inannolino
426 East Street
Juneau, Alaska 99801
586-9850
Position Statement: Representing himself; supports HB 84.

PREVIOUS ACTION

None

ACTION NARRATIVE

TAPE#1

Recording	
Number 0001	Chairman Abood called the meeting to order at 1:00 p.m., and indicated the members present at the hearing. He told committee members that the first bill to be heard would be HOUSE BILL NO. 85 and then following HOUSE BILL NO. 84.
Number 0036	Chairman Abood told committee members that it was the intention of the Chairman to pass HB 85 out of committee to the next committee of referral.
Number 0050	Rep. M. M. Miller moved that HB 85 be passed out of committee with individual recommendations. Hearing no objections, the motion carried with Representatives Abood, Cowdery and Furnace recommending a "do pass" and Representatives M. M. Miller, Shultz and Larson having no recommendation.

Number 0058

Chairman Abood called Rep. Fritz to the stand, the sponsor of HB 84; the bill relating to smoking in public places and vehicles. Rep. Fritz told committee members that if smoking affected only those who smoke, there would be little need for HB 84; but smoke is not confined to the smoker. He stated that smoking interferes with the rights of those who do not smoke, to work or carry on their business in a smoke-free environment. Therefore, it was his feeling that smoking should be banned in vehicles and indoor areas open to the public. He asked the committee to favorably consider HB 84 for passage.

Number 0136

Rep. M. M. Miller, co-sponsor of HB 84, testifies on behalf of the legislation. He told members of the committee that second hand smoke was a significant health hazard. He said a recent court decision ruled that employees had a right to work in a smoke-free environment. He said, "we're not prohibiting smoking." The intent is that smoking does not interfere with those who do not want to smoke.

Rep. M. M. Miller went over new sections of HB 84 that are different from current statutes. In Sec. 2. (2), Line 27 that indicates if privately owned such as, a library, (INDOOR) theater, museum, lecture or concert hall, gymnasium, or swimming pool or other indoor (PUBLICALLY OWNED AND OPERATED) place of entertainment or recreation. Rep. M. M. Miller stated that it was changed to include municipalities, retail store, restaurant or bank which was not in place in previous legislation. The reason being was because people with breathing difficulties and sensitivities to smoke have to go to these places. He urged support of HB 84.

Number 0270

Don Kubely, representing Cabaret Hotel and Restaurant Association (CHAR) takes the stand. He told committee members that he had no problem with the main thrust of the bill. He was against the verbiage on Page 2, Lines 6-7 that referred to no smoking in a retail store, restaurant or bank. Mr. Kubely stated that it was contrary and establishments or businesses that are privately owned should not be subject. In

conclusion, Mr. Kubely stated that CHAR felt that sections on Page 2, Lines 6-7 should either be deleted, or left as they are in the present statutes.

Number 0309

Donna Reeder, representing herself and currently employed with the State Department of Administration, takes the stand. She said that she was in a corner with two other non-smoking employees and although the smokers are in another section, the non-smokers are still getting their smoke. She told committee members that dividing sections in offices does not help the problem. She said employees can't wear contacts and suffer irritations in their nose and throat, due to second hand smoke. She urged passage of HB 84.

Number 0339

Beverly Bradon, representing herself and currently employed with the State Department of Administration, Word Processing Unit takes the stand. She said she worked with machines that draw smoke to their section of the office. She told members of the committee that the smoke gave her frequent headaches, but that she had to work to support her child. She urged passage of HB 84.

Cherie Shelley, representing APEA takes the stand. Ms. Shelley referred to Page 4, Line 5 of the bill. She said that she wasn't for or against the bill per say. It was her intention to point out to committee members that if HB 84 passed APEA would be forced to file grievances or a court action, because of the change in working conditions for an employee.

Number 0385

Rosalee T. Walker takes the stand in opposition to HB 84. She said she was a law abiding citizen and that passage of HB 84 would make her a potential criminal, because she smoked. She said she didn't feel it was necessary to pass HB 84, because if merchants do not want you to smoke they can hang a sign and that was sufficient. She also said that there would be a great burden put on enforcement people if HB 84 passed. She opposed passage of HB 84.

Number 0422

Dove Kull, representing herself as an older

Alaskan takes the stand. She said older people have thin skin. She said that same thing happens in your nasal passages when you are around smokers. Ms. Kull said she and other older Alaskans have frequent nose bleeds when subjected to second hand smoke. She strongly recommends HB 84 for those people who have sensitivities such as older people encompass.

Number 0445 — Leo Kaye, the Director of the Alaska Lung Association gives his testimony via the teleconference network from Anchorage. He said that HB 84 was designed to improve the original law and provides safeguards for non-smokers. He told committee members it was a health hazard to receive second hand smoke. He urged passage of HB 84.

Number 0522 — Richard Lauber, with the Tobacco Institute takes the stand. He told members of the committee that there is no actual fact findings that indicate second hand smoke is harmful. He was opposed to HB 84.

Number 0658 — Tom Coyne of Ketchikan gives his testimony via teleconference network. He said that present laws pertaining to smoking were not being enforced. He supported HB 84.

Number 0700 — Alice Hovena takes the stand. She said that the current law was not effective on the part of businesses in controlling smoke. Ms. Hovena said she didn't wish to be subjected to second hand smoke, although she would like to have dinner at a restaurant with a smoke-free surrounding. She said that when someone has nose bleeds, headaches and difficulty breathing, how can it be stated that there is no fact finding evidence that second hand smoke is harmful. She urged support of HB 84.

Number 0840 — Don Hagmason representing the Alaska Retailers Association takes the stand. He was concerned with passage of HB 84, in that if a person was smoking in a grocery store and the knowledge of who the individual was uncertain, the action suit would be filed against the grocery store merchant. He opposed HB 84.

Number 0870 — Ken Richardson, representing himself gives his testimony via the teleconference

network. He said he must constantly wear masks to breathe when he is around smoke in federal meeting places, grocery stores and airplanes. He said the residual smoke gives you colds and other sensitivities and urged passage of HB 84.

Number 0916

Joe Clodauis, with the Department of Environmental Conservation (DEC) takes the stand. He said that the current bill was more complete and extensive, addressing current needs. He added if the DEC is to enforce the law, support HB 84.

Number 0954

Susan Scott, representing the Alaska Council on Health gives her testimony via teleconference in Anchorage. Her concern was mainly for small children, with breathing difficulties, who could not go into a store or restaurant because of second hand smoke. She said that breathing second hand smoke was a health hazard and urged passage of HB 84.

Tape 1, Side B
Recording
Number 0010

Alice Richardson, a retired Public Health Nurse, representing herself gives her testimony via teleconference in Anchorage. She said over 3 million people suffer sensitivities to smoke. During her recent air travel, she indicated she was still recovering from bleeding sinuses. She urged passage of HB 84.

Number 0048

Debbie Sharpe of Ketchikan gives her testimony via teleconference network. She told of the problem on the ferry system where the lounge is divided in half for smokers and non-smokers, but how the people blow their smoke as they go to their side of the lounge. She urged support of HB 84.

Number 0100

Jeff Sharpe of Ketchikan gives his testimony via teleconference network. He was opposed to smoking in a grocery store near the fresh food section and was appalled at finding cigarette ashes on produce. He supported HB 84 and its passage.

Number 0119

Gary Miller, a state employee representing himself, speaks on behalf of many state employees in favor of HB 84. He read a memo

from a department executive who found loopholes in the current statute and; therefore, permitted employees objecting to second hand smoke to be subjected to it just the same. It was the executive's belief that he set the rules and decide what is fair for all. Mr. Miller felt that passage of HB 84 would make the law for enforceable.

Number 0224 — Roberta Banko, representing herself takes the stand. She said that passage of HB 84 would give the non-smoker more leeway to go to a smoker and encourage him to put out his cigarette. She supported HB 84.

Number 0245 — Discussion continues on HB 84.

Number 0290 — Ric Inannolino representing himself takes the stand. He passed out an article from a San Francisco newspaper that told of a non-smoker, employed with the federal government, receiving a $20,000 suit because she was subjected to a smoke filled office. He supported passage of HB 84.

Tape 2, Side A
Recording
Number 0001 — Chairman Abood thanked everyone for taking the time to testify.

Number 0013 — Rep. Shultz moved that HB 84 be passed out of committee with individual recommendations. Motion passed with Rep. M. M. Miller recommending a "do pass" and Representatives Larson, Abood and Shultz recommending do pass "if amended".

Number 0025 — No further business to come before the committee. Chairman Abood called the meeting adjourned at 2:35 p.m.

Dear Members of the Judiciary Committee:

I am writing to ask your support of House Bill 84, which provides long overdue health protection to non-smokers in Alaska. The present statute is inadequate in that it does not go nearly far enough to guarantee everyone's right to breathe clean air. As a non-smoker, I can attest to this fact because:

X I frequently have had meals ruined while eating in restaurants, due to drifting tobacco smoke.

X I have experienced extreme discomfort while waiting in line in banks, supermarkets, and other retail establishments, due to someone else's smoking habit.

X Where I work, I am constantly annoyed and sometimes sickened by the smoking of my fellow employees.

How this bill is treated by your committee will show Alaskan voters whether their representatives really represent them or instead owe their allegiance to the tobacco lobby.

Signed: Rita Walker Date: 2/25/83

AMENDED TITLE:
AN ACT RELATING TO SMOKING IN PUBLIC PLACES AND VEHICLES

PRIME SPONSOR: FRITZ.

CO-SPONSORS: MILLER,M.M., BUSSELL, KOPONEN, LARSON, MALONE, MARTIN, MCBRIDE, SZYMANSKI, ZHAROFF, MILLER,M.W., LINDAUER, FURNACE, VASKA, DAVIS.

CURRENT STATUS: 2/15/83 IN (H) JUDICIARY

DATE	SEQ	PAGE	LEGISLATIVE ACTION
01/20/83	01	0067	FIRST READING -- COMMITTEE REPORTS
02/15/83	02	0259	S.A. -- DP01, OTHER03
02/15/83	03	0259	F/NOTES HSE SUPPL #9
02/15/83	04	0264	MOVED FROM RES TO JUD BY UNAN CONSENT JUDICIARY RULES
****	**	**	*** *** ***

2-WIRE

SPONSOR: H. Judiciary

SUBJECT: HB 84- Smoking in Public Places

MAILING ADDRESS: Invitational Hearing

zip

PHONE: 4990 CONTACT: ~~Kathryn~~ Catherine Zalewski

TAKEN BY: Tim

T/C DATE/DAY: ~~Wed~~ Thurs, Feb 24

TIME: 1:30 Pacific

11:30 Alaska

10:30 Bering

T/C DURATION: 1 hr

SITES PARTICIPATING:

ALL ALASKAN	Anchorage	Dillingham	Juneau*	Mat-Su	Sitka
	Barrow	Fairbanks	Ketchikan	Nome	Seward
WASHINGTON DC	Bethel	Haines	Kodiak	*Petersburg	Soldotna (Kenai)
	Delta Junction	Homer	Kotzebue	Sand Point	Valdez
Sen. Stevens					*Wrangell
Sen. Murkowski					
Congressman Young					

SPECIAL OFF-NET* LOCATIONS/PHONE NUMBERS:

Chairing Site/Person * Rep. Russell *

Catherine Zalewski

Signature of Sponsor/Contact Person Date

-------- TELECONFERENCE OFFICE USE ONLY --------

MODERATOR NOTES

Special backup, publicty or technical considerations.

ANC- Leo Kaey
Exec. Director Alaska Lung Assoc.

POST TELECONFERENCE NOTES

SITE/LOCATION:

LOCAL MODERATOR:

T/C Started:

T/C Ended:

Was T/C Recorded?

Was T/C Broadcast on RADIO or TV?

(If yes, what stations?)

TESTIFIED/PARTICIPATED:

UNABLE TO TESTIFY:

OBSERVORS:

TOTAL #:

BILLING INFORMATION

Billing Address:

zip

Phone Charges To:

(area code) (phone number)

CATEGORY: Legislative ___ Non-Legislative ___

AMOUNT PAYABLE:

TO: ALL MEMBERS OF THE LEGISLATURE

FROM: LINDA BURKHART, 120 STEWART, A#2, ANCHORAGE, AK 99508
H- 338-2357 W- 333-1023

URGE YOU TO PASS HB 6 (DRIVING A MOTOR VEHICLE) TODAY.

SR

FROM: JOHNATHAN REYNOLDS
BOX 143
DOUGLAS, ALASKA 99824

PLEASE CONTINUE WORKING FOR SPEEDY PASSAGE OF HB 84-SMOKING/PUBLIC PLACES.
MANY THANKS.

EOM//

POSITION PAPER

CS FOR HOUSE BILL NO. 84 (Judiciary)

"An Act Relating to smoking in public places and vehicles."

BACKGROUND INFORMATION:

First, there is mounting evidence in the medical literature that passive smoking by children, particularly young children, and adults with heart or lung ailments cause them to suffer physiological and eventually anatomic consequences that adversely affect their health status. Second, there is a mounting public awareness of the annoyance caused by persons smoking indoors in public areas. Third, and this is the fact of greatest significance, in 1981, there were 92 deaths in Alaska due to cancer of the respiratory system and 145 premature deaths due to coronary disease. Smoking undoubtedly contributed heavily to these numbers.

WHAT THE BILL DOES:

This bill strengthens the rights of persons who choose not to damage their lungs and cardiovascular systems by smoking - either active or passive smoking. It recognizes several features of indoor air quality that are not adequately recognized by the present statute.

Starting on page 4 through the end of the bill there is considerable discussion adding and amending items regarding size of no smoking signs, civil complaints/penalties, citations/penalty, injunctions, enforcement authority, public education and definitions which delineate the context of the subject.

SUGGESTION FOR IMPROVEMENT:

On page 3, line 14: Due to the difficulty of defining a "smoker" this line could be more effectively stated; "(4) a place of employment if all the employees consent to the designatio in entirety,".

On page 3, line 27: Addition of "per Alask statute 18.35.300" would make the sign more effective.

DEPARTMENT POSITION:

This bill is an enlightened public health policy statement and is strongly endorsed by this department.

****

MSNG 15881 MARTIE/MATSU 5/9 9:30 AM

TO: REPRESENTATIVES LACHER, LARSON, RUSSELL, Tischer LISKA, HAYES, BARNES, MALONE
CLOCKSIN, WENDTE

FROM: JOE ORTNER
BOX 1178
PALMER 99645
745 3211

RE: HB 84, SMOKING IN PUBLIC PLACES

I AM STRONGLY IN FAVOR OF THE NO SMOKING BILL. A BILL OF THIS KIND IS LONG OVERDUE.

****

MSNG 15881 MARTIE/MATSU 5/9 9:30 AM

TO: REPRESENTATIVES LACHER, LARSON, TISCHER, LISKA, HAYES, BARNES, MALONE,
CLOCKSIN, WENDTE

FROM: MICHELLE ORTNER
PO BOX 1178
PALMER 99645
745 3211

RE: HB 84, SMOKING IN PUBLIC PLACES

I AM STRONGLY IN FAVOR OF THE NO-SMOKING BILL. CONDITIONS IN ROOMS FILLED WITH SMOKERS FOR LONG PERIODS OF TIME CAN BECOME UNBEARABLE.

6

M. B. Bond, M.D.
Corporate Medical Director

AT&T
American Telephone and
Telegraph Company
295 North Maple Avenue
Basking Ridge, N. J. 07920
Phone (201) 221-2465

March 2, 1977

ALL MEDICAL DIRECTORS:

RE: EMPLOYEE SMOKING AT WORK

The number of complaints from employees who state they are seriously bothered by the smoking of others has increased somewhat and the strength of the complaints has increased a lot recently. A New Jersey Bell employee has recently gained much publicity on this topic and this has caused us to focus on the subject and consider just what the Company position should be to requests for banning all smoking on Company premises.

This issue is not solely a Medical one nor even a health issue alone but rather is a social matter. We don't know how many of our employees smoke but probably between 25 - 50%. We have not had any great problems in the Bell System and the issue has been handled on a local basis without the need for a Company policy or position. We would prefer to have it remain this way, with each complaint handled individually.

About a year ago I prepared the following statement for Mr. H. W. Clarke as a guide for consideration if it becomes necessary to have a definite Policy or Practice on smoking. This was distributed to the Personnel Vice Presidents February 18, 1977, at their annual meeting:

EMPLOYEE SMOKING AT WORK

Except in areas established as non-smoking such as switchrooms, traffic operating rooms, etc., supervisors should make a reasonable attempt to separate in work areas those personnel who smoke from those who do not. This can usually be done by segregating the smokers (or non-smokers) in one area of the work space.

CONTROL DATA CORPORATION
Interoffice Memorandum

November 28, 1979

TO: Distribution A (Executives)

FROM: R.G. Wheeler HQS13A Ext. 4160

4

SUBJECT: New Policy on Designation of Smoking and Nonsmoking Areas

Effective January 1, 1980 the Corporation has approved a new domestic policy on the designation of smoking and nonsmoking areas.

Since both smokers and nonsmokers are employees, we're trying to find the most equitable way in which to assure the rights of both, given the rapidly moving public position on the question of smoking. Attached are the new policy and guidelines which are our best attempt to create a smoke-free atmosphere for those who desire it, and permit smoking by individuals who desire to do so. Where it gets tough, is in those areas regularly used by both smokers and nonsmokers. Here, the only way any semblance of equity can be achieved is by first establishing the basic assumption that those areas of our buildings in general use by employees will be nonsmoking, except where specific "smoking permitted" areas are designated.

At this time, Minnesota and Nebraska have legislation that is similar to this policy. Other states are currently holding hearings and working on legislation that will be similar to this policy. For both health and legal considerations, the Corporation has approved this policy to protect and preserve in the most reasonable manner we could find, the health and comfort of employees by creating both places that are free from smoking as well as those where smoking is permitted.

It is recognized that whenever there are potentially conflicting individual rights, a considerable amount of emotion surrounds those issues. We need to be as helpful as possible for our employees and our facilities people to implement this policy as equitably as possible.

Control Data is committed to protecting the rights of smoking and nonsmoking employees. As a consequence, we need to proceed as carefully as possible. If you have any questions, please do not hesitate to contact your personnel manager or myself.

Roger G. Wheeler

Roger G. Wheeler
Vice President
Personnel & Public Affairs

/jzs

Attachments

3

Council Adopts A New Policy On Smoking

Few subjects stir up as much controversy as "smoking versus no smoking" in University buildings.

Nonsmokers often worry about the harmfulness of "passive smoking," i.e., inhaling the smoke of others. Smokers, on the other hand, often feel their own rights are being curtailed.

After a lengthy review and wide solicitation of faculty and staff opinions, the Personnel Policy Council has adopted the following policy:

"Harvard University recognizes the increasing weight of scientific evidence that smoking is harmful not only to the smoker but also to nearby nonsmokers who, in enclosed areas, become 'passive smokers,' without choice. It is hoped that such situations can be resolved among and between the staff members involved.

"If there remains a conflict between smokers and nonsmokers about when and where a staff member may smoke within University buildings, this policy calls for the smoker to respect the expressed wishes and needs of the nonsmoker."

Staff with questions and comments should contact their Personnel Officer or drop a note to Sunny Macmillan, Holyoke Center 661.

HARVARD UNIVERSITY GAZETTE 9/18/81

Policy on Smoking

In 1977, the New England Deaconess Hospital actively instituted an antismoking policy through a standing administrative and medical staff committee still active in the hospital today.

From the start, the Deaconess Smoking Policy Committee believed that slow, steady progress would produce more lasting results. Thus, smoking has not yet been banned throughout the hospital. However, the Deaconess has taken incremental steps to reduce the number of smoking areas and, in due course, hopes to eliminate smoking entirely within the hospital.

Although the most productive activity regarding the anti-smoking effort has taken place over the past few years, concern with this issue has been growing since the 1950's.

In 1959, a study found that doctors in Massachusetts had cut their smoking activity drastically. In 1962, Deaconess employees and visitors were asked to smoke only in designated areas. In 1964, with the issuance of the now famous Surgeon General's report on smoking and its destructive side effects, the antismoking effort increased at the hospital. In 1977, a New England Deaconess Smoking Policy Committee was established to complete the task of making the Deaconess a "smoke free" hospital. That goal is soon to be realized.

Smoking Pc

The New England Deaconess Hospital is a health care institution committed to the prevention of disease as well as its treatment. Smoking, the major preventable cause of disease and death in this country, is, therefore, not permitted anywhere in the hospital by any patient, visitor or employee, except in specifically posted smoking areas. *All unposted areas are 'No Smoking' areas.*"

Where You May Not Smoke

Please refrain from smoking except in an area that is clearly marked to permit smoking.

Massachusetts General Laws, Chapter 270, S 21, (1975), require such a restriction in all hospitals in the Commonwealth, but permits *limited* smoking areas to be defined.

Where You May Smoke

Patients may not smoke unless their doctors write an order to permit them to do so. This should be discussed with individual physicians. Even with permission, patients may not smoke in most areas of the hospital.

Visitors are asked not to smoke at all in the hospital, if possible. However, an area located near the hospital cafeteria (Farr Building) is available for those for whom it is difficult to abstain.

Staff members may not smoke in patient areas, nor any area not marked to permit smoking.

The Reason

Smoking causes premature death for 300,000 Americans *each year.* Lung cancer, now the most common cancer in men and the second most common in women, is due almost entirely to smoking. With the steady rise in illnesses associated with cigarette smoking, such as emphysema, bronchitis and heart disease, the New England Deaconess Hospital has assumed an active, leadership role through its antismoking effort. The Deaconess policy sets an example for its employees, its patients and its visitors and for other hospitals and health care institutions. The Deaconess policy has been recognized by other health care institutions as one of the most progressive in the United States.

Patients

1) Patients are expected not to smoke while in the hospital, and are so informed prior to admission. This may be modified only on the written order of the patient's own physician.

2) No patient may smoke in a two-bed room unless both persons in the room have written permission from their respective physicians.

3) Smoking is never permitted, and may not be ordered on the intensive care units (Farr 6) or the special care units (Baker 5 and Farr 8).

Employees

1) No hospital employee may smoke while on duty. Employees may smoke only on their free time, and then only in the areas specifically set aside for them and clearly marked as "smoking" areas.

2) Employees may not smoke in patient or visitor areas.

3) Employees should not visibly carry cigarettes while on duty, as it might help to undermine a patient's effort to break the habit.

4) Employee lounges and locker rooms, provided for the use of all staff, are "no smoking" areas, unless specifically posted as "smoking" areas.

5) Prospective employees will be informed of these points at their first interviews.

Visitors

Visitors are requested not to smoke while in the hospital.

However, if visitors are on the premises for an extended period and they feel they must smoke, the vending area near the hospital cafeteria (Farr Building) has been designated as a visitors' smoking area. This is the only area where visitors may smoke, and medical and nursing staff are asked to help by informing any visitor who does not realize this.

Founded in 1896, the New England Deaconess Hospital began as a 14-bed home-[illegible] hospital dedicated to serving the health care needs of the Boston community. Today, it is the third largest hospital in Boston, a 489-bed and [illegible] 14-building complex located in the famed Longwood medical area. The Deaconess is a specialty-referral hospital [illegible] serving the medical and surgical needs of the patients [illegible] public as well as patients from the Joslin Diabetes [illegible] and the Dana-Farber Cancer Institute [illegible] Harvard Medical School. The Deaconess is now [illegible] nationally and internationally [illegible] for the quality of [illegible] patient care and a pioneer [illegible] heart and chest [illegible] for diabetes, [illegible] and research in cancer, diabetes, [illegible] and renal disease and [illegible]

Com nce

Supervisors and department heads are responsible for ensuring compliance with the letter and spirit of this policy, and violations of the policy should be referred to them.

1) Questions of interpretation, understanding or compliance may be referred to the coordinator of patient relations, ext. 2-8042 or to the personnel department, ext. 2-8146.

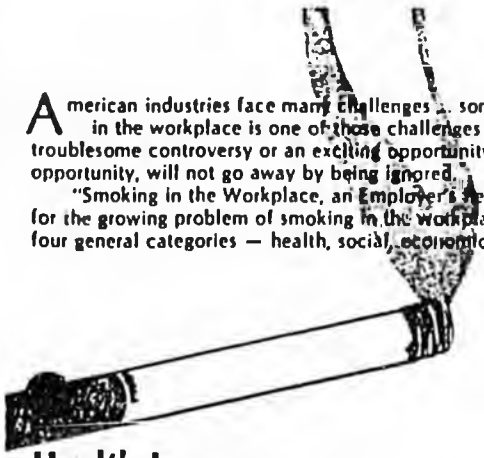
2) Suggestions regarding the policy, or its application, will be welcomed by the Smoking Policy Committee, ext. 2-8330. Members of the Committee are also available to speak to staff, patients or visitors who are reluctant to cooperate with this policy.

H4

New England Deaconess Hospital

American industries face many challenges — some troublesome, some exciting. Smoking in the workplace is one of those challenges and, depending on who is speaking, it is either a troublesome controversy or an exciting opportunity. The smoking challenge, whether viewed as controversy or opportunity, will not go away by being ignored.

"Smoking in the Workplace, an Employer's Perspective" is an examination of facts and issues responsible for the growing problem of smoking in the workplace. The issues facing the employer are many, but fit into four general categories — health, social, economic and legal issues.



Health Issues

Health issues are of two types: risks to the smoker and to the non-smoker. Volumes of research verify that smokers are at increased risk of cancer, lung disease and heart disease. Research in the industrial setting has demonstrated that smoking increases risks to workers exposed to a wide variety of chemical and physical agents.[1] The risk may be that tobacco facilitates the inhalation, ingestion or skin absorption of toxic agents. In addition, workplace chemicals may be transformed into even more harmful agents by smoking. The synergism of smoking and asbestos is the most well known hazardous link. (Smoking asbestos workers are about five times more likely to develop lung cancer than are non-smoking asbestos workers.[1])

Health risks to non-smokers in the workplace are less well known. Recent research has demonstrated that exposure to tobacco smoke in the work environment is deleterious to the non-smoker and significantly reduces [illegible] airways function (a test of lung function.)[1] Prolonged second-hand smoke does more than cause demonstrable damage to healthy non-smokers. The effects on non-smokers with heart and lung disease can be devastating and life threatening. For the employee with emphysema or asthma, exposure to second-hand smoke at work will significantly impair the ability to breathe. By displacing oxygen with other gases it instantly (and in some cases drastically) alters symptoms. Most asthmatics and every employee with emphysema will incur long-term problems from systematic exposure to second-hand smoke.

Social Issues

Social issues of smoking are addressed less often, but are no less significant. Non-smokers frequently are offended by smoke. They express resentment that they cannot avoid air contaminated by second-hand and side stream smoke. More and more frequently conflicts are arising between smokers and non-smokers who demand what they feel are their rights.

A Social Security Administration poll of 14,110 SSA employees revealed that 76% of the non-smoking employees were bothered by second-hand smoke. A majority reported developing sore throats, burning eyes and coughing spells, and half reported occasional difficulty in concentrating. Since two-thirds of most work forces are non-smokers, the indicated rate of dissatisfaction among all employees translates to half the work force. They reported dissatisfaction and disrupted work caused by others' smoke.[4]

As management approaches the smoking issue, it is treading in a sensitive area. The positive aspects must be emphasized to smokers (promotion of quit-smoking programs) and non-smokers (protection from others' smoke). The second-hand smoking issue will continue to snowball during the 1980's. Research has shown that 78% of the work force feel employers have the right to prohibit smoking.[5]

Economic Issues

Economic issues related to smoking include:

- The absentee rate among smokers is twice that for non-smokers.
- The accident rate is twice that of non-smokers (due in part to loss of attention, hand occupation, eye irritation and cough.)[6,7]
- Increased health insurance costs ($204 additional cost per smoking employee, in 1980 dollars)[8]
- Additional fire insurance, workers compensation, life and disability insurance costs.[9]
- Down time spent doing smoking-related activity (estimated at 30 minutes per day at $4 per hour for a yearly cost of $500, $900 for a pipe smoker.)[9]
- Increased maintenance costs (Merle Norman Cosmetics returned $40 to each employee in unused maintenance funds after they banned smoking in their facilities). It is estimated each smoker causes $120 damage per year to carpeting, etc.

A less obvious economic price for smoking is the increased cost of heating and cooling outside air. Recommended outdoor air ventilation rates for areas of buildings where smoking is permitted is *25 cubic feet per minute per person.* Compare this to only *one-fifth* that for areas where smoking is not permitted. The expense of heating and cooling such a large amount of outside air is staggering and increasing as energy costs rise.[10]

Legal Issues

Legal responsibilities for smoking are still evolving. In Minnesota, however, the guidelines are clear. The Minnesota Clean Indoor Air Act (MCIAA) defines places of employment as public places. The right of non-smokers to breathe clean air is primary. All areas, except private offices, must have signs designating smoking/no-smoking areas. Non-smoking employees must be allowed, under the MCIAA, to carry out their duties in a smoke-free area.

Employers who fail to comply with the law are at risk to suits by employees who wish to force compliance. They are additionally at risk in cases where workers compensation or personal injury are issues.[11] By mid-1981, several successful litigations, as well as numerous workers compensation claims, have been settled on behalf of the non-smoker. Punitive damages have been awarded to non-smokers.

"THIS ISN'T SO BAD CONSIDERING SOME COMPANIES HAVE BANNED SMOKING AREAS ALTOGETHER!"

Solutions

Resolving the four categories of issues normally takes a two-pronged approach. The combination of restricting smoking to a limited number of designated areas, combined with a company-supported smoking cessation program, seems to be most common.

Smoking restrictions take a variety of forms. Probably the most effective method is to restrict smoking to a portion of the cafeteria or certain rest areas. An alternate method is to separate smokers from non-smokers at work stations and allow smoking in the smokers' area. This plan often leads to complications with work flow, reshuffling people who quit smoking, and problems with air flow pulling smoke into non-smoking areas. This solution also fails to address the problems of energy consumption, reduced productivity and the increased accident rate of smokers.

Some companies have banned smoking in all company facilities. The transition period for older employees is somewhat difficult, but new employees readily accept the restrictions.

Smoking cessation programs can be educational, supportive, or added incentive. An extensive listing of smoking cessation programs is available through the American Lung Association.

Incentive programs attempt to use the economic system to motivate people to quit. There are numerous examples. G.W. Dahl Co., Inc., Bristol, Rhode Island, allows employees to sign a pledge stating "To qualify for a bonus of $3 per week, I promise to quit smoking entirely. I promise to report myself immediately in writing to the payroll department in the event I break this pledge..."

Intermatic Company employees bet against the house on their ability to quit smoking. Bets range from $1 to $100 with double-or-nothing for anyone with 12 month's abstinence.

Texas Division of Dow Chemical Company quitters earned a raffle ticket for a fishing-boat for each month they didn't smoke. Non-smokers could participate in a second raffle by recruiting smokers to join the smokers' raffle.[11]

Incentive programs often achieve a success rate well over 30%, with some as high as 70%. (Unless there is a provision for them to participate, non-smokers may build resentments over incentive programs.)

Smoking in a work environment poses a unique set of problems for management. There are tools and techniques which, when properly applied, provide for positive intervention. It is possible for management to (1) provide a beneficial smoking and health package for workers, (2) simultaneously improve productivity and profits, and (3) head off an issue of growing concern among employees and between management and labor.

About ANSR

The Association for Non-Smokers' Rights (ANSR pronounced answer) is a concerned citizens' group for smokers and non smokers alike, interested in protecting everyone's right to a clean indoor environment.

ANSR promotes and protects the right to clean indoor air through many activities including:

- Working for enforcement of the Minnesota Clean Indoor Air Act (MCIAA-1975), a law protecting "the public health, comfort and environment by prohibiting smoking in public places and at public meetings EXCEPT in designated smoking areas."
- Informing Minnesotans as to their rights and responsibilities under this law.
- Educating the public about the health and safety hazards of SECOND HAND SMOKE, particularly in an enclosed environment.
- Encouraging implementation of the MCIAA in the workplace and other public places such as restaurants, retail stores, public transportation, educational facilities, health care facilities, auditoriums and arenas and public meetings.

ANSR is sponsored by the American Lung Association of Minnesota and the American Lung Association of Ramsey County. Its activities are governed by a board of directors who are elected by the general membership.

REFERENCES

1. "Interaction between Smoking and Occupational Exposure," U.S. Surgeon General Report on Smoking and Health. The Office on Smoking and Health, Park Building, Room 1-68 12420 Park Lawn Drive, Rockville, MD 20857.
2. "How Much can Business Expect to Earn from Smoking Cessation," Marvin M. Kristein, Ph.D., Available from Interagency Council on Smoking and Health, 291 Broadway, New York, NY 10007.
3. "Small Airways Dysfunction in NonSmokers Chronically Exposed to Tobacco Smoke," New England Journal of Medicine, March 27, 1980, 13 No. 302, P. 720. James R. White, Ph.D. and Herman F. Froeb, M.D.
4. Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235.
5. Health, Education and Welfare Survey, Adult Use of Tobacco. U.S. Health and Welfare Administration, 200 Independent Avenue, S.W., Washington, D.C. 20201.
6. "Work Injuries and Smoking," Industrial Medicine and Surgery, October 1966, pp 211-15.
7. Med. Y Seguridad Del Trabajo, October/December 1973.
8. Toronto Globe and Mail, April 2, 1978.
9. Wall Street Journal, May 8, 1979.
10. Energy Use Related to Smoking in Buildings, Bruce Nelson, energy technical analyst. Report available through ANSR office.
11. Minnesota Clean Indoor Air Act, 1975. Available through ANSR office.
12. Smoking in the Workplace, Richard Cesario, attorney. Available through ANSR office.
13. "Structural Support and Reinforcement of Maintained Risk Reduction," Edwin B. Fisher, Ph.D. Available from Interagency Council on Smoking and Health, 291 Broadway, New York, NY 10007.

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A program of:
American Lung Association of Minnesota
American Lung Association of Ramsey County

Smoking in the Workplace

An Employer's Perspective

AR

ACTION ON SMOKING AND HEALTH
2000 H Street, N.W. Washington, D.C. 20006 (202) 659-4310

ASH SPECIAL REPORT:
THE ECONOMICS OF EMPLOYEE SMOKING

Action on Smoking and Health (ASH) has prepared this presentation to help employers appreciate both the immediate and long-range economic benefits of implementing "quit smoking" programs for smoking employees, and of establishing policies to protect nonsmoking employees from exposure to tobacco in the workplace. Today private business firms are expressing more interest than ever before in smoking cessation programs for their employees. In one month ASH has received in excess of 60 separate company requests for assistance and/or information on how to reduce smoking among employees.

These companies writing for our suggestions have already realized the fact that smoking is bad business. One fifth of all lost work days in the U.S. is attributable to the effects of cigarette smoking;[1] a 2-pack-a-day smoker is absent from work 150% more often than a nonsmoker.[2] Cigarettes are a major cause of damage to furniture[3] and carpets, the leading ignition source for small fires,[4] and a prime cause of damage to inventory and expensive office equipment.[5] Medical and disability payments are greatly increased due to the smoking habit,[6] as are insurance costs.[7] Add to this increased costs for cleanup and equipment to accommodate smoking employees,[8] lost production time fiddling with smoking paraphernalia, the problems of smoking in hazardous areas, etc., and the reduction of smoking becomes a significant source for savings and increased efficiency for almost any business operation. This reduction can be accomplished both by helping smokers cut down on (or quit) smoking and by restricting smoking in the work area. Of course, hiring, salary and promotion policies can also influence the amount of smoking cutting into work hours.

In addition to the economic aspects of smoking in the workplace, large employers are increasingly sensitive to the health problems, counterproductive discomfort, and offense smoking causes nonsmoking employees and customers alike. Not only does unrestricted smoking contribute to discontent, conflict and ill will on the job, but it is now the subject of a mounting body of legal and regulatory action.[9]

Employees in many states have been awarded unemployment and job disability payments after having left their jobs due to significant tobacco smoke in their workplace. In one case which has received national attention, a court in New Jersey has banned all smoking in the office of a worker whom the judge found to be allergic to tobacco smoke.[10] The court determined: "There can be no doubt that the by-products of burning tobacco are toxic and dangerous to the health of smokers and nonsmokers generally and to this plaintiff in particular."[11] The judge also held as a matter of law that "an employee has a right to work in a safe environment," and that to the extent necessary to protect this right, a court may prohibit smoking in the workplace.[12]

We at ASH strongly believe that the problems of smoking in the workplace should be taken to the courts, or before regulatory agencies, only as a last resort. With the cooperation of companies concerned with the welfare of their employees and the public interest, the health and comfort of nonsmoking employees can be protected with little or no inconvenience to employees who smoke during working hours.

We are therefore providing these materials to major business organizations in an effort to secure their cooperation with regard to this problem. For our part, we do not seek a total ban on smoking in the workplace. Rather, we ask only that certain minimal -- and we believe reasonable -- steps be taken to protect the health and comfort of the majority of workers who are nonsmokers.

Attached is a list of proposals. These are steps which we feel would provide minimal protection for nonsmoking employees. Many employers have gone beyond these proposed measures after determining it is in their best interests to do so.

Although at least 30% of businesses in America already have restrictions on smoking at the workplace, ASH attaches only a sample list of employers who have already acted to reduce or eliminate smoking among their employees. As you can see, the approaches taken by different companies vary considerably.

In considering this matter you may find the following information of particular interest:

1. An idling cigarette generates as much as four times the amount of toxic agents given off by a cigarette being puffed by the smoker.[13] These toxic agents go directly into the air, and are not filtered by the cigarette filter or by the filtration through the cigarette tobacco.

2. Studies have shown that nonsmokers in a smoke-filled room may be forced to breathe in the equivalent of several cigarettes a day.[14]

3. The American Medical Association estimates that at least 34 million Americans are tobacco smoke sensitive in one way or another.[15]

4. Seventy-eight per cent of all adults -- including 70% of all adult smokers -- believe management should have the right to prohibit smoking in their places of business. The clear majority feels management should have this right even if there is no safety hazard.[16]

5. The majority of adults are nonsmokers. Specifically, less than 40% of adult males, and less than 30% of adult females, are cigarette smokers.[17]

6. Almost 65% of all adults -- including 77% of nonsmokers, and 34.8% of smokers -- find it annoying to be near a person smoking cigarettes.[18]

7. A very substantial body of evidence now clearly indicates that ambient tobacco smoke can create a serious health problem, especially for the estimated 34 million Americans who have particular susceptibilities. Moreover, in significant concentrations, tobacco smoke causes measurable physical symptoms of irritation in the majority of all nonsmokers.[19]

8. The majority of smokers -- and the overwhelming majority of nonsmokers -- believe smoking should be allowed in fewer places.[20]

9. In response to increasing pressures from nonsmokers, the majority of states -- and literally hundreds of counties, cities, towns, etc. -- have passed laws to protect the right of nonsmokers to breathe air unpolluted by tobacco smoke.[21] Restrictions on smoking aboard airplanes, trains, buses, and in a growing number of federal office buildings are other indications of the strong desires of many nonsmokers, and of the growing public acceptance of reasonable restrictions on smoking in enclosed public places.

Action on Smoking & Health would be happy to provide further documentation for any of the statements made above. To obtain information relating to this general problem, or to discuss any particular aspect of the economic disadvantages of smoking in the workplace, please feel free to write or call at your convenience.

Action on Smoking & Health is a national, nonprofit tax-exempt scientific and educational organization concerned with the problems of smoking and with the rights of the nonsmoker. It serves as the legal action arm of the anti-smoking community, initiating, participating in, and assisting legal actions designed to reduce the toll of smoking in the U.S. and to protect the rights of the nonsmoker. In this regard, the issue of smoking in the workplace is of great concern to us.

NONSMOKERS MAKE GOOD RISKS, SAY INSURANCE COMPANIES

Now, those bastions of cautious economics are rewarding nonsmokers with discounts—and not just for life insurance.

By Diana Shaman

In 1979, 15 years after the Surgeon General issued the first report on smoking and health, a Worcester, Mass., insurance company, State Mutual Life Assurance Company of America, issued a landmark study of its own. Entitled "Mortality Differences Between Smokers and Nonsmokers," the report is still causing ripples within the insurance industry.

The study, which was conducted over a 15-year period, examined the causes of death of policyholders and revealed, for example, that for lung cancer, pneumonia and influenza, the mortality rates among smokers were 15 times higher than among nonsmokers.

For heart disease, cardiovascular disease, and other respiratory diseases, the death rate for smokers was two to three times higher. In general, a higher death rate for smokers, usually two and one half times that of nonsmokers, showed up at all ages, particularly among younger people.

The insurance company's president, W. Douglas Bell, emphasizing that he was not taking a moral stance on cigarette smoking, issued this statement at the time the report was released: "State Mutual's position has been simply that nonsmokers are better life insurance risks than cigarette smokers, and that as a mutual life insurance company, we have a responsibility to our nonsmoking policyholders to recognize their improved mortality rate in the form of lower insurance costs."

As the most comprehensive insurance study to date, the report continues to have an impact on insurance underwriting. "Immediately before our study, no more than 50 companies offered nonsmoker discounts on life insurance," says Peter Marion, associate actuary at State Mutual. "Less than three years later, there are 400 companies offering them."

Nonsmoker discounts are reduced premiums on insurance policies offered by some companies to policyholders who have not smoked cigarettes—in some cases also pipes and cigars are included—for at least 12 months.

The idea for a nonsmoker discount became a reality at State Mutual in 1964, a month following the Surgeon General's report. "The idea was prompted by the report," says William Moisuk, associate actuary for individual health insurance at State Mutual, "but at the time there was no such thing as an insurance study on the subject, so we were pioneering the ground."

Initially, State Mutual offered nonsmokers discounts of from 5 to 10 percent, but as the company grew more confident that mortality rates were indeed substantially affected by smoking, it increased discounts and dividends so that nonsmokers now save an average of 20 percent. Mr. Marion says that more than 100,000 nonsmoker policies, representing 70 percent of life insurance sales, have been issued since the discounts began.

State Mutual's success has been closely monitored by other insurers who are anxious to achieve the same competitive edge. "Nonsmoker discounts are a vital selling tool for us," says Theodore Topalian, chief underwriter at Mutual of New York, the 15th-largest life insurance company in the country. "Sometimes it makes the difference between a sale and a nonsale."

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Some companies have stepped in with discounts on health, homeowner, and other insurance

In addition to life insurance discounts, several companies have begun offering nonsmoker discounts on disability income policies, which are paid when a policyholder can't work because of being sick or disabled. One company, Provident Indemnity Life Insurance, in Norristown, Pa., offers a one-third discount for nonsmokers in its small group comprehensive medical insurance plans. And, on the theory that smokers cause more fires and often have accidents when lighting up a cigarette while driving a car, casualty companies—companies that insure property—have stepped in with discounts on homeowner, fire and automobile insurance.

Because the cost of premiums is usually based on a company's claim experience, many insurance companies say that, by taking new directions, they are treading on shaky ground from an underwriting point of view.

"There is an abundantly clear correlation between smoking and less than good mortality, but on the disability side we are frankly winging it," says William Boyd, vice president of health insurance at the Indianapolis Life Insurance Company. The company has been offering nonsmoker discounts on life insurance for 10 years and is about to offer a three percent discount for disability insurance.

Collective savings on nonsmoker discounts by policyholders could be substantial

Insurance premium receipts amount to billions of dollars annually. During 1981, companies collected $33.8 billion in individual automobile insurance premiums, and $11.4 billion in individual homeowner insurance premiums. Life insurance companies collected $36 billion in individual life insurance premiums, and $31.8 billion in group and individual health insurance premiums. If the nonsmoker discount trend accelerates, collective savings by policyholders could be substantial.

John M. Bragg, an actuarial consultant with offices in Atlanta, Ga., and Toronto, Canada, has researched the effects of smoking and nonsmoking both on mortality and morbidity (disease) and has come up with some startling conclusions, based on studies of data on about 250,000 persons insured by life insurance companies over the period 1968 to 1978.

At age 45, male smokers die at an 80 percent higher rate than nonsmokers, Mr. Bragg concluded. At age 55, male smokers die at a 110 percent higher rate. Though somewhat less affected, women are also hit by smoking. Women smokers at age 45 have a 49 percent higher death rate than nonsmokers. At age 55, their death rate is 71 percent higher. For both sexes, the situation tends to get worse with advancing age. Mr. Bragg's definition of a nonsmoker is someone who has not smoked cigarettes for 12 months at the time the policy was issued.

"We also have reason to believe that medical and surgical expenses for smokers, both male and female, are generally 70 percent higher than for nonsmokers," Mr. Bragg says. He arrived at that figure, he says, by studying available data. "Smokers have far more deaths related to pulmonary illness, for example. We also talked to knowledgeable doctors. When you put everything together, you can come up with an educated professional opinion."

Mr. Bragg points out that his conclusions will probably cause some controversy, but he is in the business of advising insurance companies on product development, and many companies appear to agree that the nonsmoking discounts are justified. More important, companies feel they have the evidence to present to state insurance commissioners, who also have to rule that discounts are not arbitrary and unfair.

"Nonsmokers live longer. Our rates prove it!" proclaims one insurance company's billboard ad

Allnation Life Insurance Company in Wilmington, Del., rented a billboard last June to advertise a new 30 percent discount on life insurance premiums for nonsmokers. The message read, "Nonsmokers live longer. Our rates prove it!" Said their company president, Douglas Jetter, "We thought we should reward people who don't smoke."

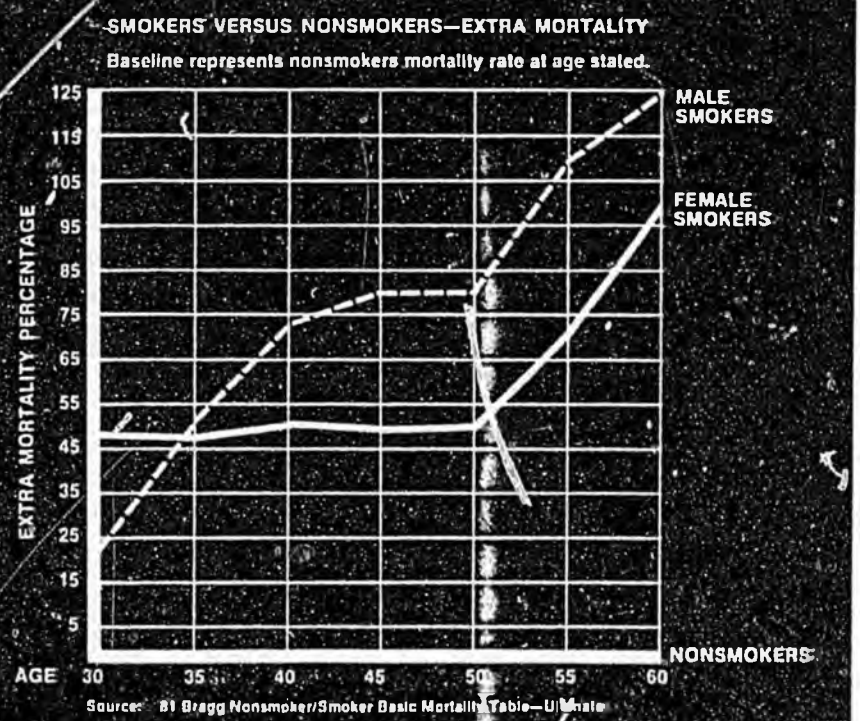
Industry spokesmen say that nonsmoker discounts are good for business. "Everyone is looking to save money," says Marshall Hendrian, an agent for The Travelers Insurance Companies in New York. He is able to offer nonsmoking customers who take out a minimum of $75,000 in life insurance a substantial discount. A male smoker, aged 45, for example, pays an annual premium of $2,107 compared with a nonsmoker's premium of $1,936.

Discounts on life insurance premiums are now relatively common, but nonsmoker discounts on disability income insurance are also increasing. Reflecting the current trend, Kansas Farmers Life Insurance Company in Manhattan, Kans., began offering about a 10 percent discount on this type of insurance, effective August 1, 1982, according to John Cooper, the claims manager. The company also offers nonsmoker discounts on life insurance.

A company that already has been making discounts available on disability is Pacific Mutual Life Insurance Company in Newport Beach, Calif., which began to offer such plans in July 1980. The discounts average five percent of the premium, and 70 percent of the company's disability policies are sold on a nonsmoker basis. "Smokers are less concerned about their general body condition and are generally more careless than nonsmokers," says William Hezzelwood, assistant vice president, explaining why the company felt justified in offering the discounts. "The Surgeon General's report also indicates that nonsmokers get sick less often than smokers."

THE FIGURES THAT MADE INSURANCE COMPANIES TAKE NOTICE AND REWARD NONSMOKERS

As the graph at right plainly shows, a smoker's mortality rate is substantially higher than a nonsmoker's and worsens with age.



Another trend: Raise the discounts

Pan American Life Insurance Company in New Orleans, La., was another company in the forefront, offering three percent nonsmoker discounts on disability as of July 1981. The company is now considering raising the amount of the discount, according to Paul Wisnewski, second vice president and disability income director.

The company started with the smaller discount, he says, because "there was no empirical study we could transfer into claims costs of occupational groups that we sell to. We figured that in a year or two we would get more empirical data." Two thirds of the company's sales are to nonsmokers. And Pan American is now working on developing new health insurance policies, including hospitalization. "I suspect that whatever we work on will have a nonsmoker discount," Mr. Wisnewski says.

Like others in the industry, Mr. Wisnewski considers discounts the coming trend. Paul Barnhart, a consulting actuary in St. Louis, Mo., predicts that within two years, 90 percent of the insurance companies carrying disability plans will be offering some kind of nonsmoker discount on disability income policies. What percentage the discount will be of the premium amount depends on how conservative or aggressive the individual company wants to be, Barzhart says. He has worked on discounts ranging from 3 to 10 percent and feels the higher figure is justified. "Nonsmoker policyholders ought to experience at least 10 percent lower disability claims," he says.

Less prevalent are nonsmoker discounts being offered by casualty companies, but they are available. Farmers Insurance Group, headquartered in Los Angeles, Calif., has been offering discounts on homeowner and automobile insurance since the late '70s. The present discount on homeowners policies is 10 percent. The discount on automobile insurance is 12 percent.

The company's decision to offer the discounts was prompted in part by a Columbia University study that showed smokers to have significantly more accidents than nonsmokers. Among one of the groups studied by researchers, 54 percent of those who had a high rate of accidents were smokers, compared with 18.6 percent of those who had no accidents or violations.

Farmers also conducted its own study of policyholders, and it showed that 6.59 percent of smokers had accidents compared with 3.75 percent of nonsmokers. Robert Hitchcock, sales manager of the company's regional office in Merced, calls the discounts "our number one calling card."

Citizens Insurance Group in Howell, Mich., has been offering a 10 percent nonsmoker discount on homeowner policies since October 1, 1980. No member of a house-

The billboard in Wilmington, Del., rented by a life insurance company offering a discount to nonsmokers.

hold can have smoked over a 12 month period. The Michigan Insurance Bureau regulations have allowed insurance companies to use smoking as a rating criterion since January 1981. "That was one of the reasons we started to offer the discounts," says Jim McLogan, personal lines unit manager.

A study has shown that 17.7% of the fires in one- and two-family homes are smoking-related

The Hanover Insurance Company in Worcester, Mass., introduced nonsmoker discounts on homeowners insurance in 1973, says James Richardson, the vice president of the company. Discounts on automobile insurance were offered a year later. "Initially, we offered a five percent discount on both plans," Mr. Richardson says. "We were so pleased with the results that we felt we could increase the discounts and did so in the late '70s." The discounts now average 10 percent.

Studies by the National Fire Protection Association have shown that 17.7 percent of fires in one- and two-family homes are smoking-related, Mr. Richardson says. Children playing with matches caused an additional 9.7 percent of fires.

Several companies are now studying the possibility of offering nonsmoker discounts on comprehensive medical insurance coverage, but Provident Indemnity Life Insurance took the step two years ago. With that company, nonsmokers pay one third less for small group comprehensive medical insurance, life insurance and short-term disability insurance.

"We felt that if nonsmoker discounts make sense for life insurance, why not for health insurance," says Samuel Corey Jr., Provident's senior vice president of marketing. "Everyone knows there is a relationship between smoking and health. The problem was how to price the product. We took an educated stab." Because the field is so new, other insurers will probably be watching Provident's experience in order to develop their own products.

In a broader sense, nonsmoker discounts go beyond mere savings on premiums, and they may, in fact, already be shaping social policies. Mr. Corey, for example, noted that employers must pay at least 50 percent of small group insurance premiums, which average about $5,000 a year. Hiring nonsmokers saves them money, and many are already indicating that they make that choice when they can.

"I think that newer policies down the road will take into consideration things even beyond smoking," says William Boyd of Indianapolis Life. "Whether or not you are exercising, for example, or whether or not you are dieting. Insurance companies could be rewarding lifestyles that have been proven effective in promoting longevity and lower rates of morbidity. In a way, I think we have a social responsibility to do that."

A. Judson Wells, Ph.D., a former director of the specialty products division at E.I. De Nemours Du Pont & Company, has been working, since his retirement, as a volunteer for the American Lung Association. His special concern are the issues of passive smoking, smoking in the workplace, and nonsmoker discounts in the insurance industry. "We are always looking for ways to convince people that smoking isn't good for them," Dr. Wells says. "If they start getting the same message from the insurance industry, maybe it will help."

Most insurers appear convinced that nonsmokers live longer and are healthier. As good business practice, they are putting that conviction to use. "Nonsmokers discounts are not a gimmick," says William Moisuk of State Mutual, where nonsmoking discounts started. "We feel they are something we should offer our policyholders in order to be equitable and fair." «

Diana Shaman is a freelance writer based in New York.

SMOKING AND HEALTH DON'T COMPUTE

At IBM, educating employees to attain and maintain a healthy lifestyle is considered good business. The giant corporation gives its managers guidance on smoking practices in the workplace—and it also has ordered 27,000 copies of ALA's self help Freedom From Smoking manual

A conversation with Cole Mandelblit, IBM senior advisor for Health and Care Planning.

Q. *IBM, which is one of the leading corporations in this country, has offered ALA's* FREEDOM FROM SMOKING *self-help manuals as part of its health education program to its 200,000 employees. Tell us something about that health education program.*

A. Back in 1978, we at IBM took an intensive look at what we were doing in our preventive health efforts. We concluded that although we had a number of good programs in place, and some of them had been in place for many years, we had not done enough in the way of health education and health promotion.

Q. *Did you have a special reason for that review?*

A. Yes, we did. In recent years, medical research has found increasing evidence that lifestyles have a major influence on health. Lifestyles that include cigarette smoking, insufficient exercise or poor diet affect people's health over a period of time. It follows, then, that lifestyle also affects corporate costs in relation to medical benefits and absenteeism as well as productivity. And it also impacts life insurance and total disability costs.

Q. *Is money the bottom line?*

A. No. The larger picture is that if employees learn how to improve or maintain their health, they will lead more productive, more satisfying lives.

Q. *Leading a more satisfying life is really what people want these days, isn't it?*

A. They do. In contrast, if you develop a serious ailment, such as emphysema, chronic bronchitis or lung cancer, you are limited in your activities, often for years on end. This impacts your whole life, as well as your ability to perform work effectively.

"Smoking cessation is a key area of concern in terms of preventive health programs."

Q. *Can you identify an important area of lifestyle that people should modify to protect their health?*

A. Well, if you look at the available data, smoking cessation is a key area of concern in terms of preventive health programs. Smoking cessation should be the first on the list.

Q. *Have you offered smoking cessation clinics to IBM employees?*

A. Yes, IBM will provide tuition assistance for any smoking employee or a member of the family to attend smoking cessation clinics run by the Lung Association or other organizations in the community. This is in addition to clinics specifically scheduled by IBM for employees and their families. However, only a small percentage of smokers have tried cessation clinics.

Q. *The National Cancer Institute reports that 95 percent of smokers who successfully quit do so on their own, not through a group.*

A. The data seems to indicate that a lot of people quit smoking only after a number of efforts, maybe of different types. You never know what it was that helped the person to succeed—whether it was the last thing that did it or all of the things that preceded the decision to quit.

Q. *Well, preliminary data show that people who use the American Lung Association's "Freedom From Smoking in 20 Days" manual and the followup manual keep returning to the manuals for help. The rate of nonsmoking does not drop off as the months pass but, instead, increases with users of these manuals.*

A. Yes, and IBM was the first corporation to offer the manuals to its employees. In our opinion, the FREEDOM FROM SMOKING self-help program—which includes ways to change eating habits, reduce stress, and start exercising—is a well-thought-out piece of work. It's also a low-cost approach to smoking cessation. The research data indicated that there was sufficient expectation of success to justify making it available to our employees and members of their families free of charge.

Q. *Did IBM employees order a large number of copies?*

A. Yes, 27,000 requests were received.

Q. *Besides smoking cessation, what else does IBM offer in its preventive health program?*

A. We offer exercise classes, weight reduction programs, nutrition courses, and a number of other programs that

Photos: Penny Gentieu

IBMer Rose Fletcher has a company-supplied desk sign proclaiming her workspace to be a nonsmoking area.

help to improve lifestyle patterns. The subjects vary somewhat according to local interest.

Q. *Are many corporations other than IBM taking a hard look at the effect of lifestyle on health?*

A. Although a lot of companies are doing things and there has been considerable publicity and attention to this subject, it is my impression that the trend toward providing health education in the workplace is just beginning to develop.

It seems to me that employers have been presented with a very high-cost model of preventive health. It includes not only building new exercise facilities but also hiring staff members to maintain them and to conduct the programs. More than this, the model includes detailed needs and interest surveys, as well as evaluation studies to assure that the programs result in changes in people's health practices.

Q. *You are saying that IBM has another approach.*

A. Yes. IBM decided to turn to community organizations that have an established track record in health promotion and fitness—organizations such as YMCAs, hospitals, voluntary health organizations—such as Lung Associations—and commercial organizations. We offer approved courses at IBM offices or at local community facilities at no cost to employees, retirees and their families.

Q. *Using community organizations and local facilities as part of your health program looks like a practical approach for a corporation like IBM, which has so many employees spread throughout the nation.*

A. That's true. We have some 200,000 employees in about 300 locations.

Q. *Returning to IBM's concern about smoking, surveys today show that two-thirds of employees are nonsmokers. Does management have a responsibility to them, as well as to the smokers?*

A. We recognize the responsibility. In addition to assisting smokers to quit, IBM has established guidelines concerning smoking in the workplace.

Q. *Does IBM have written policies on smoking at work?*

IBM managers are responsible for banning smoking from meeting rooms without good air-clearing ventilation

A. We don't call them policies, but we have provided managers with guidance over a period of eight years concerning smoking in the workplace. We have modified that guidance from time to time with the goal of increasing the sensitivity to the needs of the nonsmoker.

Q. *People in other organizations would be interested in the way smoking-nonsmoking guidelines work at IBM. What is management's overall approach?*

A. Briefly, the guidance involves setting aside areas in cafeterias, libraries and other general areas for the smoker and the nonsmoker. It involves identifying certain common areas, such as elevators and copier rooms and small shuttle buses, as nonsmoking areas. It also indicates that managers are responsible for assuring that meeting rooms have adequate ventilation. If the ventilation is not adequate, the conference room is to be designated as a nonsmoking area.

"We make a reasonable effort to accommodate the person who may be irritated by smoke."

Q. *What do you do about private offices? Can the person who occupies an office designate it as either a smoking or nonsmoking area?*

A. We've made nonsmoking signs available to people who want to place them on a desk and make that office a nonsmoking area. The problem is, of course, what to do if there are three or four desks in an area where some people are smokers and some are not. We try to deal with

that the best we can. We make a reasonable effort to accommodate the person who may be irritated by smoke. We certainly don't have 100 percent success, but we work pretty hard at it.

Q. *Beyond the guidelines IBM has worked out, is there any one thing that you can recommend from your experience that will make the workplace more agreeable for both smokers and nonsmokers?*

A. In the past, we have obtained opinion survey data and reviewed the written complaints we have received from nonsmokers. A few people have said they want smoking banned entirely in the workplace. We have not been able to accommodate people with that view.

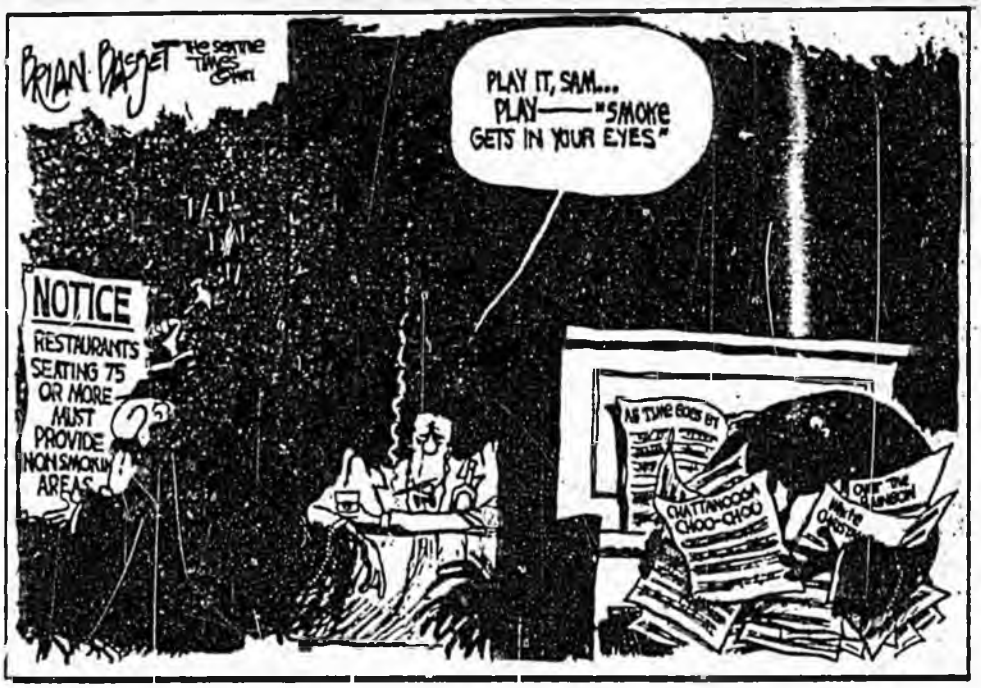
The vast majority of people are not saying "ban smoking." They are saying something else—"be more sensitive." If you conduct a meeting and six of ten people are heavy smokers, some of the nonsmokers will get a headache or an irritated throat and be very uncomfortable.

Q. *Are you saying that it's only fair for the smokers to curb their smoking at such a meeting?*

A. If you're conducting a meeting in a conference room, you have to manage it in a rational way so you're not affecting people negatively. By the same terms, if someone whom you know is affected by smoke in your office, you don't smoke. I think that a lot of smoking complaints in places of work and in public places would disappear if people were basically more sensitive to each other. A lot of the friction would be reduced if smokers were thoroughly informed about the effect that smoking may have on other people. «

COLE MANDELBLIT was a speaker at a session on Smoking at the Workplace at the ALA Annual Meeting held in Los Angeles in May 1982. The ALA has since sent "Smoking at the Workplace, A Program Guide" to all Lung Associations to help them work with companies in establishing programs to curb smoking at work.

Above: Lisa Andrews p ruses one of the 27,000 ALA Freedom From Smoking anuals requested by IBM employees. Below: IBMers ercise together at a YMCA.



ASH Assists Appeal of Nonsmoking Employee

Action on Smoking and Health has agreed to assist in appealing a court decision holding that an employee in the District of Columbia is entitled to no protection from the health hazards and risks of drifting tobacco smoke on the job.

The case involved Adele Gorden, a young woman who was hired by a contractor for the Environmental Protection Agency (EPA). Because she was sensitive to tobacco smoke and because she was pregnant at the time, she asked that she not be required to be seated near smokers. At first her request was granted, but subsequently she was given the choice of being seated in the midst of smokers or of being dismissed from her job.

When Ms. Gorden's action was first filed, the defendant argued that it should be dismissed because she was entitled to no legal protection against smoke on the job. ASH filed an *amicus curiae* (friend of the court) brief on her behalf, and ASH Executive Director John Banzhaf joined in the oral argument on the motion. The defendant's request was denied because the original judge determined that Ms. Gorden was entitled to legal protection.

When the case finally went to trial, a different judge ruled, after presentation of all the evidence, that the law provided no protection for a smoke-sensitive worker in Gorden's situation, regardless of whether the smoke had in fact proven harmful to her health. At this point ASH agreed to help finance the appeal and to provide additional legal assistance.

The case is an important one because the precedent will affect all nonsmoking employees in the District of Columbia. The rule also contradicts the well-known Donna Shimp case in which a smoke-sensitive office worker in New Jersey was granted an injunction preventing any smoking in her office, and provides legal support for other employers who wish to disregard the health and needs of nonsmoking employees. The proceeding is expected to be a difficult and expensive one: the transcript alone cost almost $1,000. But, as ASH general counsel Paul Pfeiffer put it, "This is one case that nonsmokers simply can't afford to lose."

Every employee who smokes a pack of cigarettes a day costs his or her employer $624 a year because of illness and absenteeism, according to Dr. Marvin Kristein, professor of economics at the State University of New York at Stony Brook.

A smoking ban in your workplace?

A smoking ban in the workplace can result in savings of up to 75% in personnel costs, insurance premiums, maintenance charges, and other expenses. An article in **Personnel Journal** quotes extensively from the 1979 **Surgeon General's Report**, which indicates that more than 81-Million days of work are lost each year in the US because of smoking; that the lung cancer mortality rate for those who smoke 25 or more cigarettes per day is 2,500% higher than for nonsmokers; and that male employees who smoke more than 40 cigarettes per day are absent from work 84% more often than their nonsmoking peers. In addition, the mortality rate for smokers is 3[illegible]% higher than that of nonsmokers during their peak employment years.

The following costs can be reduced by enforcing a smoking ban:

- Interior cleaning costs can be cut by up to 50%.
- Health and fire insurance premiums can be 25 to 35% lower for smoke-free businesses, and morbidity and fire statistics suggest that premium discounts should be as high as 70%.
- Disability and early retirement payments can be slashed by as much as 75%. Smokers are almost 6 times as likely to become disabled and retire early as nonsmokers.

It was also reported that a recent study in the **Wall Street Journal** found particulate contamination in office buildings that permit smoking to be 10 to 100 times higher than allowable limits for the quality of outside air.

— **Management World, August 1981.**

No-Smoking Airline Gets Support

Muse Air, a Dallas-based airline that bans all smoking on its flights, is operating successfully on its present Dallas-Houston route with a 40 percent load factor, quite high for a carrier that began operations on July 15. In support of its decision to fly smokeless, the airline cited studies showing that for every passenger who requests a smoking seat, five request seats in the no-smoking section. A recent survey conducted by the airline showed that passengers support the idea of a smoke-free flight by a margin of 100 to 1. Muse Air is hoping to expand its routes to other cities in the future—friendly letters from nonsmokers would help. Write to Muse Air, 3300 Mockingbird Lane, Dallas, TX 75235.

Public Employees' Retirement System
Teachers' Retirement System
Judicial Retirement System
Elected Public Officers Retirement System
National Guard Retirement System
Territorial Retirement System
Retirees' Voluntary Dental-Vision-Audio Plan
Supplemental Benefits System
Group Health/Life Insurance Benefits
Deferred Compensation Plan
Public Employers Social Security Contributions

DEPARTMENT OF ADMINISTRATION
DIVISION OF RETIREMENT & BENEFITS
POUCH CR
JUNEAU, ALASKA 99811

Bill Sheffield, Governor

(907) 465-4461

February 7, 1983

Mr. Leo C. Kaye
Executive Director
Alaska Lung Association
P.O. Box 3056 DT
Anchorage, AK 99510

Dear Mr. Kaye:

I am writing at the request of Mr. Don Allen to provide you with some statistics regarding costs associated with employees who smoke as opposed to those who do not smoke.

Our health insurance consultant did research the subject and reported that health insurance claims for non-smokers could possibly warrant an approximately 2% reduction of standard premium rates over the long run. Further figures indicate a more significant employer savings when absentee rates are examined. These statistics point to a greater absentee rate for smokers than for non-smokers. This might be explained by a smoker's greater susceptibility to minor throat ailments and colds of relatively short duration that do not require the services of a physician. These statistics are still quite tentative since such studies are as yet ongoing and should not be considered conclusive.

As I discussed with Mr. Allen, I do not believe that the State of Alaska is able to financially reward a specific group of employees due to the obvious claims of discrimination and a negotiated pay schedule for all employees. We further discussed that if our experience rated group health plan felt the effects of fewer claims because of more non-smokers, our savings as an employer would eventually result from lower health insurance premiums. A even greater economy would presumably be realized if the absentee rate decreased as suggested. We are considering these types of programs generally and this reasoning may lead to an employee program to assist employees in their efforts to stop smoking.

I did recommend to Mr. Allen that efforts in establishing such a program also be discussed with agencies such as the Division of Labor Relations

Rep. Abood

and the Department of Health and Social Services since they might be in a position to research this subject further and/or implement non-smoking programs or even other avenues that might be indicated.

The idea of health insurance cost containment is an issue affecting all of us. This division, in dealing with group health insurance, is particularly interested in efforts that could result in lower medical costs. Please feel free to contact me if there is additional health insurance information that this office might furnish.

Sincerely,

Michael B. Coughlin

Michael B. Coughlin
Deputy Director - Dept of Administrat
Dept of Retirement & Benefits

Professor
Fisher
Clarkin
Helling

MBC/jb

2% reduction of
standard premium rates
for non-smoker

Screening for Adult Respiratory Disease

tant to emphasize that the common denominator underlying the asthmatic diathesis is a nonspecific hyperirritability of the tracheobronchial tree. Thus, the distinction between various types of asthma may often be artificial and the response of a given subclassification may be initiated by more than one type of stimulus" (22). The natural history of adult asthma has not been well documented. There is no evidence that early detection of asthma is feasible, and no documentation that therapy for asymptomatic asthmatics is beneficial. Therefore, no justification exists at present for asthma screening in the general population.

B. *Clinical Case Finding*

It is important to establish the diagnosis of asthma (reversible airway obstruction) in all patients with one or more symptoms of the classic triad (cough, wheezing, or dyspnea), particularly when these symptoms are episodic and nocturnal. Although pulmonary function studies alone are nondiagnostic, when performed on patients with these symptoms spirometry can document the airways hyperirritability that is characteristic of asthma.

Ideally, all patients with wheezing, dyspnea, or chronic cough should have spirometry. If airways obstruction is demonstrated, the spirometry should be repeated after bronchodilators to document reversibility of the airways obstruction. In the presence of normal spirometry, symptomatic patients who suffer paroxysmal breathlessness or unexplained cough should have a provocational challenge with methacholine. A positive challenge can document airways hyperirritability between symptomatic attacks.

It is important to obtain repeated spirometric measurements throughout the treatment of asthmatic patients to evaluate objectively the therapeutic response. ". . . signs and symptoms of asthma imperfectly reflect the physiologic alterations that are present, so much so that if one relies upon the loss of subjective complaints, or even the sign of wheezing, as being the end point at which therapy for an acute attack should be terminated, an enormous reservoir of residual disease is missed" (22).

III. Lung Cancer

A. *Population Screening*

Lung cancer mortality has increased continuously over the last half century even though the major causal factor is a well-known controllable exposure. Eighty-seven percent of bronchogenic carcinoma in the adult male is attributable to cigarette smoking (23) and it has been noted that "For every preventable death from highway accidents, there were approximately two deaths from lung cancer which could have been prevented if the individual had not smoked cigarettes" (24). The risks for developing lung cancer are directly related to the amount and duration of smoking, the age of starting to smoke, the degree of inhalation, the tar and nicotine content of cigarettes, and inversely related to smoking cessation. Other etiologic factors, such as occupational exposures to asbestos, nickel, chromium, and radioactive ores have contributed, but far less than cigarette smoking, to the mortality risk from lung cancer. Males 45 years and over who have had a chronic, daily cigarette consumption of one or more packs seem to be the high risk group for this disease (24).

The treatment of lung cancer after it has become symptomatic remains unsatisfactory. Symptomatic bronchogenic carcinoma is usually advanced and incurable. Presymptomatic bronchogenic carcinoma is not necessarily early-stage disease, but resectability rates and survival rates tend to be considerably better among those with presymptomatic cancer. The National Cancer Institute's program of Surveillance, Epidemiology and End Results Reporting (SEER) in lung cancer (25) indicates that only 18 percent of newly detected lung cancers were found to be "localized" (confined to the site of origin) at the time of detection. However, individuals with localized lung cancer who were subsequently treated by surgical resection experienced a 50 percent five-year survival.

Of various methods considered for the early detection of lung cancer, only examination of sputum cytology and chest radiography have been found by population studies to be sufficiently practical and acceptable to be considered for a clinical trial of the efficacy of screening (26, 27). Previous clinical trials of early lung cancer detection using chest radiography alone (28-30) and those using exfoliative sputum cytology in addition to chest radiography (26, 27) failed to demonstrate a reduction in lung cancer mortality associated with screening. However, none of these studies was a randomized clinical trial using full size (36 cm x 43 cm) chest radiographs with or without sputum cytology testing in which screening was compared to no screening. Until recently, such a trial might have been considered ethically inappropriate.

There have been only three completely randomized clinical trials of screening (exclusively) for early-stage bronchogenic cancer. These clinical trials are now being conducted under auspices of the National Cancer Institute (31). These studies have enrolled more than 30,000 men, age 45 years and older, who smoked 20 or more cigarettes per day. The three clinical centers of the NCI Cooperative Early Lung Cancer Study follow two separate study designs. One study design (Mayo Clinic) tests whether screening by chest radiography plus sputum cytology at four-month intervals is more efficacious than a traditional recommendation that the two tests be performed annually (32). The other design (Johns Hopkins and Memorial-Sloan Kettering) tests whether the efficacy of lung cancer screening by annual chest radiography is enhanced by the addition of exfoliative sputum cytology screening at four-month intervals (33, 34).

The three clinical trials are incomplete, thus only interim results are available. These studies have demonstrated that chest radiography and sputum cytology can detect presymptomatic, earlier stage carcinoma, particularly carcinoma of the squamous cell type. Resectability and survival rates have been higher in the study groups than in the control groups. However at this time, only one of the three centers (Johns Hopkins) reports a statistically significant reduction in lung cancer mortality associated with screening (35). "With equal rates of lung cancer occurrence in the two arms of the JHLP population, the observation of a reduced lung cancer mortality in the Study group seems likely to be due to the effect of cytologic screening. However, it must still be realized that the entire benefit of cytologic screening seems to be confined to only one (squamous) cell type (35). These optimistic results remain to be corroborated.

In the fall of 1978, a Consensus Conference of Screening for Lung Cancer was held under the sponsorship of the Division of Cancer Control and Rehabilitation, National Cancer Institute, in collaboration with the National Institute for Occupational Safety and Health. This conference sought to develop guidelines for lung cancer screening programs in the general population. Recommendations were developed in conformity with the criteria developed by Wilson and Junger for the World Health Organization (3).

Included among these recommendations are the following (36):

1. Current prospective studies of asymptomatic persons who have been screened for lung cancer by chest roentgenograms and cytological examination do not at present [illegible] any evidence of a [illegible] from the disease. These studies must be continued for several more years before the cumulated information [illegible] allow a relationship between [illegible] mortality to be [illegible]

of Washington is working with Weyerhauser in Tacoma and Seattle, Intalco in Bellingham, General Telephone in Everett, Eddie Bauer Clothing, Northern Pacific Insurance and Sea-First National Bank.

ALA of Washington does not charge a fee to the company for any of these services.

The ALA of Middlesex County (Mass.) has been actively promoting the FFS self-help manuals in industry since 1981. Health or personnel departments are contacted and a date is arranged for a "Smoking/Health Awareness Day," an inservice introduction to the association's services and resources. Films, FFS slide/tapes, and ecolyzers are used, and a question-and-answer period ensues. "Miss Massachusetts" for 1981-82, who quit smoking using the FFS self-help manuals, frequently participates in the session, answers questions, and signs autographs.

The company always promotes the event with a notice either in pay envelopes, newsletters, or announcements posted throughout the building. The association presented its awareness day to 1,000 employees at Digital Equipment Corporation.

After the event, the FFS program begins centered on the manuals. The association staff meets six times with participants for one hour, twice a week during lunch hour. Progress with the manuals is reviewed. The following week participants meet to focus on the second manual and maintenance.

The association reports much more interest from employees in this approach with the manuals rather than the seven-session FFS clinic.

COST/BENEFIT ANALYSIS

The issue of the costs of smoking to individual businesses is controversial. There is no question that costs are involved. But determining exactly what those costs are is extremely complex.

In spite of well-known literature on the subject it is still open to question as to just how much money a company will save if it institutes smoking cessation programs. Such financial analyses, or so called cost benefit analyses, are very complex, involving as they do mortality and morbidity estimates, actuarial life tables, discounting of future benefits to present values, productivity impact studies, and other similarly complex components.

The marketing strategy plan (see Appendix B), suggests that associations emphasize the health benefits of curbing smoking at the workplace rather than put major stress on cost benefits.

ALA does not recommend using the figures widely cited by Professor William L. Weis, a C.P.A., who teaches at Seattle University. His calculations have been examined and questioned by one of the experts on this topic: Marvin Kristein, Ph.D., associate professor of economics at the State University of New York at Stony Brook. Dr. Weis' figures are not as widely accepted and are more than 6 times greater than Dr. Kristein's.

The total economic cost of cigarette smoking per year to American industry is estimated at $47.5 billion, according to Dr. Kristein, who believes his calculations represent underestimates of the real financial cost of smoking workers.

The average pack-or-more-a-day smoker, he says, costs the employer $624 for every year of his or her working life. These calculations are based on an average salary of $10,000.

These are totally wasted dollars that could otherwise be given to the employees as compensation or improved health benefits, shared with stockholders, or otherwise allocated to business development for a stronger national economy. Dr. Kristein is now in the process of refining his analysis.

At the National Conference on Smoking OR Health (see below) a special workshop addressed how to conduct a cost-benefit analysis on smoking control and cessation in industry. The assembled group of experts agreed that relatively good data exist on the extra costs of smoker absenteeism, disability insurance, health insurance and life insurance, but the impact on accident rates, productivity, pension accruals, maintenance costs and the impact of smoking on the health of nonsmokers need much more work.

The American literature on the cost benefit analyses for smoking cessation programs suffers from several weaknesses. The higher pension accruals that will result if smokers quit smoking and therefore live longer are not considered. This number is substantial and could be as high as the total "savings" calculated in some papers.

Other areas where better basic data are needed involve: accident rates for smokers versus nonsmokers; productivity of nonsmokers versus smokers; and costs of the health effects of passive smoking at the workplace. A third area of concern is the length of time that will elapse between the time the smoker quits and the time a given benefit will materialize (such as increased productivity or improved health of nonsmokers).

It is ALA's experience from contacts with national companies that officers--including medical directors--are extremely interested in both the health and financial costs of smoking at the workplaces. As more definitive studies become available these will be sent to associations.

NATIONAL CONFERENCE ON SMOKING OR HEALTH

Smoking at the workplace was one of the major topics at a November 1981 conference, Smoking OR Health, underwritten by the American Cancer Society and cosponsored in cooperation with a host of other organizations, including ALA.

Under discussion are ways to produce models to help companies calculate their own costs as a result of smoking at the workplace. During 1982 and the years ahead, more materials on these subjects will be published as a result of the conference, which called for ongoing cooperation among agencies to develop programs to curb smoking at work.

Appendix BB from the proceedings includes: action strategies and suggested elements of corporate guidelines for smoking control programs; ways to calculate cost benefits; experiences of selected companies to date; labor-managment relations. Further updates from the Conference will be published later in the summer of 1982 and will be sent to associations.

Until this cost benefit area becomes much better defined, lung associations would be well-advised to avoid using explicit economics as the major basis for selling smoking control and cessation programs to industry. Nevertheless, nearly all experts feel that in the long run a given workplace will be healthier, and more productive, if smoking among the workplace is eliminated or reduced to an absolute minimum.

A vice president of Boeing summed it up: "We tried to calculate the costs and benefits but finally gave up. We just decided that we would rather pay pension benefits than hospital bills."

SMOKERS AND NONSMOKERS AT WORK

An investigation by C.B. Barad (reported in the journal, Occupational Health Safety, 48:1979) studied symptomatic effects of passive smoking in a population of more than 10,000 nonsmoking office workers:

- more than 50% of the nonsmokers reported difficulty working near a smoker.
- another 36% said that they were forced to move away from their desks or work stations because of passive smoking.
- about one nonsmoker in three reported being "bothered" either continuously or very frequently by tobacco smoke at work. In terms of specific symptoms, 48% of the nonsmokers reported conjunctival irritation, 35% nasal irritation, and 30% coughing, sore throat, or sneezing. Nearly 25% reported exacerbation of a preexisting

pulmonary condition, 3% aggravation of a cardiovascular disorder, and 10% stated they were "allergic" to tobacco smoke.

The study also found:

- nearly one fourth of the nonsmokers very frequently or always reacted to tobacco smoke with frustration, and a similar proportion felt hostile toward smokers or management.
- 7% of the nonsmokers stated that they had used sick leave during the preceding 12 months because of the tobacco smoke around them at work.

White and Froeb in a study of the long-term effects of both voluntary and involuntary smoking in more than 5,000 persons (New England Journal of Medicine, 302:720-23, 1980) found that chronic exposure to tobacco smoke in the work environment harms nonsmokers and significantly reduces small airway function. Small airway function in nonsmokers exposed to smoke on the job was reduced to the equivalent of smokers who consumed from one to ten cigarettes daily.

The studies suggesting a link between lung cancer and passive smoking (the chapter on involuntary smoking and lung cancer from the 1982 Surgeon General's report has been sent to all associations, see DETAILS, March 12, 1982) present alarming possibilities of concern to all employers and nonsmoking employees.

In an article by W.L. Weis (Supervisory Management, 26(9):31-35, September 3, 1981) the possibility that smokers may be experiencing a growing negative bias in the job interview process and on the job itself is investigated.

The survey of 223 Seattle-area managers found:

- 119 would choose nonsmokers over smokers if they were equally qualified.
- 103 had no definite preference.
- 1 preferred smokers.

The managers were then asked to make two assumptions, that smokers have about a 50 percent higher absenteeism rate than nonsmokers, and that the health of nonsmokers who work around smokers is measurably impaired. The number choosing nonsmokers increased to 198, 23 were undecided, 1 had no response, and 1 still preferred smokers.

CLEARING THE SMOKE FROM THE WORKPLACE

M

By Kay Amicone

Few companies have calculated what employee smoking actually costs them in employee health, in benefit programs, and in the cost of doing business

NONSMOKERS HAVE A RIGHT TO BREATHE air not fouled by cigarette smokers practicing their addiction—and a growing segment of American industry has come to believe that dictum. Business is finding it both altruistic and economical to protect employees' health, so a number of firms are examining policies regarding smoking in the workplace—and some companies have sharply restricted smoking at work.

Because a widening body of medical evidence suggests that the potential health problems caused by "side-stream" or "secondhand" smoke can be very serious, managements are looking hard at the fact that a nonsmoking employee can spend 40 hours a week in a confined area breathing co-workers' sidestream smoke. Sidestream smoke has even higher concentrations of noxious compounds than the mainstream smoke inhaled by the smoker, the secondhand variety containing *twice* the tar and nicotine and *five* times the carbon monoxide of mainstream smoke. Before the nonsmoker inhales secondhand smoke, however, some of these concentrations are diluted in the ambient air. The smoker, on the other hand, inhales more toxic compounds directly into the lungs.

A 1980 study by James White and Herman Froeb published in the *New England Journal of Medicine* concluded that chronic exposure to tobacco smoke in the workplace may be deleterious to the nonsmoker. In their study, the nonsmokers who were chronically exposed to tobacco smoke showed dysfunction of the small airways of the lungs comparable to that of light smokers. It is also a fact that tobacco smoke can combine with other toxic agents, such as asbestos, in ways that compound the harm caused by either agent alone. Add to this not-pretty picture that many nonsmokers suffer allergic or irritative reactions when exposed to tobacco smoke, and it is not difficult to understand why the health cost of on-the-job smoking can be high indeed. The economic costs are equally overwhelming.

Health economist Marvin Kristein of the State University of New York at Stony Brook has estimated that the average one-pack-or-more-per-day smoker may, over his or her lifetime, be costing his or her employer about $624 per year in lost productivity and excess insurance costs. He puts the total economic cost of cigarette smoking per year to American industry at $47.5 billion.

Smokers raise the cost of doing business

Smokers cost industry billions of dollars a year in lost productivity: Smokers waste time lighting and puffing on cigarettes, they are absent more often than nonsmokers, they get sick more, they have twice the number of on-the-job accidents as nonsmokers, they also retire more often on early disability—and they may die sooner from smoking-related diseases.

And smokers raise the cost of doing business: Employers pay more for maintenance, ventilation and fire insurance if their employees smoke. Increased fire-accident costs alone have been estimated to be $10 per year per smoker.

Few companies, however, have calculated what smoking actually costs them or what management has saved in those firms that do have no-smoking policies. Such figures are difficult to pin down for several reasons. Cigarette smoking is not the only risk factor to consider when evaluating employee health, and there has not been sufficient time to measure the long-term gains from smoking cessation efforts or reduced incidence of disease. The question of employee turnover further complicates the calculations.

New York Telephone has tried to add it all up. The company determined that 57 percent of the employees who participated in their smoking-cessation program actually quit smoking. Using this figure, the company esti-

adults, too) to find a useful, self-fulfilling societal niche. By that I mean a place where a young man or woman can be a self-supporting, contributing citizen engaged in a worthwhile, healthful life. As a Ph.D. scientist trained in chemistry, I understand perhaps better than most what can happen to the human mind and body when it is abused. I count the habitual inhalation of tobacco smoke as serious abuse.

What then does all this say to me? For one thing, that there is plenty to accomplish in educating youth about pitfalls, shortfalls, wrong turns. If you choose to regard life as a highway, then consider that just off the shoulder of the road is quicksand. People who tend to romanticize life's fast track seldom see that quicksand—until they are waist-deep in it.

"The new volunteer load must be spread evenly"

Additionally, with the federal government in retreat along the social service front and with more women working, the new volunteer load must be spread more evenly among young and old, male and female. It is imperative that each does his or her appropriate share.

Still, the skeptic may say, "Why worry about all this? Leave people alone. If they got hooked on drugs, that's their problem. If they become sick and die after smoking cigarettes for a long time, well, they knew what they were doing. Why bother?"

As I see it, there are two reasons for us all "to be concerned." One is simply the social costs reflected through what I'll label public burdens. Consider the escalating health, accident and life insurance rates; add on higher taxes to pay widows' benefits; and figure in the costs of building, equipping and maintaining hospitals, clinics, rehabilitative centers and jails.

The second reason is more personal. It has to do with a basic view of life here on earth. Stated simply, it says that each of us should do what he or she can to leave the world a slightly better place than he found it. I find support for this in recent explorations of the solar system. I was fascinated to learn that all our space scientists found were barren rock and gaseous clouds. This discovery merely emphasizes the uniqueness of planet earth, with its broad oceans and verdant valleys teeming with life.

I don't mean to pontificate, but doesn't this fact point to an object lesson, one that argues compellingly to society to maintain, to nurture, to improve our precious and oftentimes precarious existence?

President Derek Bok of Harvard University, in charging this year's seniors, commanded my attention when he stated: "Most of us will never achieve a lasting happiness unless we engross ourselves in some serious effort to improve the condition of others. Sooner or later we have to find a convincing way to justify our privileges and opportunities in a world in which so many others remain in much less fortunate circumstances. If you fail to make these efforts, every success and satisfaction is likely to become, sooner or later, hollow . . . illegitimate . . . and unfulfilling."

"Most of us have some time or talent to promote good causes"

Not all of us have the good fortune to find careers that directly benefit others or improve the long-term prospects of life. But most of us have some funds we can spare and time or talent to promote good causes in our home communities. So, gathering everything together, I would much rather miss a few games of golf, or even some time sitting on the warm sands of a Caribbean island. I prefer to get back into the thick of some action, in a setting where it's easy to tell the white hats from the other guys. I enjoy getting in a few more licks for a cause I truly believe in; and I can't think of a better, more aggressive group to work with than the American Lung Association.

Two areas are of particular interest to me, and both deal with smoking and health: 1) passive smoking and 2) smoking cessation in the workplace. I feel safe in predicting that we are on the cutting edge of developments in these obviously interrelated arenas.

Finally, when I become tired or discouraged trying to break into a field which is somewhat new to me, I reach back for an authority. The best one I know is that of Isaiah, one of the original volunteers. When the Lord had a particularly sticky job and asked, "Whom shall I send? Who will go for us?" Isaiah had a ready answer. This biblical stalwart said, "Here am I, send me." «

Campbell's Carol Ritchie, supervisor of personnel services, makes sure prospective employees know that smoking is banned except in designated areas.

areas. "I guess the general idea was not to get any cigarette butts in the soup," says Dr. Wear.

Now Campbell can't find enough employees for the kind of smoking-cessation programs it ran in the past. The reason for this is not a lack of interest—it's a lack of smokers. According to Dr. Wear, "We can't find enough people to make up a group anymore. We cleaned up all those [smokers] who were ripe for picking a long time ago, and we just don't have that many left." The company now deals with smokers on a one-to-one basis as part of a periodic health examination program.

• The Austad Company sells mail-order golf equipment and has a showroom and retail store in Sioux Falls, S.D. Oscar Austad, who started the company in 1963, has never permitted smoking. At Austad no one is allowed to smoke—not workers or customers or sales people—not even at break time. "If Ronald Reagan walked in here and lit up," says Mr. Austad, "we'd kick him out."

A nonsmoker himself, Mr. Austad cites fire protection and aesthetics among his reasons for the ban. But his main motivation, he says, is to protect the rights of his nonsmoking employees.

• Johns-Manville, an asbestos manufacturer, bans smoking in plants where asbestos and asbestos products are made. The company instituted the ban in 1976 after medical evidence showed that asbestos workers who smoke have a 92 times greater chance of contracting lung cancer than workers who do not smoke. In some Johns-Manville facilities the ban is total; in others, where unions saw the ban as an issue in contract negotiations, the company has had to set up break areas where smoking is permitted.

When the smoking ban was imposed at each plant, Johns-Manville also offered smoking-cessation classes to help its employees make the nonsmoking transition. As a further safeguard, the company no longer hires smokers in asbestos-using plants.

• Intermatic, Inc., of Illinois, which manufactures small electrical appliances, offers its smoking employees incentives to quit and has run three separate programs. In one program, employees could bet the company up to $100 that they would quit smoking for one year. In the most recent campaign, 18 successful quitters were eligible for a lottery. The winner of the lottery received a trip for two to Las Vegas. The "losers" were treated to a day at the race track.

Smoking is viewed as New York Telephone's principal health hazard

• Employee smoking is given top priority at New York Telephone: "We view smoking as the principal health hazard of this company," says Dr. Loring Wood, medical director for research and development. "We consider that smoking cessation will alleviate a whole variety of chronic diseases and productivity problems."

About 1,000 New York Telephone employees have completed various company-sponsored cessation programs. The company's medical staff also refers smoking employees to community organizations, such as lung associations, as part of their health-strategy planning for each employee.

Because total prohibition is considered a last resort, the company's on-the-job policy provides for separate smoking and nonsmoking sections in areas of common use, such as cafeterias and conference rooms; and employees having private offices can decide for themselves whether to smoke or not. In areas with two or more workers, accommodation is urged, with a series of steps to be followed if someone objects to smoking for medical reasons.

• Riviera Motors, a Volkswagen/Porsche/Audi dealership in Hillsboro, Ore., restricts on-the-job smoking to specified areas. Since 1978, the company has run annual smoking-cessation classes and has maintained a support system for those who were trying to quit. The company stocked a refrigerator with yogurt, fruit and fresh vegetables to serve as low-calorie substitutes for smoking; it compiled a collection of books on smoking, jogging and health; and it encouraged nonsmokers to give moral support to their fellow workers. The support was sometimes expressed in novel ways, such as placing a flower with an encouraging note on a smoker's desk.

Smoking also plays a role when Riviera interviews prospective employees: "We still hire some people who smoke," says Marcus Sassaman, "but we try to be very much up front with them and tell them this is not what

mated that their smoking-cessation program produced an annual savings in health costs of $645,000 for reduced coronary disease and $1,400,000 for reduced lung disease.

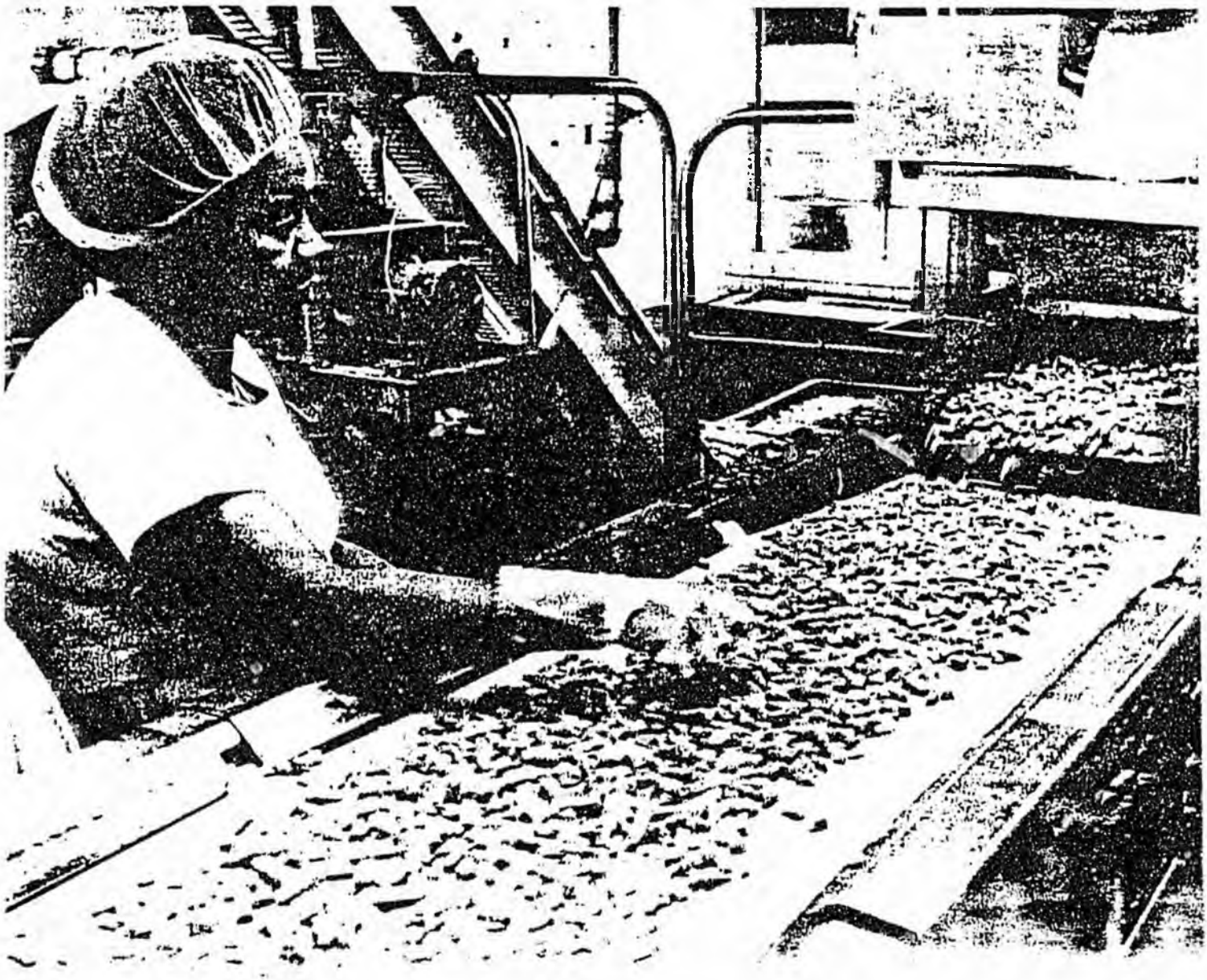
The Campbell Soup Company also has been willing to work up estimates on the effects of their past smoking-cessation programs. The company figured that it cost them $500 for every employee who quit smoking (about 70 employees participated, with a 20 percent quit rate), mainly for time off the job to attend the sessions. It is difficult to measure the long-term savings for such a small group, but Campbell's corporate medical director, Dr. Roland Wear, has worked out estimates of probable savings, and his figures indicate a substantial return on the company's investment. Dr. Wear is convinced of the value of this type of economic evaluation: "I'm a doctor, not an economist," he says. "But at the same time I think this is the kind of thing we're going to have to get into we hope to get businessmen to spend upfront money i this area." Such savings analyses make the kind of bo tom-line presentation that can impress businesses wit how reduced-smoking policies can combine concern f employee health with good economics.

A number of approaches to smoke-free workplaces

Once a company has opted for a smoke-free workplace it can choose a number of approaches to this goal. Som employers concentrate on smoking-cessation program and incentives, others prefer promulgating on-the-jo smoking policies, and combining techniques is also pop ular. Some examples:

- At the Campbell Soup Company, which has banne smoking on the job since the company was founded i 1869, smoking is permitted only in designated breal

Founded in 1869, Campbell Soup may have modernized its technology but one original policy remains: No Smoking.



Because sponsoring smoking-cessation programs has proved to be a relatively noncontroversial way for companies to approach the smoking-in-the-workplace problem, much of industry's effort to reduce on-the-job smoking is centered upon such programs. "The nonsmokers at this point," says Donna Shimp, an activist for nonsmokers' rights, "are benefiting from the fallout of the pitch to smokers."

Some employers won't go as far as instituting hard and fast no-smoking rules because they fear employees' resistance. Their fears could well be groundless: In a 1975 government survey, 78 percent of all adults, including 70 percent of all adult smokers, felt employers had the right to prohibit smoking in the workplace.

And evidence from companies already restricting on-the-job smoking supports the survey results. Johns-Manville reports that the employee who resists is the exception. According to Marcus Sassaman at Riviera Motors, the nonsmokers support their fellow workers' attempts to quit.

Anticipating union resistance also discourages some employers from pushing nonsmoking programs. The union question is complicated. At Johns-Manville it was the union's insistence that the right to smoke was negotiable under their contract that compelled the company to set up smoking areas in some facilities.

But, says Donna Shimp, this is the case only where a contract contains a specific right-to-smoke provision. Yet even when smoking is not a matter of direct contract negotiation, management often will consider union reaction while formulating a no-smoking policy. "Organized labor is in the middle," says Shimp, because it represents both smokers and nonsmokers. In 1976 Shimp, who suffers severe allergic reactions to tobacco smoke, sued her employer, the New Jersey Bell Telephone Co., for the right to a smoke-free workplace. She won. At that time, her union told her it would represent her right to work but not at the expense of other, smoking employees.

But now some unions have found a way out of this dilemma. Today a union might represent both the nonsmoker's right to a healthy, smoke-free work area and the smokers's right to a smoking lounge. "Comparing six years ago with today," says Mrs. Shimp, "it's a whole new ball game."

When Riviera Motors runs smoking-cessation classes for its employees, its support system includes stocking a refrigerator with low-calorie smoking substitutes.

Court decisions are enunciating nonsmokers' rights

Some employers worry about the possibility of a smoking ban violating smokers' legal rights. Not so, says Shimp: There is no constitutional right to smoke. The judge in her precedent-setting case cited her common law right to a safe working environment and termed tobacco smoke a "non-necessary toxic substance."

"The right of an individual to risk his or her own health," the judge's decision states, "does not include the right to jeopardize the health of those who must remain around him or her in order to properly perform the duties of their jobs."

In other court cases, employees adversely affected by tobacco smoke on the job have been awarded compensation and disability by the courts. And three states—Minnesota, Utah and Nebraska—have legislation controlling smoking in the workplace. The Nebraska law, passed in 1979, illustrates the shift in emphasis from a smoking to a no-smoking norm. It states: "No person shall smoke in a public place or at a public meeting except in designated smoking areas." Most office settings are included under the law.

Those who work in the smoking and health field feel there is an increasing awareness of the hazards of secondhand smoke and the rights of nonsmokers. "I was in industry for quite a while, and I can't even remember anybody talking about this five years ago," says Judson Wells, a retired Du Pont executive who is working with Edwin Fisher on the ALA program for industry.

In the 1979 NICSH survey cited earlier, 33 percent of the responding companies expressed an interest in developing or expanding a program to help their employees quit smoking. This number represents both the progress that has already been made and the work left to be done. The momentum is there; someday America may be a land of smoke-free workplaces. «

Kay Amicone is a freelance writer based in New York.

.Kimberly-Clark sees health promotion as part of the total health-care containment efforts by the company. The program shows management's concern and respect for the health needs of the employees. "Effectively helping people achieve their normal life expectancy as healthy, motivated and productive citizens is really the bottom line," says the company's medical director.

.Smokers have twice the deaths due to coronary heart disease and 10 times the risk of developing lung cancer. They also have longer convalescent periods from respiratory infections. If surgery is required, they are more likely to develop post-operative infections.

.Smoking in certain occupations greatly increases the threats to lung health because of synergistic effects of tobacco smoke and other airborne hazards. Controlling smoking at the workplace—as well as exposure to other airborne hazards—is critically important in these industries.

.As a result of its smoking cessation programs, New York Telephone estimates an annual savings in absence and treatment costs for smoking-related diseases of $1.4 billion for lung disease and $645,000 for cardiovascular diseases. This does not take into account the impact on employees' well-being, productivity and approximately 15 lives saved annually.

.Protecting workers from airborne hazards—asbestos, silicosis, cotton dust, and thousands more substances—is critically important in specific industries. Lung associations are eager to assist these industries in establishing programs to prevent occupational lung disease.

LUNGS
AT WORK
NO SMOKING

.The facts urge a new definition of employee benefits, one which stipulates that no-smoking policy is a labor-management accomplishment of which both sides can be proud. Unions as well as management are now beginning to see programs to help smokers quit as an employee health benefit.

.Of the $245 billion spent by Americans on health care in 1980, estimates are that employers paid nearly half the cost.

.Smokers who consume one pack of cigarettes daily have a 50% greater rate of hospitalization than those who do not smoke. If they smoke two packs per day, smokers have twice the absenteeism rate of nonsmokers.

.Cigarette smoking causes the premature death of 340,000 Americans each year and disables millions more.

.Although costs and savings are the language of business, a main driving force for most companies is improvement of health. Overall, "Companies would rather have healthy employees and pay pension benefits instead of hospital bills," says the medical director of Boeing.

.Smokers, on the average, have 35-45% higher absenteeism rates compared to nonsmokers.

.The total economic cost of cigarette smoking per year to American industry runs as high as $47 billion, according to Marvin Kristein, Ph.D., Associate Professor of Economics at the State University of New York at Stony Brook. Each smoker costs the employer approximately $624 for every year of his or her working life. These costs are based on an average one-pack-a-day smoker.

.Smoking is related to 90% of all lung cancer cases; 80% of emphysema and bronchitis.

."We view smoking as the principal health hazard of this company," says Dr. Loring Wood, Medical Director for Research and Development at New York Telephone Company. "We consider that smoking cessation will alleviate a whole variety of chronic disease and productivity problems."

SACRAMENTO REPORT

CALIFORNIANS FOR NON-SMOKERS' RIGHTS
909 12th Street
Sacramento, CA. 95814

VOLUME 1 NO.2 SEPTEMBER 1982

CNR

News Briefs

Famed attorney Melvin Belli has filed a $100 million lawsuit against two major tobacco companies on behalf of a terminally ill former smoker. The patient suffers from cancer, lung disease, and heart failure, all attributed to cigarette smoking.

If the suit is successful it will pave the way to shifting the cost of providing cigarette victims' medical care from nonsmokers (in the form of higher taxes and insurance premiums) to the tobacco industry and its customers.

ASH, Smoking and Health Review, July 1982

San Francisco station KRON-TV sent anchorman Evan White to interview the six cowboys in Wyoming seen in the film "Death in the West" who were suffering from smoking-caused lung cancer. Five had already died!

Herb Caen's column
San Francisco Chronicle, May, 1982

Speaking of "Death in the West", Senator Diane Watson sponsored the showing of the film to legislators, legislative staff members, and public representatives in the Capitol on June 23. She says she hopes it can be shown in schools throughout the state.

Sacramento Union
June 24, 1982

Yet another smoking-caused fire which claimed the lives of a north area of Sacramento couple and their pet dog. Firefighters found that a smoldering cigarette in the living room was the culprit.

Sacramento Bee
May 31, 1982

Published in the New England Journal of Medicine recently a report that radioactive particles in cigarette smoke can cause tumors throughout the body. Smokers are exposed to these particles just in smoke more than all the other sources combined.

NBC News
July 29, 1982

A recent study of the American Association of Family Physicians found that only 18% of teachers smoke. Yet the non-smokers don't have officially mandated protection in teachers' lounges.

Wind Pipeline
San Fernando, CA
June 1982

ASH Review, July '82

NEXT MEETING: September 21, Tues. 7 PM

..at the home of Chuck & Cathy Mawson
[illegible] Lake Glen [illegible] Sacramento

NEW JERSEY
GASP INC.
Group Against Smoking Pollution

October 1982

NEWSLETTER Volume 9 Number 2

"THANK YOU FOR SMOKING."

GASP GETS FILM SUPPRESSED BY PHILLIP MORRIS

Death in the West is now in GASP's hands. The 25-minute film made by Britain's Thames TV shows old Marlboro man commercials along with footage of real cowboys dying of smoking--for instance, a rancher riding along with an oxygen mask for his emphysema, his oxygen tank on his saddlebags. The victims' doctors testify smoking caused their patients' diseases. And Philip Morris representatives are interviewed, making asinine comments like "Applesauce can be hazardous to your health if you eat too much."

The showing in Britain produced such outrage against

(See FILM, page 2)

Two Nonsmoking Workers Win

A Missouri Appellate Court has ruled unanimously that Western Electric Co. must provide a safe workplace, free from tobacco smoke, for employee Paul Smith. The Sept. decision, as a unanimous ruling by a higher court, can be expected to have much greater impact than Shimp vs. N. J. Bell.

Jesse Rivera, an employee of N. J. State Division of Youth and Family Services, has won a grievance asking for the Governor's policy on smoking for state employees to be implemented in his office. The arbitrator directed that an enclosed area be set up for smoking and the majority of the office be smoke-free.

GASP has copies of both decisions.

Current workplace cases now number in the tens, if not in the hundreds, as nonsmoking workers seek protection or compensation. In Washington State a federal judge has ruled tobacco intolerance is a legal handicap. GASP will follow these cases and report them.

PLEASE DON'T DROP YOUR CIGARETTES ON THE FLOOR. THE COCKROACHES ARE DYING OF CANCER.

SMOKING AND HEALTH REVIEW

Volume XI, Number 5 September-October 1981

ASH Sues CAB Over Smoking Rules

Action on Smoking and Health has taken the Civil Aeronautics Board (CAB) to court in a challenge to the CAB's new rules, which significantly reduce the protections provided for nonsmoking passengers and open the door to seating smokers next to nonsmokers. In a related matter, ASH is asking the CAB to reconsider a staff decision to do nothing about ASH's complaint about allowing smoking on airplanes despite cutbacks in airplane ventilation, particularly cutbacks that occurred when they clearly violated existing CAB rules.

Under the old rules, passengers seated in the no-smoking section were entitled to protection against drifting tobacco smoke by a rule that provided that they not be "unreasonably burdened" by such smoke. This rule was used by ASH to force Pan Am to abandon its practice of seating smokers directly across the aisle from nonsmokers (longitudinal separation), and TWA to stop sandwiching small no-smoking sections between smoking sections. ASH attorneys argued that the new rule provides no protection for passengers seated in the no-smoking section because it does not consider how thick or how harmful the drifting tobacco smoke is. Moreover, under the new rule, passengers could not complain about new longitudinal or sandwiching configurations, or even about the seating of smokers next to nonsmokers as long as the latter were technically in a no-smoking section.

Continued on page 2

Smoker's Brown Lung Compensation Limited

Court Decision

In a decision that could have important ramifications in many other industrial compensation fields and to government entitlement programs generally, the North Carolina Supreme Court has ruled that a textile worker need not be compensated for that portion of her disabling lung condition caused by her own smoking.

Mrs. Elsie Morrison, now 54 years old, had worked in the textile trades for more than 20 years, where she was exposed to cotton dust. For at least 20 years, she also smoked half a pack of cigarettes per day even though she had been treated many times for respiratory infections, bronchitis, and coughing. In recent years she reportedly smoked less, but she was still regularly smoking when she became totally disabled and sought workers' compensation.

Mrs. Morrison claimed that her condition, diagnosed as byssinosis (also known as brown lung), was caused by her exposure to cotton dust during her employment. If her claim proved true, she would have been entitled to an award of approximately $36,000. However, the industrial commission that considered her case found on the basis of medical testimony that almost half of her condition was caused by other factors, including primarily smoking, and accordingly slashed her award by almost one half. This decision was affirmed by North Carolina's highest court; thus it becomes binding in that state.

Many authorities have begun to question what proportion of various

Continued on page 2

In This Issue

Smoker's Brown Lung Compensation Limited

(Continued from page 1)

compensable medical conditions are in fact caused by the employee's own smoking, and whether employees who smoke should continue to be fully compensated for these disabilities. For example, in a commentary in the *Journal of the American Medical Association*, Drs. Heyden and Pratt stated that "it is difficult to conceive the legislative need for compensation of a disease that rarely reaches irreversible disabling degrees among exsmokers or nonsmokers who continue to work under the same cotton dust exposure." (Vol. 244, No. 16, Oct. 17, 1980 at 1797-8) They cited a study, reported in 1972, that indicated that only smokers seemed to suffer from serious byssinosis and that "workers with typical byssinosis who stopped smoking cigarettes without changing their work area ... observed that their byssinosis symptoms disappeared." Another study showed similarly high rates of emphysema in smokers regardless of whether they worked around cotton dust or not, and virtually no emphysema among nonsmokers even if they worked with cotton.

The Morrison decision could have a major impact in North Carolina, where awards for brown lung totaled $4 million in 1980, particularly if the compensation commissions reduce awards to heavier smokers by a proportionally higher amount. The decision is also of particular importance since it comes from a state with a strong sympathy for the tobacco industry; thus it might serve as a precedent in other southern, as well as northern, states.

The rationale of the decision--that workers are not entitled to full compensation for conditions that they cause by their own smoking—also has potential application in many other areas. As indicated elsewhere in the *Review*, respiratory diseases among coal miners, lumber workers, employees in the construction industry, and workers exposed to asbestos are believed to occur largely in workers who smoke, and in many cases the disability is moderated if they quit smoking. Various studies also indicate that a significant portion of the medical expenses paid by the government under Medicare, Medicaid, veterans' benefits, and welfare are for conditions caused primarily by the smoking of the recipients.

While it may be illogical to require nonsmokers to pay the vast medical costs of conditions caused by smoking, either through unnecessarily high insurance premiums, taxes, or through the added costs of products from cotton goods to coal, many feel that it is unfair to deny compensation to workers who suffer from conditions aggravated by exposure to industrial pollutants. ASH attorneys are therefore considering two alternatives: (1) requiring the tobacco companies to pay for these costs, or (2) requiring workers or those seeking government-supported health benefits who smoke to pay an additional amount in health insurance premiums to compensate for the added health costs or risks associated with their smoking.

ASH Testifies Before Congress on Black Lung

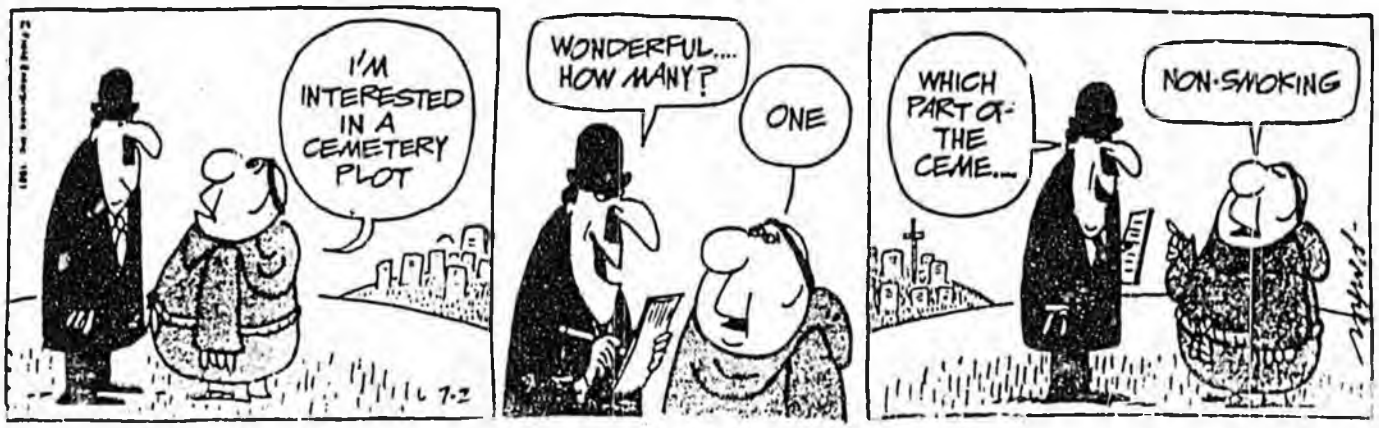
The tobacco industry should pay its fair share of the costs of black lung disease, and coal mining companies should be given financial incentive to reduce smoking among their employees, ASH recently testified before the House Ways and Means Committee's Subcommittee on Oversight.

The problem the subcommittee was investigating was what to do about the insolvency of the Black Lung Trust Fund, which is used to compensate coal miners who suffer disabling lung disease. At present, coal mining companies are required to make payments into the fund based upon the number of tons of coal mined, and the federal government has been financing the deficit of almost half a billion dollars a year out of general tax revenues.

ASH staff counsel Athena Mueller cited medical evidence that black lung is much more likely to occur among coal miners who are also smokers, and that only smoking miners seem to come down with the most serious form of the disease, which requires compensation. Therefore, she said, payments for allocation to the black lung fund should be made by both the coal and tobacco companies in proportion to the role each product plays in causing the disease. Failure to require the tobacco industry to pay its fair share not only burdens nonsmoking taxpayers who are forced to pay more for products that use coal, but it also inter-

Continued on page 4

The Wizard of Id



A PRECEDENT-SETTING CASE: NONSMOKERS' RIGHTS UPHELD IN COURT

A legal precedent was set when Donna Shimp obtained a court ruling granting her the right to work in an environment free from tobacco smoke. Mrs. Shimp, who is with the New Jersey Bell Telephone Company, found that she had a serious allergy to cigarette smoke. The following interview relates the incidents in Mrs. Shimp's long search for a way to keep on working. Many people gave their time to help her, including medical experts, the lung association, and a team of lawyers.

Editor: A judge in a New Jersey Superior Court recently granted you the right to work in an environment free from tobacco smoke.

Mrs. Shimp: Yes, the Honorable Philip A. Gruccio, J.S.C. made the ruling that in the office where I work there would be no burning of tobacco products at any time by anyone and that I would have the full protection of the court against any disciplinary action, harrassment, or anything else directly or indirectly related to the ruling.

Editor: Is this the first court decision of its kind?

Mrs. Shimp: As far as I know, it is.

Editor: What was behind it all? Were you campaigning to get your rights as a nonsmoker, or did tobacco smoke bother you physically?

Mrs. Shimp: I had a serious medical problem. Tobacco smoke made me nauseous, gave me big red blotches on my face, and probably caused three episodes of corneal erosion.

Editor: Where do you work?

Mrs. Shimp: I work for the New Jersey Bell Telephone Company as a service representative in the Millville Business Office.

Editor: Do customers who smoke come in to see you?

Mrs. Shimp: Yes, they do.

Editor: Sounds like a tough problem, if smoking makes you sick. Did you think of quitting your job and doing something else?

Mrs. Shimp: Yes, my husband wanted me to quit, but I needed to keep my job. One reason, to be honest, is that I knew that in March of this year I would have 15 years of service with the company. At 15 years they vest your pension—they give you a permanent right to it. I felt that if I were to leave, I would be throwing 14 years down the drain. All I thought at first was, "Let me just make it until March."

Editor: Then what happened?

Mrs. Shimp: I read a lot about the health effects of smoking. As I learned how harmful tobacco smoke is to everyone, I began to feel it was unfair to be forced to leave a job I really liked just because other people were smoking.

Editor: Why did you go to the courts?

Mrs. Shimp: I finally got to that point after I had tried everything else. I had tried asking my co-workers not to smoke. I tried going to the company medical department with my problem. I asked the help of the union. I also tried to locate a local or state health or environmental regulation that would apply.

Editor: What was the general response?

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ON THE COVER: 1976 Christmas Seal Chairman Dick Cavett (right) with former chairman Jack Lemmon. Lemmon recently sent this mailgram: BEST WISHES FOR SUCCESS WITH YOUR UPCOMING CHRISTMAS SEAL CAMPAIGN. JACK LEMMON, AN ACTOR WHO APPRECIATES CLEAN AIR."

Case - Decision NOVEMBER 1976

AMERICAN LUNG ASSOCIATION

BULLETIN

DICK CAVETT, 1976 National Christmas Seal Chairman, with former chairman Jack Lemmon—see page 11

A PRECEDENT-SETTING CASE: NONSMOKERS' RIGHTS UPHELD IN COURT

Mrs. Shimp: Many officials of different organizations acknowledged the health hazard created by tobacco smoke and the justice of my request, but they would finally say, "Sorry, we can't do anything. There's no regulation that covers tobacco smoking in your circumstances."

Editor: When did the whole problem start?

Mrs. Shimp: About five years ago, but the correct diagnosis as to what was causing it wasn't made until this year. I finally got to the diagnosis through my eye problem. Something was causing the cornea of my eyes to erode.

Editor: Corneal erosion sounds serious. I suppose you went to an eye doctor.

Mrs. Shimp: Yes, I did. First my regular doctor and then three ophthalmologists tried to find out what was happening. The first eye doctor said, "Ask the Man upstairs. I don't know what's causing it." The second said that the corneal erosion was probably the result of an allergic condition, perhaps hay fever, but he made no effort or suggestion to explore further. Neither my private physician nor the ophthalmologists suggested that I go to an allergist at that time.

Editor: Then how did you begin to identify tobacco smoke as the probable cause?

Mrs. Shimp: One evening, I got acutely ill at a dinner party. About 40 people were in a room that wasn't well ventilated, and many people were smoking. I got so actively sick that I thought I had food poisoning.

Editor: So what did you do?

Mrs. Shimp: From this experience, I began to suspect

Mrs. Shimp is holding one of the "No Smoking" signs which are displayed in her company's medical departments. She says, "I was only asking them to spread this protection to other departments."

tobacco smoke as the cause of the problem. For days after that dinner party, even the smell of a burning cigarette at work would make me feel sick all over again.

Editor: Did you discuss the problem with your physician at that point?

Mrs. Shimp: Yes. He said, "You undoubtedly have a toxic reaction to tobacco smoke. The only thing I can tell you is stay away from it."

I said to him, "Do you really mean I ought to quit my job?" and he replied, "I can't be involved in changing your vocation. I'm telling you what the problem is, and you work it out."

Editor: Did you ever get a definitive diagnosis concerning your reaction to tobacco smoke?

Mrs. Shimp: Yes, I did. Allergist Richard F. Brams, M.D., of Wilmington, Delaware did a thorough evaluation for clinical allergies, including a study of my home and work environments. The diagnosis was respiratory allergies exacerbated by tobacco smoke, especially in poorly ventilated rooms. Apparently, I had lived for years with a few allergies with just a mild antihistamine for relief. Then somewhere along the line, I developed an allergy to tobacco smoke.

Editor: Did you ever smoke yourself?

Mrs. Shimp: Oh, yes. I used to be a heavy smoker. I smoked about three packs a day when I was in the brokerage business. Black coffee and cigarettes were my mainstays in that business.

But when I got married, my husband said, "It's me or the cigarettes." And, I must say, he almost lost. When people tell me cigarette smoking is not a drug addiction, I tell

Honolulu Star Bulletin

them they are all wet. Some people are truly addicted to nicotine. I went through a terrible withdrawal period.

Editor: How long did it take you to quit?

Mrs. Shimp: I couldn't admit this for a long time, but I admit it now because I think it helps people to understand the hold that cigarettes can have on you. It took me almost two years to completely quit. Every now and then, I would buy a pack and sneak one smoke privately, just to try it again. It took me 12 years or more before I didn't desperately want a cigarette once in a while.

Editor: So you understand the problems other people have when you ask them not to smoke.

Mrs. Shimp: I've also seen women I've worked with—women who are really in very poor health with respiratory conditions and circulatory problems—try to quit smoking, and they just can't make it. I can empathize with the smoker who feels threatened. I think I can understand it better than someone who has never smoked.

Editor: Let's go back to your immediate problem when you discovered you were allergic to tobacco smoke: How did you handle the situation? You said you had to work.

Mrs. Shimp: At first, I was able to get around the problem by putting up a "No Smoking" sign in the office. It was a small office which had individual ventilating systems. I could use the exhaust mechanism, even in the winter, if I wanted to.

Editor: And then what happened?

Mrs. Shimp: I found that our business office was going to close. I had a choice of going to one or two other offices where a good percentage of the employees smoked. The man I ultimately went to work for said, "If you can't take the smoking, you'd better not come to my office."

So I said to him, "What do you suggest I do?"

He replied, "You'll have to decide. I'm letting you know now that the other people in the office are not going to quit smoking and I'm not going to ask them to."

Editor: So what was your decision?

Mrs. Shimp: I elected to keep on working. A couple of days before I was to go to the new office, my husband called my physician and said, "Can't you give her something to combat the nausea?" My physician reluctantly prescribed an anti-emetic.

Editor: Did that work?

Mrs. Shimp: When I felt terribly nauseated from the smoking in the office, I took the medicine, and it would enable me to last the day somehow, even though I still felt sick to my stomach.

Editor: Wasn't there any ventilation there?

Mrs. Shimp: None! There were no individual exhaust fans, and the central unit was not used because it created cold drafts. However, I came up with something that could help me. A friend of mine who is an industrial physician in the Delaware Valley suggested a respirator. I talked to the people at a mine safety appliance company and got an industrial mask.

Editor: Is this a mask that fits over your nose and mouth?

Mrs. Shimp: Yes, it does. Of course, my job is talking over the telephone, so the mask made that rather difficult.

Editor: Sounds like a scene from a novel.

Mrs. Shimp: I would say that was probably the worst two months I ever spent in my life, because I was sick every day. About the second week in the new office I had to go to an ophthalmologist because my eyes were so irritated.

"When I felt terribly nauseated from the smoking in the office, I took the medicine, and it would enable me to last the day somehow. That was probably the worst two months I ever spent in my life."

"I first went to the company representative responsible for formulating policy and explained my problem. They agreed that the problem was a very real one, but they said there was no law requiring them to do anything about it."

Fortunately, he had the good sense to send me to an allergist. As I said earlier, the allergist identified my problem as allergies aggravated by tobacco smoke.

Editor: What did the allergist tell you to do?

Mrs. Shimp: After another corneal episode, he told me not to go back to work. The Bell medical department's consultant concurred with his findings and also found an allergy to tobacco smoke, itself. At that point, the company put me on disability with full pay for three months.

Editor: Did your nausea, eye problems, and skin problems subside when you were off the job on disability?

Mrs. Shimp: In about a week, I was just fine. I had no problem at all.

Editor: Then what happened?

Mrs. Shimp: I kept thinking, "There must be somebody who can help me." I contacted any group I could think of who might have some information. The American Lung Association of Southern New Jersey was most helpful. I wanted to understand the situation as best I could. I even contacted the U.S. Surgeon General's office. I found that

there was excellent evidence about the health hazards of cigarette smoke, but there was nothing on what to do about it in the work environment.

Editor: Did your physician also give you some help at this point?

Mrs. Shimp: My allergist, Dr. Brams, was neither too busy nor afraid to get involved. He helped me by writing to my employer, and by filing a claim with the regional office of the Occupational Safety and Health Administration on my behalf, citing some of the medical reports I had accumulated. The very fact that he was willing to go to bat for my right to a healthy work environment—one that was smoke-free and also ventilated—gave me the strength to pursue this goal.

Dr. Brams did all these things without fee—and so did all the other doctors who later on came to my aid and supported his position.

Editor: Was it at that point that you went to the union?

Mrs. Shimp: Actually, I've always been a corporation-minded person, so I first went to the company representative responsible for formulating policy and explained my problem. They were all very receptive and agreed that the problem was a very real one, but they said there was no law requiring them to do anything about it.

Editor: So what was your next move?

Mrs. Shimp: I then went to the union with the same request and got the same answer. The union said it would represent my right to work but not at the expense of the other employees.

It was at that time that I first considered legal action as a very remote possibility. I honestly couldn't believe, until I finally went into the courtroom, that you would have to legislate or litigate common decency.

Editor: Did you talk to the other employees in the office?

Mrs. Shimp: I had talked to them, and they were sympathetic—as long as they didn't have to stop smoking. As union members, they knew they had the backing of the union in any right-to-smoke issue. The awareness of the safety and health people at the top hasn't filtered down to the field yet. At any state level, I did get good representation for improved ventilation but without any smoking restrictions.

Editor: Have people at New Jersey Bell had this privilege for many years?

Mrs. Shimp: There was no smoking on the job when I was hired 15 years ago. It was a condition of employment. Smoking on the job came into union contracts in many businesses about 10 or 12 years ago, and our company went along with the trend.

Editor: You said that at that point you were on disability.

Mrs. Shimp: Yes. The company was paying me to stay at home, without working, in a smoke-free environment. After three months, I went to half-pay and was told that I could be fired "to protect my health" if I didn't take a demotion.

Editor: What was a demotion supposed to accomplish?

Mrs. Shimp: It offered a convenient solution to the problem. According to company rules, telephone employees may not smoke at the switchboards or where there is switching equipment. If I had been demoted to telephone operator, I'd be working where no smoking is allowed as a matter of company policy.

Editor: Is there any special reason for a no-smoking rule near the equipment?

Mrs. Shimp: It's to protect the machinery from contamination and also from fire.

Editor: Did you accept the demotion?

Mrs. Shimp: No, I didn't. First of all, I had worked for many years as a service representative. I didn't think that a demotion and substantial pay loss was a fair solution to the problem. But equally important, I had come to understand that tobacco smoke is harmful to nonsmokers, especially to those of us who are sensitive to it. I said to myself, if this is true, why should the company allow smoking on the job? Why was the union continuing to go along with smoking on the job?

Editor: So, despite the obvious roadblocks, you were still looking for a way to continue at your regular job.

Mrs. Shimp: All along, I had a basic belief that there must be a way, somehow, to keep on working. Especially if smoking is injurious to your health. Justice is part of the great American dream.

Editor: Did you try some other routes before you got into legal action?

Mrs. Shimp: I kept thinking that there was some answer other than the courts. I went to the Clean Air Council, I went to the Environmental Protection Agency, I even went to the Occupational Safety and Health Administration (OSHA) in Washington. Almost everybody whom I pleaded my case to said, "Yes, you are right, but there's no law to say you are right." I finally concluded that the question would have to be brought to the courts. I didn't know how to do it, but I decided to give it a try.

Editor: Very quickly, tell us the end before we discuss the details: Just exactly what was the court decision?

Mrs. Shimp: I received a temporary restraining order stating that I was to be provided an atmosphere free of toxic and harmful substances.

Editor: What was the basis of the court decision?

Mrs. Shimp: The judge said he was weighing the right of the person who accepted the medical evidence on the hazards of tobacco smoking and chose not to smoke—versus the right of the person who chose to disregard the evidence and continued to smoke.

The judge said that, on the basis of the evidence he had before him, there was no question that he had to protect my health in the work environment.

Editor: What's next? Will the order stand?

Mrs. Shimp: No opposing affidavits have been filed, and my employer asked for a settlement conference, so the order will probably become a permanent injunction very soon.

Editor: How did you proceed with the development of the case? Did you employ a lawyer, or did one volunteer to help you?

Mrs. Shimp: At first, a friend who is a lawyer agreed to represent me in my right to work. I could sense the company attitude and the union attitude at the time and saw that I might need some help. The lawyer, Edward N. Adourian, Jr., wrote a letter of representation to both the company and the union, saying that he was interested in helping provide me with a healthy work environment and would be glad to cooperate in any way he could.

Editor: What happened then?

Mrs. Shimp: Mr. Adourian made some preliminary investigations and found that there were no precedents for the case. He felt I definitely had a case but pointed out that it would take a couple of years of research to prepare what he called a "landmark case." He equated it with the desegregation question in U.S. schools a few years ago.

Editor: So you hit another roadblock.

Mrs. Shimp: The lawyer said that the expense of the research would be tremendous, even though some other lawyers might be willing to cooperate with us as a matter of public interest.

Editor: By now, I've learned to ask you this: What did you do then?

Mrs. Shimp: I kept asking people about ways to help. One person would refer me to somebody else.

Finally, I located a professor of labor law at Rutgers University, Alfred W. Blumrosen. I found out later from

others that he is eminent in his field and very well respected nationally. He had done all the research for a case such as mine as a matter of academic interest. He said the premise he had developed could be applied very well to my particular case.

Editor: What was his premise?

Mrs. Shimp: That an employee has access to the courts for injunctive relief if his or her health is being harmed and if there are no clear laws to protect the employee. Professor Blumrosen said he would help me if I could get a team of lawyers together.

Editor: And did you get a team of lawyers to help you?

Mrs. Shimp: Yes, there were five altogether.

Editor: Did they work on the case on a volunteer basis?

Mrs. Shimp: Yes, they did it as lawyers interested in the precedent. Not one of them charged a fee or indicated in any way that he wanted payment.

Editor: Were they nonsmokers?

Mrs. Shimp: Only one was a nonsmokers' rights person. The other lawyers felt, as one of them said, that a human need was not being met and that if they had the knowledge to meet it, they would help me.

Editor: What kind of documentation did you have to come up with for the case?

Mrs. Shimp: Well, first of all, I obtained an affidavit from Dr. Brams concerning my medical susceptibility to cigarette smoke. I then obtained supporting affidavits from allergists Frank Rosen, M.D.—who had already written to Bell on my behalf—and Michael Diamond, M.D.

Those affidavits also included statements from experts concerning studies of persons exposed to tobacco smoke involuntarily and the effect of such exposure on those people, especially on those with allergies.

Editor: What other evidence did you need?

Mrs. Shimp: There were affidavits from experts in environmental health, such as Dr. Wilbert S. Aronow of the University of California and Dr. Susan M. Daum of the Mt. Sinai School of Medicine, New York City. There were also affidavits from experts in the field of smoking and health—people such as Dr. Luther Terry, who was U.S. Surgeon General when the first report, "Smoking and Health," was published, and also former U.S. Surgeon General Jesse L. Steinfeld. One important affidavit was from Dr. D. C. Bews, an occupational health expert and former medical director of Bell Canada.

Editor: Let's come up to the present. In your new office, do you still work as a service representative?

Mrs. Shimp with Professor Alfred W. Blumrosen of Rutgers University. Prof. Blumrosen had done the research for a case such as hers.

Mrs. Shimp: The job is the same. The telephone company policy states that employees should be flexible enough and the jobs standardized enough that they may be assigned to any office, as the work demands. We are often loaned to another office.

Editor: What happens when you are loaned to another office? Does the no-smoking order go with you?

Mrs. Shimp: The judge granted me the right to a smoke-free environment wherever I am assigned. This brought up some problems a short time ago. The company wanted to loan me to another office. They were going to put me in a little room where they said I'd be protected from smoke. I'd been there before, and it worked out all right, except when I went out into the main office or when someone came in with a cigarette.

Editor: Did you accept this temporary move?

Mrs. Shimp: I said I would work there if I had the same protection I had in my assigned office—but so far I have not been loaned.

Editor: Did the court decision also cover demotion to a lesser job? Can the company change your job status to

Mrs. Shimp worked for over a year digging up facts on matters such as the health hazards of smoking and also locating experts who could help her.

solve smoking conditions at work?

Mrs. Shimp: My job status cannot be changed. And my rate of pay can't be changed, either.

Editor: How is the matter working out for you now at work?

Mrs. Shimp: There's no smoking in the office. This means a 20-cent "No Smoking" sign, when you get right down to it. When my trial lawyer, Stuart B. Finifter of Atlantic City, N.J., asked the court to grant me the same protection that Bell gives to its equipment, I really got that protection.

Editor: Can the other employees smoke anywhere in the building where you work now?

Mrs. Shimp: The company has set up a smoking lounge in the basement, which can be used by smokers and any nonsmoking workers who choose to share it. Even though this may be in violation of the court order, I haven't complained as I do have the use of a separate lounge which is adjacent to the work area and rest room facilities . . . all within the "no smoking" part of the building.

Editor: How do you feel about smokers at work after your experience of getting ill from smoke and getting little cooperation from them?

Mrs. Shimp: I look upon them as people who happen to smoke. They don't have three heads. If I could have worked up a nice, healthy hatred for the people in my office who continued to smoke on the job, even though it was making me ill, my fight would have been easier. But I didn't feel that way then. Disappointed in them, maybe, but I didn't hate them.

Editor: How does the smoking lounge work out practically at work? Are the people in the office happy with the arrangement?

Mrs. Shimp: Because the company also grants extra "smoke breaks," this does create an extra burden for the nonsmoking workers, but things are working out fairly well. In some other offices, where there is a more impersonal relationship between employees, I could see this situation causing friction. Personally, I am so thankful to be able to work without being sick that I'm not going to complain at this point!

"There's now no smoking in the office where I work. The company grants extra 'smoke breaks', and this does cause an extra burden for nonsmoking workers. In some other offices, where there is a more impersonal relationship between employees, I could see this situation causing friction."

Editor: I understand that there are a number of people throughout the United States who, like you, get ill from tobacco smoke. The percentage is not high, but those people have a real problem. What would they have to do to win a court decision like yours, creating smoke-free working conditions for them?

Mrs. Shimp: I would recommend that they try talking with fellow employees, with the officials of the company, the union, and any local body that might assist them before they attempt to go the legal route. Sometimes you can solve the problem quite simply by turning up a fire regulation that stipulates no smoking in certain areas.

Editor: But suppose they fail, as you did, to get a regulation set up in their work place that prohibits smoking on the job. What then?

Mrs. Shimp: I suppose they would have to go essentially the same legal route that I did. They could benefit by my experience and save some steps.

Editor: Could they use the documents that you presented in court?

Mrs. Shimp: Yes, but they couldn't simply take the

documents, put a ribbon around them, and present them in court. However, I am advised that a lawyer could take the pleadings and rework them to fit his client and the laws of his state. Hundreds of letters have come in to me and to my lawyers requesting copies of these documents. We are putting all the material together in a handbook that will be available through the National Interagency Council on Smoking and Health in New York.

Editor: Could a lawyer cite your case as a precedent?

Mrs. Shimp: Yes. However, in order to cite that precedent, a lawyer would have to prove that his client had a medically proved allergy to cigarette smoke. A lawyer would have to obtain his own affidavits from the client's own doctor and specialists.

Editor: Would a lawyer have to obtain his own testimony from experts on smoking and health and from environmental experts as well?

Mrs. Shimp: That's a question for a lawyer, but as I understand it, that is true. However, the affidavits in my case could be used in several ways without obligating my expert witnesses to participate directly.

Editor: Looking back at the long and tortuous route that you trod, would you go through the same process again to obtain working conditions free from tobacco smoke?

Mrs. Shimp: Many people ask me that. I think I would because the matter is an important one. Time has dimmed some of the agony of the struggle, and I have learned how universal the problem is. I'm anything but alone in this situation. The volume of mail I receive attests to that!

Editor: Do you think that a person has much chance today of convincing people at work to quit smoking? Some people argue that smoking is such an entrenched social custom that it's difficult to change this habit in groups of people.

Mrs. Shimp: I agree that smoking is something that has been accepted, but times are changing. Before I learned scientific facts about the matter, I used to be apologetic about asking people to stop smoking. But now I think that it's foolish to be apologetic about protecting your health.

Editor: What about making people mad when you ask them to quit smoking?

Mrs. Shimp: You can ask them in a nice way to stop. You don't have to go around chopping people's heads off. However, I do think you have an obligation to be firm about it if you truly believe that cigarette smoking is harmful to your health.

Editor: Do you think that employees will comply if companies set up no-smoking regulations?

Mrs. Shimp: They will comply if the company rule is explained fairly and if it is enforced. A vigorous educational program is essential. I do think that some companies will have to provide smoking lounges for their employees if a good percentage of the employees smoke.

You have to remember that in retail merchandising, in heavy industry, and in places where people work on assembly lines, there almost invariably is a company rule against smoking, and people just accept it. Many millions of people don't smoke at work . . . and the number is growing. Every day I learn of small businesses and large companies that are taking measures to protect their nonsmoking employees.

Editor: Let me ask you this: If you had no specific allergy to tobacco smoke, would you go through the same battle to win your right to a smoke-free work place?

Mrs. Shimp: Knowing what I know now, I think I would. I have read most of the important scientific research on the effects of tobacco smoke on nonsmokers. In my opinion, and in many experts' opinion, there is good scientific evidence that smoking is harmful to nonsmokers.

Editor: What is your basic scientific concern about no smoking in the work place?

Mrs. Shimp: I am really concerned about the unexplored synergistic effect of the many toxic agents on our body systems in today's polluted environment. When "safe" levels have not been established, the only acceptable standard should be zero—especially when dealing with a nonessential toxic substance like tobacco smoke.

I won my battle because the harm to my system was immediate and could be documented. But I think all nonsmokers and agencies, such as the American Lung Association, that are working for environmental improvement should have the wholehearted support of the medical community in trying every means of attaining a smoke-free environment, especially at work.

"I agree that smoking is something that has been accepted, but times are changing. Before I learned the scientific facts about the matter, I used to be apologetic about asking people to stop smoking. But now, I think it's foolish to be apologetic about protecting your health."

DONNA M. SHIMP has been a service representative with the New Jersey Bell Company for 15 years. Before that, she was an assistant account executive with the investment firm, Merrill Lynch, Pierce, Fenner and Smith. Much of Mrs. Shimp's free time is now taken up in writing and consulting with unions and management concerning smoke-free work areas. She continues to receive letters about the court case.

LUCILLE FISHER is the editor of the ALA Bulletin.

SMITH v. WESTERN ELECTRIC COMPANY

Missouri Court of Appeals
Eastern Division

Decision reversing circuit court order which dismissed employee petition seeking injunction to prevent employer from exposing employee to tobacco smoke in workplace.

PAUL SMITH, Plaintiff-Appellant v. WESTERN ELECTRIC COMPANY, Defendant-Respondent, No. 44286, Sept. 14, 1982.

Morley Swingle, Cape Firardeau, Mo., for plaintiff-appellant.

Willam G. Ohlahausen, St. Louis, Mo., for defendant-respondent.

Before Dowd, Gunn, and Crandall, Judges.

PRIVATE SUIT

1. Working Conditions — Exposure to Tobacco Smoke — Employee's Allergic Reaction — Duty of Employer under State Law ►80.30

Employee's petition seeking to enjoin employer from exposing him to tobacco smoke in workplace and from altering his pay or employment conditions because of employee's allergic reaction to smoke states claim upon which relief can be granted under applicable state law, since it is well-settled in Missouri that employer owes duty to employee to use all reasonable care to provide reasonably safe workplace and to protect employee from avoidable perils; accordingly, order dismissing petition is reversed and case is remanded for further proceedings.

2. Employee Exposure to Tobacco Smoke — Allergic Reaction — State Court Jurisdiction over Claim ►80.30

Employee is not precluded by Occupational Safety and Health Act from seeking relief in state court in order to prevent employer from maintaining working conditions which expose employee to tobacco smoke and thus trigger his allergic reaction to smoke, because Act does not affect common law duty of employers regarding injuries, diseases or death of employees arising out of employment, and does not prevent state court from asserting jurisdiction over occupational safety and health issue for which no OSH Administration standards is in effect.

Full Text of Decision

DOWD, Judge:

Plaintiff appeals from an order dismissing his petition on the ground that it fails to state a claim upon which relief can be granted.

The petition seeks an injunction to prevent plaintiff's employer from exposing him to tobacco smoke in the workplace and from affecting his pay or employment conditions because of his medical reaction to tobacco smoke. The petition alleges that by allowing smoking in the work area, defendant permits its employees to be exposed to a health hazard and thereby breaches its duty to provide a safe place in which to work.

Plaintiff contends the trial court erred in dismissing his petition in that it invokes legal principles entitling him to relief and shows that injunctive relief is appropriate. Plaintiff further contends that federal law does not preempt state common law in this case.

In reviewing the dismissal of this petition for failure to state a claim, we grant the petition its broadest intendment and liberally construe its averments. *Paddock Forest Residents Ass'n v. Ladue Service Corp.*, 613 S.W.2d 474, 476 (Mo.App. 1981). We accept as true all factual allegations and their favorable inferences. *Nelson v. Wheeler Enterprises, Inc.*, 593 S.W.2d 646, 647 (Mo.App. 1980). If the averments thus viewed invoke principles of substantive law upon which relief can be granted to plaintiff, the petition is not subject to dismissal. *Paddock Forest Residents Ass'n*, 613 S.W.2d at 476. Any reasonable doubt with regard to the petition's sufficiency is resolved in favor of plaintiff. *Nelson*, 593 S.W.2d at 647.

The petition includes the following allegations. Plaintiff has been employed by defendant since 1950 and has worked in defendant's Missouri branch since 1967. He is a nonsmoker sharing an open office area with other employees, many of whom smoke tobacco products as they work. In 1975 plaintiff began to experience serious respiratory tract discomfort as a result of inhaling tobacco smoke in the workplace. A subsequent medical evaluation determined that plaintiff suffers a severe adverse reaction to tobacco smoke. His symptoms include sore throat, nausea, dizziness, headache, blackouts, loss of memory, difficulty in concentration, aches and pains in joints, sensitivity to noise and light, cold sweat, gagging, choking sensations, and lightheadedness. After a sufficient period

have become increasingly severe over the years, however. Doctors evaluating and treating plaintiff have advised him to avoid contact with tobacco smoke whenever possible.

The petition further alleges that plaintiff first complained to defendant about the tobacco smoke in the workplace in 1975. Defendant thereafter moved plaintiff to different locations within the plant, but no improvement resulted because each location contained significant amounts of tobacco smoke. In 1978 plaintiff was informed that he should no longer sumbit complaints about the smoke through defendant's anonymous complaint procedure since defendant would not process them. In response to recommendations of the National Institute for Occupational Safety and Health,[1] defendant adopted a smoking policy in April 1980. The declared policy was to protect the rights of both smokers and nonsmokers by providing accommodations for both groups and by making a reasonable effort to separate the groups in work areas. Because defendant has failed to implement its policy by making such a reasonable effort, improvement of the air in the workplace has not resulted.

According to the petition, in August 1980 plaintiff filed with defendant a Handicapped Declaration Statement that he was handicapped by his susceptibility to tobacco smoke. Refusing to segregate smokers or to limit smoking to non-work areas, defendant informed plaintiff he could either continue to work in the same location and wear a respirator or apply for a job in the computer room (where smoking is prohibited). The latter option would entail a pay decrease of about $500 per month. Defendant thereafter provided plaintiff with a respirator that has proven ineffective in protecting plaintiff from tobacco smoke.

The petition states that plaintiff has exhausted all avenues of relief through defendant; he has no adequate remedy at law; he is suffering and will continue to suffer irreparable physical injuries and financial losses unless defendant improves working conditions. The petition alleges that defendant is breaching its common law duty as an employer to provide plaintiff a safe place to work, and that defendant has available defendant's ability to protect its computer equipment from tobacco smoke. The petition further states that, although "second-hand smoke" is harmful to the health of all employees, defendant is permitting them to be exposed in the workplace to this health hazard which is neither related to nor a necessary by-product of defendant's business.

Construing these allegations favorably to plaintiff, we must determine whether they invoke principles of law entitling him to relief.

[1] It is well-settled in Missouri that an employer owes a duty to the employee to use all reasonable care to provide a reasonably safe workplace, *e.g.*, *Todd v. Watson*, 501 S.W.2d 48, 50 (Mo. 1973); *Hightower v. Edwards*, 445 S.W.2d 273, 275 (Mo. banc 1969), and to protect the employee from avoidable perils. *Moles v. Kansas City Stock Yards Co. of Maine*, 434 S.W.2d 752, 755 (Mo.App. 1968). Whether the employer has fulfilled its duty depends upon the facts of each case. *Lathrop v. Rippee*, 432 S.W.2d 227, 231 (Mo. 1968). For example, in *McDaniel v. Kerr*, 258 S.W.2d 629 (Mo. banc 1953), the employer had failed to provide a safe workplace where the employee's inhalation of dust on the job caused damage requiring removal of his lung. In *DeMarco v. United States*, 204 F.Supp. 290 (E.D.N.Y. 1962), the court found a negligent failure to provide a safe working environment where the plaintiff was injured when he fainted and fell after complaining about gasoline fumes in an unventilated work area.

The allegations of the instant case, taken as true, show that the tobacco smoke of co-workers smoking in the work area is hazardous to the health of employees in general and plaintiff in particular. The allegations also show that defendant knows the tobacco smoke is harmful to plaintiff's health and that defendant has the authority, ability, and reasonable means to control smoking in areas requiring a smoke-free environment. Therefore, by failing to exercise its control and assume its responsibility to eliminate the hazardous condition caused by tobacco smoke, defendant has breached and is breaching its duty to provide a reasonably safe workplace. *See Shimp v. New Jersey Bell Telephone Co.*, 145 N.J. Super. 516, 368 A.2d 408(1976). As stated in *Thompson v. Kroeger*, 380 S.W.2d 339, 343-44 (Mo. 1964) (quoting *Gatzke v. Terminal Railroad Ass'n of St. Louis*, 321 S.W.2d 462, 466 (Mo. 1959)).

[1] The Occupational Safety and Health Act of 1970, 29 U.S.C. §§651-678, established the National Institute for Occupational Safety and Health, §671, to develop safety standards and implement sections 669 and 670 of the Act.

tions which a reasonably prudent employer would have taken in given circumstances, even though other employers may not have taken such commensurate precautions. What usually is done may be evidence of what ought to be done, but what ought to be done is fixed by a standard of reasonable prudence, whether it usually is complied with or not.

If plaintiff's petition establishes defendant's failure to provide a safe place for plaintiff to work, we must next consider whether injunctive relief would be an appropriate remedy. An injunction may issue "to prevent the doing of any legal wrong whatever, whenever in the opinion of the court an adequate remedy cannot be afforded by an action for damages." §526.030 RSMo 1978. Injunctive relief is unavailable unless irreparable harm is otherwise likely to result, *see City of Grandview v. Moore*, 481 S.W.2d 555, 558 (Mo.App. 1972), and plaintiff has no adequate remedy at law. *See State ex rel. Taylor v. Anderson*, 242 S.W.2d 66, 72 (Mo. 1951).

The petition alleges that plaintiff's continuing exposure to smoke in the workplace is increasingly deleterious to his health and is causing irreparable harm. Assuming the allegations and reasonable inferences therefrom to be true, we think it is fair to characterize deterioration of plaintiff's health as "irreparable" and as a harm for which money damages cannot adequately compensate. This is particularly true where the harm has not yet resulted in full-blown disease or injury. Money damages, even though inadequate, are the best possible remedy once physical damage is done, but they are certainly inadequate to compensate permanent injury which could have been prevented. Plaintiff should not be required to await the harm's fruition before he is entitled to seek an inadequate remedy. Moreover, the nature of plaintiff's unsafe work environment represents a recurrent risk of harm that would necessitate a multiplicity of lawsuits. Finally, the petition states that plaintiff has no adequate remedy at law and alleges facts indicating that prior to this action plaintiff unsuccessfully pursued relief, both through his employer's in-house channels and through administrative agencies. Viewing the petition favorably, as we must to determine its sufficiency, we find that injunction would be an appropriate remedy.

[2] Defendant contends the trial court lacks jurisdiction to provide relief, and therefore the petition fails to state a claim the subject matter of this case is p by the Occupational Safety and H (OSHA), 29 U.S.C. §§651-678 (1 Act specifically states, however, th not affect the common law regar juries, diseases, or death of emplo ing out of . . . employment." § The Act also declares that it does vent a state court from assertin tion over an occupational safety issue for which no OSHA standa fect. §667(a). We are unperso defendant's argument that §653(b only to the common law pert workers' compensation laws. In defendant has not directed our at any OSHA standard which would cover tobacco smoke. No such figured in the opinions of other co sidering OSHA and tobacco *Federal Employees for Non-S Rights v. United States*, 446 F.Sup OSHC 1407] (D.D.C. 1978), *aff* F.2d 310 [7 OSHC 1634] (D.C. Ci *denied*, 444 U.S. 926 (1979); *Sh* N.J. Super. 516, 368 A.2d 408. more, defendant conceded in oral a that a court may retain jurisdictio absence of an OSHA standard.

We conclude that plaintiff has claim upon which relief can be gra that the trial court therefore erre missing the petition. Plaintiff shou lowed the opportunity to pr allegations.

The judgment is reversed and r remanded.

BECHTEL POWER CORP TION

Review Commission Decisio

SECRETARY OF LABOR, Com v. BECHTEL POWER CORPOR Respondent, OSAHRC Dock 77-3222, Aug. 31, 1982.

Marshall H. Harris, U.S. Depart Labor, Philadelphia, Pa., for comp

Michael A. Floyd and James H San Francisco, Calif., for responde

Review Commission Judge He Osterman.

Before Rowland, Chairman; Cle Cottine, Commissioners.

406 "G" Street P.O. Box 3056 DT Anchorage, Alaska 99510 (907) 272-2332

ALASKA LUNG ASSOCIATION, *Inc.*

Leo C. Kaye, *Executive Director*

Representative Charlie Bussell, Chairperson
House Judiciary Committee
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Bussell,

The Alaska Lung Association is indeed pleased to submit the enclosed portfolio containing documentation in support of House Bill 84.

I was impressed to find that the Anchorage Times published a report on the public hearings. A copy is enclosed.

Please contact Don Allan (564-1094) or my office, should you desire additional information or assistance.

Sincerely,

Leo C. Kaye
Executive Director
Alaska Lung Association

LCK/vk

Enclosures

cc: Don Allan, CLU

THE SMOKENDER®

Volume 1, Number 1 — Spring/Summer 1981

Wives Risk Lung Cancer From Husbands' Smoking

A recent 14-year study, performed at Tokyo's National Cancer Center Research Institute, found that nonsmoking wives of smoking husbands die of lung cancer at a rate double or more that of nonsmoking wives with nonsmoking husbands. The landmark study, published January 17, in the British Medical Journal, reports that the risk to nonsmoking wives was directly related to the amount of their husbands' smoking. These findings support mounting evidence that links "passive" or "second-hand" smoking with a variety of respiratory ailments.

The Japanese study, which followed 142,857 women and 122,261 men between 1965 and 1979, found that nonsmoking women who were regularly exposed to their husbands' smoking, showed risk levels ranging from ⅓ to ½ that of direct smoking. A total of 346 lung cancer deaths among women were reported during the 14 year survey, and 174 of these deaths were nonsmoking women married to smoking husbands.

Dr. Takeshi Hirayama, author of the study and chief epidemiologist at the National Cancer Research Institute in Tokyo, suggests the findings "appear to explain the long-standing riddle of why many women develop lung cancer although they themselves are nonsmokers".

The study found that the increased risk to women varied according to the amount of cigarettes smoked by the husband, and the living environment, urban or rural, also was a big factor.

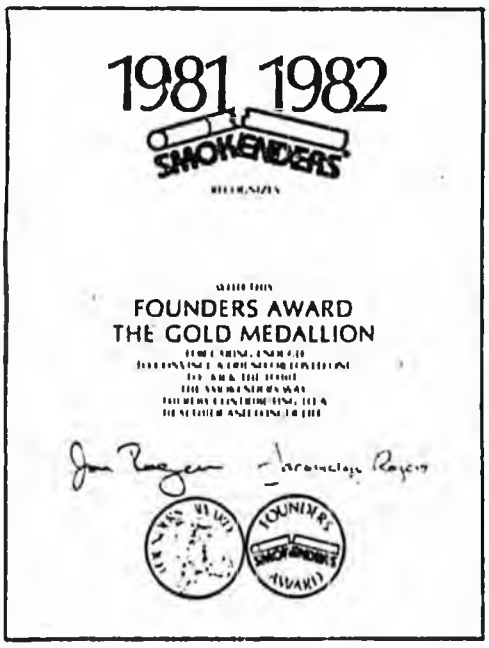
Women whose husbands smoked 20 or more cigarettes a day were 2.08 times more likely to develop lung cancer. If the husbands smoked 20 or less cigarettes a day, the risk was still 1.61 times higher than for wives of nonsmokers.

In agricultural areas where air pollution was not influencing the study's findings, a risk level 4.6 times higher was observed among nonsmoking wives of farm workers 40 to 59 years of age who smoked two or more packs of cigarettes each day.

The study was originally undertaken to determine the effects on health of a large number of factors, including drinking, occupation and marital status. Results indicate, however, that smok-

Continued on page 2

New Smokenders Founders Medals to be Awarded Yearly



Each year hundreds of Smokenders graduates recommend the Program to their friends and loved ones. And happily enough, most of these referrals sign-up, complete the course and join the growing ranks of nonsmokers.

We feel that graduates deserve official recognition for helping their friends quit smoking, so we've established a series of yearly awards to be given to the sponsors of new Smokenders graduates.

If, in the course of a year, you refer just one new person, and he or she completes the program, we'll award you a Bronze Smokenders Founders Medal and a special certificate highlighting your achievement. If you recommend as many as five new graduates, you'll receive a beautiful, sterling silver plated Founders Medal and certificate. And for referring ten new graduates, you'll receive a stunning 14K gold plated Founders Medal and a framed certificate of merit commemorating your truly outstanding contribution to good health.

SURGEON GENERAL REPORTS DANGERS OF LOW-TAR CIGARETTES

In *The Changing Cigarette*, a 237-page report issued by Surgeon General Dr. Julius B. Richmond, federal health officials summarize recent scientific findings on low-tar, low-nicotine cigarettes. In brief, the report states that milder brands may offer "limited" reduction in lung cancer risks, but there is little evidence to indicate that they reduce the risks of heart disease, bronchitis, emphysema, complications of pregnancy and other disorders related to smoking.

The report warns of new health hazards from chemical additives used in cigarettes to enhance lost flavor due to reduced levels of tar and nicotine. Additives currently in use include substances such as shellac, caramel, eugenal and chemicals which can produce carcinogens when burned.

Last year the tobacco industry supplied the surgeon general with a list of about 1,500 cigarette additives but no specific brand-levels or formulas have been released to date. Dr. Richmond is continuing negotiations with the industry to obtain precise additive formulations for each brand. However, under current law, cigarette companies do not have to release this information, and until then, adequate testing is not possible.

In a compromise move, the Surgeon General has proposed that a government guarantee could preserve the confidentiality of such information. This approach has worked successfully in Great Britain, and American companies doing business there have conformed. However, Secretary of Health and Human Services, Patricia Roberts, stated that new legislation may be required to secure the necessary information.

When asked to comment, a Tobacco Institute spokesman called the report "markedly candid and more moderate in tone" than prior

Continued on page 3

IN THIS ISSUE:

An Invitation To All Our Friends

Dear Graduate:

Saying "hello" to you that first meeting was a pleasure. You came to us to quit smoking, and we were anxious to get to know you and help you.

During the weeks that followed, we all grew closer. We talked together, laughed together, and worked together. Together we shared the same goals and the same attitudes towards smoking. We helped you develop the motivation and gave you the tools you needed to stop smoking, and you did.

With **The Smokender**, a free newsletter, we have a way to stay in touch with you and share ideas, personal experiences, current events, and other items of general interest.

We invite you to read it, respond to it, and help us make it as interesting as we can together. This is our way of saying hello again and we would love to hear from you.

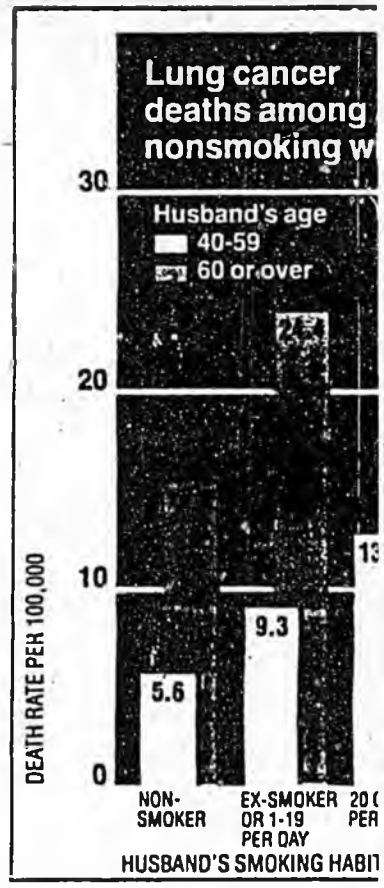
What would you like to see included in **The Smokender?** With your comments and contributions, we can make this the beginning of a long and lively new relationship.

Enjoy.

Sincerely,
THE SMOKENDERS STAFF

The Smokender is published by Smokenders World. Please address all submissions and inquiries to:

Managing Editor
The Smokender
50 Washington Street
Norwalk, CT 06856



Source: National Car Research Insti

GRADUATES WELCOME

Just a reminder that as a S enders graduate, you are a welcome to attend any of ou venient seminars if you woul to reinforce your non-sm habit. Whether you would l offer a personal testimonial, a friend, or just visit, we a ways glad to see you.

By the way, if you have back to smoking again (it ca pen), you can enroll anytin an additional eight-week se for just ½ the regular rate.

If you prefer, take advant our Summer Rejoin Sale. T will be only $125.00 if you before Labor Day. To get and locations of seminars you, please refer to the en schedule.

Airlines must seat non-smokers

Non-smokers travelling on U.S. airlines are now protected by a special regulation of the Civil Aeronautics Board. The rule requires airlines to provide a seat in the non-smoking section for any passenger who requests it. This holds true even if the section must be enlarged to accommodate everyone.

Foreign airlines also have non-smoking sections, but they are under no obligation to expand their non-smoking section.

Wives Risk *Continued from page 1*

ing is the only habit of husbands to affect the deaths of wives. The findings are so statistically significant that it "was not the result of chance", Dr. Hirayama said.

Surprisingly, the husbands smoking *did not* affect the risk of death from other types of cancer or heart attacks.

A noted British physician, who did pioneering work linking cigarette smoking and lung cancer, described Dr. Hirayama's study as "scientifically sound." He also stated that the correlation between smoking husbands and deaths from lung cancer in nonsmoking wives was higher than he had expected.

"The implication", he said, "is that cigarette smoking poses a hazard to anybody in public rooms if they are not well ventilated."

FACTS ABOUT NONSMOKERS

More than 30 million Americans have kicked the cigarette habit. Millions more are trying. Among adults, only one in three still smokes. In the population as a whole, it's one in four. Even counting cigar and pipe smokers, nonsmokers are a clear majority.

Nonsmokers are no longer a silent majority, though. They mind if you smoke. And they're speaking up. They see tobacco smoke as a pollutant that defiles their air. And new research gives them ammunition to defend themselves. It shows that second-hand smoke can have harmful effects on nonsmokers.

OPEN BURNING

Tobacco smoke is a very complex mixture. There are hundreds of chemical compounds in burning tobacco.

Some of the most hazardous compounds are tar, nicotine, carbon monoxide, cadmium, nitrogen dioxide, ammonia, benzene, formaldehyde, and hydrogen sulphide. And dozens of others. Any one alone can assault the body and cause trouble. Together, they make smoking the menace it is.

Even when a smoker inhales, researchers have calculated that two-thirds of the smoke from the burning cigarette goes into the environment. The percentage of pollution from cigar and pipe smoke is even higher.

SIDESTREAM SMOKE

Every time anyone lights a cigarette or cigar or pipe, tobacco smoke enters the atmosphere from two sources. Most important for nonsmokers, there is *sidestream* smoke, which goes directly into the air from the burning end. Then, there is *mainstream* smoke, which the smoker pulls through the mouthpiece when he or she inhales or puffs. Nonsmokers are also exposed to mainstream smoke after the smoker exhales it.

A cigarette smoker inhales—and exhales—mainstream smoke eight or nine times with each cigarette for a total of about 24 seconds. But the cigarette burns for 12 minutes and pollutes the air continuously with sidestream smoke. Smokers can keep cigars and pipes burning for a much longer time. The pollution lingers long after.

Sidestream smoke—the smoke from the burning end—has higher concentrations of noxious compounds than the mainstream smoke inhaled by the smoker. Some studies show there is *twice* as much tar and nicotine in sidestream smoke compared to mainstream. And *three* times as much of a compound called 3-4 benzpyrene, which is suspected as a cancer-causing agent. *Five* times as much carbon monoxide, which robs the blood of oxygen. And 50 times as much ammonia.

There is also evidence that there is even more cadmium in sidestream smoke than in mainstream. Cadmium is now under investigation as one of the compounds in cigarette smoke that damages the air sacs of the lungs and causes emphysema.

Before the nonsmoker inhales secondhand smoke, however, some of the high concentrations of hazardous substances are diluted in the ambient air. The smoker, on the other hand, inhales both firsthand and secondhand smoke.

CARBON MONOXIDE

Carbon monoxide is a colorless, odorless gas created by incomplete combustion. Car exhaust puts it in the air. So does tobacco smoke.

While it is difficult to measure the amount of tar or cadmium in someone's lungs or body, it is relatively easy to measure the levels of carbon monoxide in the blood.

When you inhale carbon monoxide, the gas bumps oxygen molecules out of your red blood cells and forms a new compound called carboxyhemoglobin. As the amount of this compound increases in your blood, the body becomes starved for oxygen.

One study shows that after only thirty minutes in a smoke-filled room the carbon monoxide level in the nonsmoker's blood increases as well as the blood pressure and heart beat.

HAZARDOUS LEVELS

What levels of carbon monoxide are hazardous? In industry, the maximum concentrations of carbon monoxide in the air cannot average out to more than 50 p.p.m. (parts per million); and efforts are now underway to reduce the maximum. The Federal Air Quality Standards for the *outside air* limit concentrations to an average of 9 p.p.m.

Given this as a baseline, how much carbon monoxide do cigarettes send into the air?

Researchers have found that smoking seven cigarettes in one hour—even in a ventilated room—created carbon monoxide levels of 20 p.p.m. In the seat next to the smoker, the level shot up to 90 p.p.m., almost twice the maximum set for industry. Smoking ten cigarettes in an enclosed car also produced carbon monoxide levels up to 90 p.p.m. The carbon monoxide level in the blood of nonsmokers and smokers in the car *doubled*.

When nonsmokers were exposed to these levels, the carbon monoxide level in their blood not only doubled within the first hour, *but doubled again during the second hour.*

When nonsmokers leave a smoky environment, it takes hours for the carbon monoxide to leave the body. Unlike oxygen which is breathed in and then out again in minutes, carbon monoxide in the blood lasts for hours. After three or four hours, half of the excess carbon monoxide is still in the bloodstream.

EFFECTS OF THE GAS

Some studies indicate that with these levels of carbon monoxide in the blood, people—including drivers—cannot distinguish relative brightness, lose some ability to judge time intervals, and take longer to respond to taillights. They also show impaired performance on some psychomotor tests. These levels of carbon monoxide in the blood create physiologic stress in heart disease patients. The resultant lack of oxygen can also add distress for people who already have lung disease.

Animals exposed to carbon monoxide (levels from 50 to 100 p.p.m.) continuously for weeks showed damage to heart and brain.

OTHER COMPOUNDS

Not enough research has been done on effects of other compounds in tobacco smoke. For example, hydrogen cyanide is a poison that attacks respiratory enzymes. It is not found in ordinary air pollution. But the concentration in cigarette smoke itself is 1600 p.p.m. Long-term exposure to levels above 10 p.p.m. is considered dangerous.

Nitrogen dioxide is an acutely irritating gas that can damage the lungs. Levels of 5 p.p.m. in the air are considered dangerous. Cigarette smoke contains 250 p.p.m.

ANIMAL RESEARCH

Some researchers have exposed mice to second-hand smoke over a period of one or two years. A significant number of mice developed severe bronchitis. Rabbits exposed to smoke from 20 cigarettes per day for two to five years developed emphysema.

Dogs exposed to cigarette smoke ten times per week for one year suffered a breakdown in lung tissues. Rats exposed to second-hand smoke for 45 minutes a day for two to six months showed twice as many lung tumors as did a control group.

The exact parallel between animal and human exposure in smoke-filled rooms is hard to determine at this stage of research. But some implications are serious indeed.

SMOKE AT THE WORKPLACE

A study of nonsmokers exposed to tobacco smoke at work for many years showed a dysfunction in the small airways of the lungs of the nonsmokers. It is not yet clear whether abnormalities in the small airways precede the kind of changes that characterize chronic lung disease like emphysema. But very frequently the beginning changes of chronic lung diseases start in the small airways.

EFFECTS ON CHILDREN

Babies and young children breathe more rapidly than adults. Because of this higher breathing rate, they inhale more air—and more pollution—in comparison to their total

body weight. Some studies show youngsters inhale two to three times as much of a pollutant per unit of body weight compared to adults. And this assault happens when young lungs are growing and developing.

One major study discovered that in their first year, babies of parents who smoke at home have a much higher incidence of lung disease, specifically bronchitis and pneumonia, than babies with nonsmoking parents.

A study of the lung function of children—aged five to nine—showed an adverse reaction in the small airways of children who had smoking parents compared with those whose parents were nonsmokers.

Parents who smoke at home can aggravate symptoms in some children with asthma and even trigger asthma episodes. Millions of people, adults as well as children, are sensitive to tobacco smoke and suffer smoke-caused asthma episodes. Parents should limit their smoking to separate rooms away from these children or, better yet, should quit smoking altogether.

Even among nonasthmatic children, a team of researchers found that respiratory illnesses happened twice as often to young children whose parents smoked at home compared to those with nonsmoking parents.

In a study of 441 nonsmokers divided into two groups—those with a history of allergies and those without—70 percent of *both* groups suffered from eye irritations caused by smoke. Even among the nonallergic groups, 30 percent developed headaches and nasal discomfort, while 25 percent experienced cough.

SECONDHAND SMOKE AND LUNG CANCER

Some studies have found an increased risk of lung cancer in nonsmoking wives married to men who smoke. Although the studies are too few as yet to conclude a definite association between secondhand smoke and lung cancer, the findings have raised concern. Since there are cancer-causing agents in cigarette smoke, it is not unreasonable to expect that inhaling these agents firsthand or secondhand could cause disease. Exposure to tobacco smoke may be similar to exposure to radiation: there are no safe levels.

TOBACCO SMELLS

Contamination and odors are immediately created by such elements in tobacco smoke as ammonia and pyridine. Pyridine is a strong irritant that is produced when nicotine burns. The presence of a minute amount in the air produces distinctly unpleasant odors.

The contamination is so intense that when someone smokes in an air-conditioned environment, the air-conditioning demands can jump as much as 600 percent to control odor.

Another intriguing finding from air-conditioning research is that the human body attracts tobacco smoke. Burning tobacco smoke creates a high electrical potential, whereas the water-filled human body has a low one. The smoke in a room gravitates and clings to people in much the same way as iron filings are drawn to a magnet.

And the odors linger on. Chemicals in tobacco smoke called aldehydes and ketones supply the penetrating smell, while the tars hold them to your skin and your clothes. But the smoker is not sensitive to the smell because of the destructive effects of smoke on the inner lining of his or her nose.

THE RIGHT TO BREATHE CLEAN AIR

Nonsmokers have the right to breathe clean air, free from harmful and irritating tobacco smoke. This right supersedes the right to smoke when the two conflict.

THE RIGHT TO SPEAK OUT

Nonsmokers have the right to express—firmly but politely—their adverse reactions to tobacco smoke. They have the right to voice their objections when smokers light up.

Nonsmokers have the right to act through legislative channels, social pressures or any other legitimate means—as individuals, or in groups—to prevent or discourage smokers from polluting the atmosphere and to seek the restriction of smoking in public places.

- Let family, friends, co-workers and strangers know you mind if they smoke.
- Put stickers, buttons, and signs in your home, car, and office. Request seating in nonsmoking sections when you travel.
- Support legislation to restrict smoking or set up smoke-free areas in public places.
- Ask your doctor and dentist to restrict smoking in their waiting rooms and to establish no-smoking regulations in all health care facilities, including hospitals.
- Propose no-smoking resolutions at organization meetings. Encourage hotels and restaurants to establish no-smoking areas.
- Contact your lung association to discuss ways to protect nonsmokers at work.

AMERICAN LUNG ASSOCIATION
Affiliate
The Christmas Seal People®

#0008 Published by AMERICAN LUNG ASSOCIATION 8/82

Second-Hand Smoke

Are you a nonsmoker who is shy about defending yourself against inconsiderate smokers?

Or are you a smoker who doesn't realize the distress you inflict on nonsmokers?

Find out the effects of tobacco smoke on nonsmokers.

Take A Look At The Facts

asbestos exposure. Case histories were studied for smoking and drinking habits and occupation. In 14 of 156 available chest X-rays typical PP were found; a significantly higher incidence than expected in the region ($p < 0.001$), but in agreement with earlier studies, which are reviewed. It is suggested that all patients with laryngeal carcinoma should be questioned about exposure to asbestos, and that in patients occupationally exposed to asbestos, the occurrence of laryngeal carcinoma should be considered an occupational disease. It is concluded that exposure to asbestos in association with smoking gives rise to a higher incidence of laryngeal carcinoma. (Auth. Abs. Mod.)

81-1088. Hirayama, T. Non-Smoking Wives of Heavy Smokers Have a Higher Risk of Lung Cancer: A Study From Japan. *British Medical Journal* 282: 183-185, January 17, 1981.

A Japanese study of 91,540 nonsmoking wives aged 40 and above who were followed up for 14 years (1966-79) is described. Standardized mortality rates for lung cancer were assessed according to the smoking habits of their husbands. Wives of heavy smokers were found to have a higher risk of developing lung cancer and a dose-response relationship was observed. The relationship between the husband's smoking and the wife's risk of developing lung cancer showed a similar pattern when analyzed by age and occupation of the husband. The risk was particularly great in agricultural families when the husbands were aged 40-59 at enrollment. The husbands' smoking habit did not affect their wives' risk of dying from other diseases such as stomach cancer, cervical cancer, and ischemic heart disease. The risk of developing emphysema and asthma seemed to be higher in nonsmoking wives of heavy smokers, but the effect was not statistically significant. The husbands' drinking habit seemed to have no effect on any causes of death in their wives, including lung cancer. These results indicate the possible importance of passive or indirect smoking as one of the causal factors of lung cancer. They also appear to explain the longstanding riddle of why many women develop lung cancer although they themselves are nonsmokers. These results also cast doubt on the practice of assessing the relative risk of developing lung cancer in smokers by comparing them with nonsmokers. (Auth. Abs.)

81-1089. Kunze, M.; Vutuc, C. Threshold of Tar Exposure: Analysis of Smoking History of Male Lung Cancer Cases and Controls. In: Gori, G. B.; Bock, F. G. (Editors). *Banbury Report 3. A Safe Cigarette?* New York, Cold Spring Harbor Laboratory, March 12, 1980, pp. 29-36.

In the study described, individual tar exposure was quantified for a lifetime of smoking to determine a threshold below which the smoker is at a "tolerable risk" for lung cancer. The exposure figure would represent the sum of all the tar yields of all the cigarettes ever smoked by an individual. Over 700 male lung cancer patients and over 1,500 controls, in three subject samples, were evaluated in terms of neoplasm incidence, smoking history, and total tar exposure. It was found that the average tar exposure in tumor patients is significantly higher than that of the controls. In general, higher tar exposures correlated with higher risks of various types of cancer. The threshold for tolerable risk was determined to be around 500 exposure units (based on the calculation method used). This would roughly equate to consumption of one pack per day of a low-tar brand (less than 15 mg) for 20 years.

81-1090. Langenbach, R.; Malick, L.; Nesnow, S. Rat Bladder Cell-Mediated Mutagenesis of Chinese Hamster V79 Cells and Metabolism of Benzo(a)pyrene. *Journal of the National Cancer Institute* 66(5): 913-917, May 1981.

Primary rat bladder epithelial cells were cocultivated with Chinese hamster V79 cells in the presence of carcinogens, and the induction of 6-thioguanine resistance in the V79 cells was used as a marker of cell-mediated mutagenesis. The carcinogens dimethylnitrosamine, 7,12-dimethylbenz(a)anthracene, and benzo(a)pyrene (BP) were mutagenic to V79 cells in the presence of bladder cells but not in their absence. Analysis of BP metabolites formed by bladder cells indicated that 7,8-dihydro 7,8-dihydroxybenzo(a)pyrene, 9,10-dihydro-9,10-dihydroxybenzo(a)pyrene, benzo(a)pyrene-3,6-quinone, and 9-hydroxybenzo(a)pyrene were the major organic-soluble metabolites formed. Glucuronide and sulfate conjugates of BP metabolites were also produced by bladder cells. Mutagenesis data from the rat bladder system and previous data from rat liver and lung cell-mediated mutagenesis systems indicate that the cell-mediated mutagenesis approach may provide a useful approach for studying the organotropic effect of chemical carcinogens. Furthermore, the finding that rat bladder epithelium can metabolize some carcinogens offers new possibilities for the mechanism of initiation of bladder cancer. (Auth. Abs.)

81-1091. Miller, A. B. Epidemiology and Etiology of Lung Cancer. In: Hansen, H. H.; Rorth, M. (Editors). *Lung Cancer 1980.* Amsterdam, Excerpta Medica, International Congress Series 525, 1980, pp. 9-26.

Epidemiologic evidence compiled by the International Union Against Cancer and the International Agency For Research on Cancer, from a number of cancer registries throughout the world, clearly identifies the carcinogenic risk factors associated with cigarette smoking. Incidence of lung cancer data in males and females, derived from these studies and standardized to world population, shows that the highest and lowest incidence for men in Liverpool, United Kingdom, and Ibadan, Nigeria, respectively. For females, Maori, New Zealand, and Ibadan, Nigeria, present the highest and lowest figures. These risks are compounded by other environmental factors, such as asbestos, radiation, and other forms of air pollution, which frequently confuse the smoking issue. One of the more recent studies sponsored by the Tobacco Research Council in the United Kingdom, involving a comparison of mortality between different areas in the north of England while taking into account differences in smoking incidence, confirmed the overwhelming importance of cigarette smoking as a risk factor. Therefore, a

major reduction of lung cancer incidence and mortality will occur only when there is a substantial shift in population exposure to smoking. In Canada, a reduction in smoking in males gives rise to cautious optimism; however, in females this trend is not yet apparent. Smoking bans in public places along with a gradual change in the public's tolerance to cigarette smoke forecast a major impact in most technologically advanced countries with a resultant reduction in both incidence and mortality from lung cancer in both sexes.

81-1092. Miti, L.; Massei, V.; Sanguinetti, C. M.; Forastieri, L.; Pomifazi, F.; Frascione, P.; Vennarucci, L. S. I Tumori Bronchopolmonari. [Bronchiopulmonary Tumors.] *Minerva Medica* 70(3):.217-230, January 21, 1979, Italian.

An examination was made of 259 subjects, 242 males and 17 females, with primitive pulmonary carcinoma. Of the male group, 75 percent were smokers—most smoking between 11-30 cigarettes per day—and 19 were former smokers (11 of whom had quit for more than 5 years). Among the items taken into consideration were the symptoms, age of the subjects, year of diagnosis, clinical prognosis, and TNMP models. It is noted that bronchiopulmonary cancer rates have been on the rise during the past 10 years, and that this is probably connected to the increase in cigarette consumption.

81-1093. Ohmori, T.; Mori, H.; Rivenson, A. A Study of Tobacco Carcinogenesis XX. Mastocytoma Induction in Mice by Cigarette Smoke Particulates ("Cigarette Tar"). *American Journal of Pathology* 102(3): 381-387, March 1981.

A significant incidence of cutaneous mastocytomas was observed in female mice of CAF,/J and ARS-HA (ICR) strains upon long-term application of cigarette smoke condensate suspensions ("tar"). The mastocytomas were not detected in control groups treated with acetone, benzo(*a*)pyrene (BaP), tetradecanoyl phorbol acetate (TPA), nor in mice treated once with an initiator dose of 75 mg 7, 12-dimethylbenz(*a*)anthracene (DMBA). The skin mastocytomas were constantly accompanied by diffuse dermal mast cell infiltration (DDMI), which was also seen in the tumor-free skin of the "tar"-treated mice. These results indicate that mastocytomas were induced by agents present in the cigarette smoke condensate. DDMI might be a precursor of mastocytomas. (Auth. Abs.)

81-1094. Reif, A. E. Effect of Cigarette Smoking on Susceptibility to Lung Cancer. *Oncology* 38: 76-85, 1981.

It has been suggested that genetic predisposition to lung cancer is a more important factor than cigarette smoking, and that, therefore, one may smoke. Recently, this thesis has been defended strongly, but this literature survey indicates that the genetic susceptibility for development of lung cancer varies between individuals. Therefore, to conclude from this that one may smoke would be valid only if there was a close relationship between the genetic tendency to smoke cigarettes and the genetic tendency to develop lung cancer. The evidence that such a relationship does not exist is overwhelming. It is, therefore, valid to conclude that the large excess of deaths from lung cancer in cigarette smokers as compared to nonsmokers is a direct consequence of smoking cigarettes. To illustrate the effect of cigarette smoking on susceptibility to lung cancer, the distribution of susceptibilities to lung cancer in cigarette smokers and in nonsmokers has been derived. The shape of the susceptibility distribution is determined by the effects of all environmental carcinogens (both known and unknown) to which the population has been exposed, as well as by differences in genetic susceptibility between members of the population. The method described has general application. (Auth. Abs.)

81-1095. Rivedal, E.; Sanner, T. Potentiating Effect of Cigarette Smoke Extract on Morphological Transformation of Hamster Embryo Cells by Benzo[*a*]pyrene. *Cancer Letters* 10(3): 191-198, September 1980.

Morphological transformation in the hamster embryo cell bioassay was used to study the possibility that carcinogenicity of benzo(*a*)pyrene (BP) is affected by cigarette smoke extract and whether smoke extract would promote transformations initiated by BP. The transformation frequency increases with increasing concentrations of BP and smoke extract. In experiments with a combined treatment of BP and smoke extract, the transformation rates were higher than expected for all concentrations from experiments with the compounds tested separately. The greatest potentiating effect was found using 0.01 μg/ml BP and 1 μg/ml smoke extract. The transformation frequency obtained with this combination was 4.3 percent compared to 1.4 percent and zero, respectively, for the individual substances. In experiments where cells were treated sequentially with BP (0.05 μg/ml) for 4 days, followed by smoke extract (1 or 5 μg/ml) for the next 4 days, the transformation frequency was significantly higher than expected on the basis of the compounds tested separately. The demonstration of a synergistic effect between BP and cigarette smoke and the promotion-like effect of smoke extract on BP-initiated transformations of hamster embryo cells are of interest in relation to the higher frequency of lung cancer found in areas with high air pollution compared to rural areas. (Auth. Abs.)

81-1096. Ruffie, P.; Hirsch, A.; Marteau, D.; Dignon, J.; Chretien, J. Etude Etiologique et Histologique de 448 Cancers du Poumon. [Etiological and Histological Study of 448 Cases of Lung Cancer.] *Annales de Medecine Interne* 132(1): 12-15, 1981, French.

Distribution of histological types of lung cancer and correlation of cell types with sex, smoking habit, and asbestos exposure were studied over an 8-year period in 425 male and 23 female patients in a French hospital. The mean age of the patients was 63.2 years. The epidermoid cancer type was the most frequent both in the male (77.6 percent of all lung

7

RODALE PRESS

MEMORANDUM

TO: All Rodale Press Employees

FROM: Bob Rodale

SUBJECT: A uniform no-smoking policy

For a number of years, smoking has not been permitted in some Rodale Press buildings, and in certain office areas. Yet smoking has been allowed in the majority of our work areas.

Because of this policy confusion and recent rise in complaints about smoking, I feel that it's time we work toward a uniform no-smoking policy. Here are the reasons. Most important, the non-smokers among us feel very strongly that they have a right not to breathe second-hand smoke, which can be as dangerous to health as first-hand smoke, if you get enough of it. There are complaints not only about possible harm to health, but about inability to concentrate as well. Also very important to us are the many questions asked by visitors, who often include customers. They ask why a health-oriented company like Rodale Press permits smoking in its offices.

After considerable discussion, we have decided that January 1, 1983 will be the time when a no-smoking policy will become uniform throughout all our buildings, including not only work areas but rest rooms and eating areas as well.

Between now and then, we will offer a variety of programs to help those people who want to quit smoking. This will include additional Smokenders programs, special classes to help ex-smokers prevent weight gain and get started on a fitness plan, and booklets, posters, and meetings designed to help smokers break their habit. Information about these activities will appear regularly in What's Going on Here.

I feel that this is one of the most important steps that can be taken to improve the environment that we all live a large part of our lives in. I have never smoked, so I can't see this issue from the vantage point of someone who does. I do know this action will cause inconvenience for some people. But I hope we can work together to solve any problems and create a climate that will make it possible for smokers who wish to stop to do so.

RR:mls
March 1, 1982

Rodale Press, Inc., 33 East Minor Street, Emmaus, PA 18049
215-967-5171 Telex 4847310

GENERAL SERVICES ADMINISTRATION

Public Buildings Service

[41 CFR Part 101-20]

MANAGEMENT OF BUILDINGS AND GROUNDS

Smoking in GSA-Controlled Buildings and Facilities

AGENCY: Public Buildings Service, General Services Administration.

ACTION: Proposed rule.

SUMMARY: This regulation prohibits smoking in certain areas of buildings controlled by GSA. It has become necessary to regulate smoking in certain areas of Federal buildings because smoke in a confined area may be irritating and annoying to nonsmokers and may create a potential hazard to those suffering from heart and respiratory diseases or allergies. The intent of this regulation is to provide a reasonably smoke-free environment in certain areas for those working and visiting in GAS-controlled buildings.

DATE: Comments must be received on or before October 11, 1978.

ADDRESS: Comments should be addressed to the General Services Administration (PBOP), Washington, D.C. 20405.

FOR FURTHER INFORMATION CONTACT:

Mr. Donald Winegarden, Director, Operations Division, Office of Buildings Management, General Services Administration, Washington, D.C. 20405, 202-566-1563.

Subpart 101-20.1 Building Operations, Maintenance, Protection, and Alterations

Section 101-20.109-10 is revised to read as follows:

§ 101-20.109-10 Regulations of smoking.

Regulation for controlling smoking in GSA-controlled buildings and facilities are set forth below. Agencies are encouraged to develop additional guidelines for internal use and for taking appropriate administrative action when violations of these regulations occur.

(a) Smoking is prohibited in the following areas:

(1) *Auditoriums, classrooms, and conference rooms.* Buildings managers shall insure that signs and adequate receptacles for smoking refuse are placed outside the entrances to auditoriums, classrooms, and conference rooms.

(2) *Elevators.* "No smoking" signs shall be posted in elevators, and adequate receptacles shall be placed outside the entrances.

(3) *Shuttle vehicles.*

(4) *Hazardous areas.* Each agency shall post and enforce "no smoking" rules in any location under its jurisdiction which involves flammable liquids, flammable gases, or flammable vapors, or in all other locations where there is a collection of readily ignitible, combustible materials.

(b) Smoking is not permitted in libraries, except in those non-stack areas that are designated as "smoking" areas. These areas shall be established by the buildings manager in collaboration with the heads of the occupant agencies.

(c) An employee who occupies a private office is authorized to declare that office a "no smoking" area.

(d) "No smoking" areas shall be established in cafeterias. These areas shall be designated as "no smoking" areas by each building manager, in collaboration with the heads of the occupant agencies. The areas designated shall be based upon an estimate of the number of smoking and nonsmoking patrons served. This may be adjusted on the basis of local experience. The "no smoking" areas shall be identified by appropriate signs.

(e) The establishment of "no smoking" work areas in open space should be thoroughly investigated. Supervisors should plan work space in a manner so that employees who desire a "no smoking" area can be accommodated: *Provided,* That: (1) Efficiency of work units will not be impaired, (2) additional space will not be required, and (3) costly alterations to the space or procurement of additional office equipment will not be necessary. Agencies are responsible for insuring that "no smoking" areas are identified by appropriate signs. In establishing and continuing a smoking policy in work areas under their jurisdiction, supervisors should strive to maintain an equitable balance between the rights of nonsmokers and those of smokers.

(f) In medical care facilities such as medical clinics and health units, smoking is restricted to visitor waiting areas, staff lounges, private offices, and specially designated areas. Waiting areas shall be divided into areas designated as "smoking" and "no smoking" whenever possible.

(g) Agencies are responsible for providing adequate nonflammable ash trays or receptacles in locations where smoking is permitted.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c))

Dated: August 25, 1978.

JAMES B. SHEA, Jr.,
Commissioner,
Public Buildings Service.

(FR Doc. 78-25407 Filed 9-6-78; 11 03 am)

COPY

P.O. Box 803
Juneau, AK 99802
Feb. 10, 1983

TO: State Affairs, Resources & Judiciary Committees

Dear Committee Members:

We are both state office workers in the Department of Labor Building. The Air conditioning doesn't work and our superiors have repeatedly failed to address the problem of smoke in the air with reasonable accomodations to protect us from the effects of ambiant smoke inhalation. In the light of recent court decisions on the subject and in behalf of the approximately two thirds of state workers who don't smoke please consider your duty to your constituents and to the state workers and give your full support to passage of House Bill #84 "An Act Relating to Smoking in Public Places and Vehicles".

Thank you,
Roberta S Banko
Dennis G. Andison
Roberta S. Banko
Dennis G. Andison

P.O. box 206
Douglas, Ak. 99824

2 - 8 - 83

State Affairs

C.C.Resources and Judiciary

I wish to convey my suport for House Bill No. 84. Tobacco smoke irritates my eyes, nose and throat. I resent having to restrict my activites to protect my health from others smoking

Sincerely,

Mark J. Miller

Mark J. Miller

RECEIVED
FEB 8 1983

APPLECART

Feb. 14, 1983

TO: State affairs, Resources + Judiciary Committees

Dear Committee Members,

I would appreciate your consideration of House Bill # 84 "an act Relating to Smoking in Public Places + Vehicles.

I am now in private business + do not allow smoking on the premises due to the fact that I quit working at the museum (Dept. of Ed.) to get away from smoke as I have a real allergy to cigarette smoke.

Sincerely,

Martha Stevens

Larry and Martha Stevens
515 N. Franklin Street
Juneau, Alaska 99801

(907) 586-3689

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