



**PUBLIC HEARING  
BEFORE THE  
COMMITTEE ON PUBLIC WORKS AND THE  
ENVIRONMENT**

**HONORABLE COUNCILMEMBER CAROL SHWARTZ  
CHAIRMAN**

**Bill 16-294, the “Smoke-free Restaurant, Tavern, and  
Nightclub Incentive Amendment Act of 2005”**

**Bill 16-187, the “Smokefree Workplaces Act of 2005”**

**Bill 16-193, the “Occupational Safety and Health  
Amendment Act of 2005”**

Good Morning Councilmember Schwartz and thank you for holding this hearing today and for all of your efforts on this issue. Good Morning also to your fellow councilmembers and Council staff. My name is Lynne Breaux and I am Executive Director of the Restaurant Association Metropolitan Washington (RAMW). RAMW is a trade association representing over 500 restaurants and food service industry professionals in DC and in Northern Virginia. In 2004, DC restaurants generated over \$204 million in sales tax alone and employed over 36,000 restaurant workers. According to Mayor Williams, 15% of the city's budget is directly attributed to the restaurant industry. Restaurants have contributed greatly to the current resurgence in the District through contributions to the city's coffers and to raising the

reputation of DC as a fine dining tourist destination. Our world class restaurants and our high profile chefs have been featured in numerous national and international publications. DC dining is on a roll and we wish to keep it that way. Washington, DC is an international city and attempts to ban smoking will adversely impact our international visitors.

Much of what you will hear today has been heard before, especially at your December 3, 2003 marathon hearing. Today, its déjà vu all over again. RAMW is emphatically not pro-smoking. Our Board of Directors recently voted unanimously to stay committed to our position of pro-business, consumer and employee choice on smoking. Our membership and their employees are extremely concerned over this issue with the

ensuing negative economic ramifications and civil rights infringements. Much has been debated about the conflicting impact of the smoking bans. RAMW feels strongly that a ban does in fact have an adverse affect on bar/restaurant business. Proponents of smoking bans site surveys stating that the hospitality industry does not experience a decline in sales, other studies show the opposite effect.

The main points in support of our position opposing a legislated smoking ban are below:

1. Despite contradicting studies, Melvin Thompson, Vice President of Government

Relations from the Restaurant Association Maryland will be testifying today with irrefutable information on the negative impact on restaurant and bar sales in Maryland Counties where a smoking ban has been enacted.

2. A smoking ban on the hospitality industry, the District's main private sector income generator, would directly impact District revenue. Any attempt to legislate a ban on smoking in District hospitality venues, whether or not achieved through the use of District tax incentives, must include an accurate fiscal impact analysis of the consequent revenue reduction. This fiscal impact analysis must be based on an accurate estimate of the economic impact of a smoking ban on the District hospitality

3. The economic damage done by smoking bans is felt disproportionately by locally-based or small businesses, the very type of enterprise which recent District economic development policies have tried to nurture.

4. The revenue impacts of a smoking ban would be especially severe for the District, both because the District tax revenue is particularly dependent on the hospitality sector and because it is easy for District restaurant and bar patrons to take their business to the firmly pro-tobacco jurisdiction just across the river and conversely Virginia smoking residents may well stay there rather than cross the river to dine in DC.

5. Certainly no ban should be instituted in the District so long as adjoining jurisdictions permit smoking. A prohibition in the District while choice is still available in Virginia will simply drive District patrons to Arlington – a short cab ride or Metro hop away.

6. RAMW believes as stated so succinctly in Marc Fisher’s recent column in *The Washington Post*, “...a list of eateries that have voluntarily gone smoke-free; now up to 194 spots, is a powerful argument for letting the marketplace solve the problem.” Thus, a legislated smoking ban is not necessary. As more restaurant and bar patrons become non-smokers, more smokefree venues will open – a trend already evident in the

7. The extent of the health impact of secondhand smoke experienced in restaurants and bars is in dispute. Restaurants and bars are far better ventilated than the homes to which a ban on public smoking would force smokers.

8. The claim of ban supporters to speak for hospitality industry workers is false. Workers do not advocate a smoking ban. The majority of those who testified at the December 3 hearing argued for the right to choose their work environments themselves. There are many completely non-smoking venues in the District for those who prefer to work in smoke-free

9. The smoking ban legislation ignores impact of smoking bans on neighborhood quality-of-life. Reports on New York City's smoking ban show the unintended consequences of a ban with increased sidewalk congestion, litter, and noise as patrons of restaurants, clubs, and bars step outside to smoke, creating not solving more problems.

10. The smoking ban is life style legislation dressed up as worker protection legislation. The American experience with attempts to change life style choices through legislation shows that these initiatives are both costly and ineffective.

11. Experience shows that life style legislation does not change behavior and in fact increases lawlessness: New York, Ireland and Italy report the emergence of ‘smoke-easies,’ massive civil disobedience and an increased disrespect for the law.

12. The driver behind the smoking ban proposed for the District is not District workers, or

District worker health, but rather the national agenda of the Robert Wood Johnson Foundation which is seeking to achieve a public relations coup by winning a smoking ban in the nation's capital. The Foundation's policy campaign (which it has supported in the District through a \$250,000 grant to Smokefree DC) does not take account of District economic, revenue, or quality-of-life concerns.

13. In evaluating the proposed legislation, the Committee on Finance and Revenue should take the time necessary to thoroughly and accurately evaluate the economic and revenue impacts for the District of a smoking

ban. In this regard, New York City's experience with its smoking ban, including documented drop in bar and nightclub business, is worth review.

14. This is a business decision that should not be legislated, it is a question of personal responsibility and freedom of choice and it has been proven to be disastrous for the hospitality industry, with the national profit margin average for restaurants at only 4%, any fall off in business could precipitate a restaurant's closure.

15. Margot Machol, former FTC commissioner and staff director of President Reagan's

Council of Economic Advisors, in a “Close to Home”

*Washington Post* article has some commonsense solutions to the “problem” of smoking and restaurants - internet and restaurant signage with: “Smoking prohibited, Smoking allowed, Smoking in bar only, Smoking and no-smoking rooms.” As she states, “I detest smoking, but I also dislike government intervention in people’s personal lives.”

While RAMW lauds your efforts to reach some type of compromise on this issue, our members have expressed concerns on the high cost of the mandated ventilation equipment as proposed in the bill. To reiterate, the average profit margin for restaurants nationally is only 4% and with the high cost of doing business in the District any increase in operational budgets is cause for concern.

RAMW respectfully is open to continued dialogue with the goal of maintaining freedom of choice on the smoking issue and we urge the Council to consider a fair and equitable approach on this matter.