

Should cigarettes be banned in public places?

Many governments in North America and Europe have moved toward a ban on cigarette smoking in public places, or are planning to do so. Defenders of this approach¹ argue that second-hand tobacco smoke causes health risks for non-smokers, who should be protected through a ban on smoking in public places. This leads to major economic considerations. An economic approach is needed for a full assessment of the relevance of such measures.

We will assume here that second-hand smoke is as dangerous as the Quebec government asserts and that it causes about 359 deaths per year in Quebec.² We will examine the issue strictly from the economic standpoint of individual choice, leaving the biological and epidemiological aspects to medical experts.

The economic approach

The economic approach is concerned mainly with analyzing the social consequences of individual choice and with asking to what extent consumers receive the goods and services they want and are willing to pay for. Individuals make choices each day based on their preferences. These choices frequently involve uncertainty and risk.³ It is important to note that individuals are involved in all sorts of social interactions that involve risks, often greater than the risks from second-hand smoke, because the advantages they expect to gain from the activity in question are greater than the costs and risks involved. Thus, from an economic standpoint, it would be absurd to conclude there is a need to prohibit an activity just because it may present certain risks.

As Figure 1 shows, the risks from second-hand smoke as estimated by the Quebec government are relatively small. Sexual



relations are more dangerous than second-hand smoke, with 414 persons dying annually of AIDS. Traffic accidents cause 685 deaths, twice as many as second-hand smoke. Flu and pneumonia, which are often spread and caught in public places, account for 1,368 deaths per year, or four times as many as second-hand smoke. The risk of dying from an accidental injury is five times higher than the risk from second-hand smoke.

Another characteristic of the economic approach is that it looks into the means of reconciling choices based on differing individual preferences, for example between people who like to smoke and those who prefer to avoid second-hand smoke. Economic analysis shows that, in most cases, basic institutions such as property rights and contractual freedom provide more effective solutions than bureaucratic rules in satisfying preferences and making individual choices more compatible.⁴

It should be understood that most of the places regarded as “public” are in fact private places opened to the public by their owners for commercial purposes. At this point it clearly becomes relevant to consider the role of property rights.

1. This is the Quebec government approach. See for example Ministère de la Santé et des Services sociaux du Québec, *Pour notre progrès vers un avenir sans tabac. Développement de la législation québécoise contre le tabagisme. Document de consultation*, Quebec: January 2005.

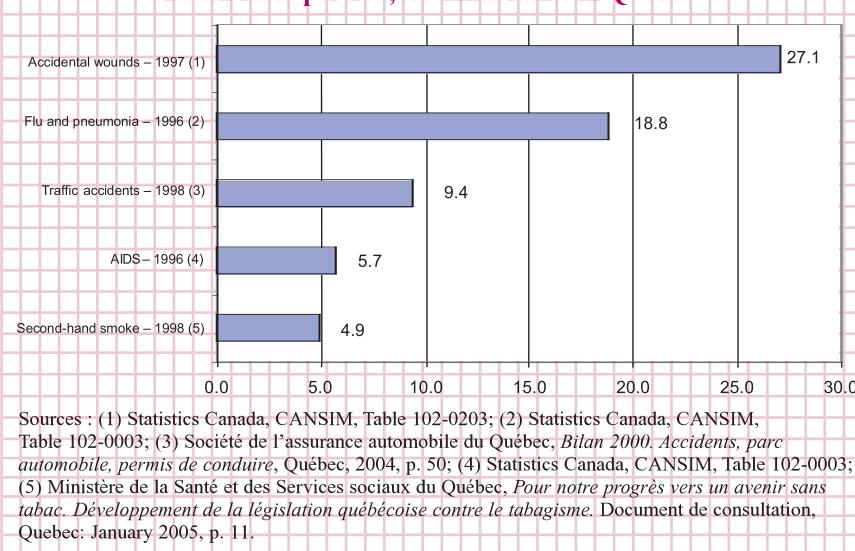
2. Ministère de la Santé et des Services sociaux du Québec, *ibid.*, p. 11; 1998 figure.

3. An entire economic literature on risky choices has developed since the classic article by Milton Friedman and L.J. Savage, “The Utility Analysis of Choices Involving Risk,” *Journal of Political Economy*, Vol. 56, 1948, pp. 279-304. On the subject of tobacco in particular, see W. Kip Viscusi, *Smoking: Making the Risky Decision*, Oxford: Oxford University Press, 1992.

4. See Pierre Lemieux, “The Economics of Smoking,” *The Library of Economics and Liberty*, June 28, 2000, at <http://www.econlib.org/library/Features/feature5.html>.

Figure 1

Death rates per 100,000 inhabitants in Quebec



To illustrate this, we will apply economic analysis to the case of restaurants and other private businesses, on the one hand, and to workplaces, on the other hand.

The inefficiency of smoking bans

Let us suppose that a person or group of persons decide to open a restaurant or some other type of establishment intended for adult customers who are smokers and that this restriction is clearly marked outside the establishment. The sign could indicate an implicit contractual agreement: customers who choose to enter this spot recognize that they face the risks connected with the presence of second-hand smoke and agree that the establishment will not be held responsible in this regard. Not only would customers of the establishment each be informed of the risks they face but, as smokers, they may prefer precisely this type of establishment. An arrangement of this nature is also an economically efficient solution because all the parties concerned find what they are looking for, based on their preferences.

We should note that non-smokers would not be forced to enter a restaurant “for smokers only”: they could bring their business to smoke-free restaurants. This option would not be available only if there were not enough non-smokers able or willing to support smoke-free restaurants. Non-smokers form three-quarters of the

population. In addition to being a minority, smokers are statistically less wealthy and less educated than non-smokers,⁵ leaving no doubt that non-smokers can get their preferred conditions on the market. There are thousands of entrepreneurs who seek to make money by responding to unmet needs. If smokers are willing to support restaurants for smokers, why should non-smokers not do the same for their own restaurants?

Now let us suppose a non-smoker chooses to dine in a restaurant for smokers only because he considers that the advantages of this restaurant outweigh the risks he faces. Individuals often make choices of this sort when, for instance, they go out and meet people during a flu epidemic. Prohibiting a restaurant owner from welcoming this non-smoker would violate their contractual freedom and the principles of economic efficiency.

We can conclude that there is no reason to forbid restaurants “for smokers only,” nor is there reason to prohibit them from welcoming non-smokers who choose to enter. To meet the needs of different customer groups, we would expect to find a variety of establishments: for non-smokers, for smokers and for both. This type of system reconciles different and sometimes conflicting individual preferences, in a spirit of diversity and without coercion.

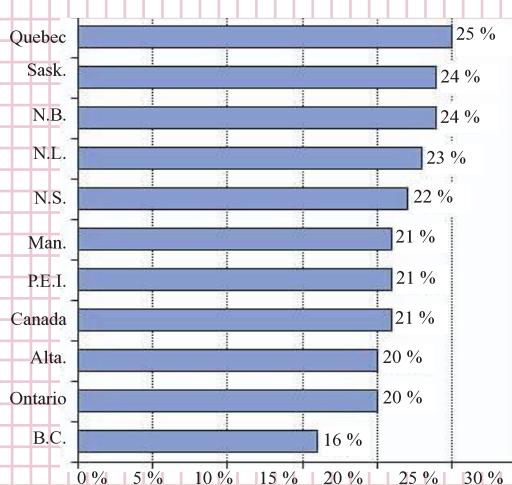
Property rights and contractual freedom provide more effective solutions than bureaucratic rules in satisfying preferences and making individual choices more compatible.

Given the number of non-smokers who, it may be assumed, prefer nowadays to frequent smoke-free businesses, one would expect such establishments to proliferate to a greater extent than was the case in the free-wheeling times preceding the recent adoption of coercive measures such as the 1998 Quebec law. If there are no regulatory obstacles, the market adapts fairly rapidly to consumer demand.

5. This fact is recognized in developed countries: see, for example, World Bank, *Curbing the Epidemic. Governments and the Economics of Tobacco Control*, Washington, 1999, pp. 15-16; and Health Canada, *Canadian Tobacco Use Monitoring Survey, February - December 2003*, Table 9, at <http://www.hc-sc.gc.ca/hecs-sesc/tabc/recherches/esutc/2003/09.html>. Also see Peter L. Berger, “A Sociological View of the Antismoking Phenomenon,” in Robert D. Tollison (directed by), *Smoking and Society: Toward a More Balance Assessment*, Lexington: Lexington Books, 1986, pp. 235-240.

Figure 2

Proportions of smokers in Canadian provinces, 2003*



* Daily smokers and occasional smokers

Source : Health Canada, *Canadian Tobacco Use Monitoring Survey, February – December 2003*, Table 2, at <http://www.hc-sc.gc.ca/hecs-sesc/tabac/recherches/esutc/2003/02.html>.

This explains the existence of smoke-free restaurants even though restaurants for smokers are not prohibited. A consultants' study conducted in 1997 for the Quebec government indicated 300 restaurants in Wisconsin that had adopted a voluntary policy banning cigarettes,⁶ evidently in response to market demand. Lists of smoke-free restaurants in areas where they are not required by law can be found on the Internet.⁷

On the other hand, a total smoking ban may affect establishments known to be frequented by smokers. According to a study that examined several Ontario cities (Ottawa, London, Kingston and Kitchener) after smoking bans were imposed, sales at bars and pubs were 22.5% lower than they would have been without the new rules.⁸

The situation in Quebec

Why did so few smoke-free restaurants exist before coercive laws were introduced in Quebec and across Canada? Because any restaurant owner was free to ban smoking, and because anyone had the right to open a smoke-free restaurant, it may be deduced that a majority of non-smokers could accommodate

themselves to the presence of smokers, often seated in separate sections. An investigation by the Conference Board of Canada, cited in the above-mentioned government study, looked into the experiences of 66 restaurants in Canada that had adopted voluntary tobacco bans.⁹ In Quebec, at the time of the 1998 tobacco bill, the government study suggested that 38% of Quebec restaurants already had policies regulating tobacco use.¹⁰ This even included 5% of the restaurants in the sample that had voluntarily set up enclosed spaces for smokers.¹¹

Figure 2 indicates, however, that traditional differences in tobacco consumption between Quebec and the other Canadian provinces have not vanished. Quebec has a higher proportion of smokers, almost 20% more overall, than the Canadian average.

The market could adapt to these differences with little difficulty, certainly better than regulations that run roughshod over the preferences of part of the Quebec public. In a SOM poll, for instance, more than 50% of adult respondents in Quebec said they were slightly or not at all bothered by second-hand smoke in restaurants and over 53% felt the same way about other public places.¹²

To meet the needs of different customer groups, we would expect to find a variety of establishments: for non-smokers, for smokers and for both.

Smoking in the workplace

The same arguments apply to workers (owners or wage-earners) at establishments that choose to accept smokers. We can take the example of a person who opens a restaurant for smoking customers or customers willing to accept second-hand smoke. The owner ensures that all job applicants are warned and aware they will be working in an environment with smoke and that they are willing to accept this risk (in addition to the other risks related to their trade). If this risk is real, significant and recognized as such, it will lead to a wage premium for those working in restaurants for smokers, with this premium compensating them for the risk they are incurring.

6. Pierre-Yves Crémieux *et al.*, *Projet de loi sur le tabac proposé par le ministre de la Santé et des Services sociaux du Québec*, Étude d'impact, Montreal, July 1997.

7. See for example <http://www.tobacco.org/resources/general/dining.html> *detobacco.org*.

8. Michael K. Evans, *The Economic Impact of Smoking Bans in Ottawa, London, Kingston and Kitchener, Ontario*, Evans, Carroll & Associates, February 2005.

9. Conference Board of Canada, *The Economics of Smoke-Free Restaurants*, March 1996.

10. Pierre-Yves Crémieux *et al.*, *op.cit.* Municipal regulations also regulated tobacco use in some places.

11. *Ibid.*

12. SOM poll, *Étude d'opinion relative au tabagisme et à la fumée secondaire*, presented to the ministère de la Santé et des Services sociaux du Québec, January 2004, available at <http://www.msss.gouv.qc.ca/sujets/santepub/pdf/FTEjanv2004.pdf>.



The existence of risk premiums in job remuneration is a well documented phenomenon in economics.¹³ For example, it has been estimated that, between 1992 and 1997, male workers in the United States obtained US\$60 more per year for each increase of 1:100,000 in the risk of death at work during the year.¹⁴

There exists no economic principle justifying a prohibition on adult workers making this type of choice. Moreover, some workers who smoke would be likely to prefer a work environment where they can smoke, and they would naturally gravitate toward restaurants (or other businesses) for smokers. Workers who do not like tobacco smoke would obviously be free to work in smoke-free establishments.

The idea that some workers would be “forced” to work in second-hand smoke is not defensible, for there is no law creating such an obligation. It is true that most people must work to live, and most agree to employment conditions that are not ideal and that often involve risks. The eventual risk of second-hand smoke is just one risk among many.

Moreover, insofar as there exists demand among workers for a tobacco-free environment, companies would provide it. In 1997, before the tobacco law of 1998, an investigation conducted for the Quebec government showed that half of companies already had tobacco control policies, and more than half of these companies prohibited smoking outright.¹⁵ Many of the companies that imposed restrictions – such as smoking only in the smoking room – did it of their own free will since only a few sectors were hit with restrictions or prohibitions, whether under federal (e.g., finance) or provincial (e.g., health and education) jurisdiction.

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Conclusion

From an economic standpoint, all preferences are respectable. Even an anti-tobacco economist such as Kenneth Warner admits that “tobacco consumption produces utility for some members of society, and that this utility warrants recognition (and perhaps some respect) in planning optimal tobacco control policy.”¹⁶

We should note that, in this perspective, it is not a matter of promoting “the right to smoke anywhere,”¹⁷ as a Quebec government document suggests. The economic approach simply suggests that it is not up to the government to impose on some individuals the life choices that other individuals may prefer while attacking market institutions (property rights and contractual freedom) that are more likely than regulation to reconcile individual preferences.

13. In the most recent literature, see W. Kip Viscusi, “The Value of Life: Estimates with Risks by Occupation and Industry,” *Economic Inquiry*, Vol. 42, No. 1 (January 2004), pp. 29-48; and W. Kip Viscusi and J.E. Aldy, “The Value of a Statistical Life: A Critical Review of Market Estimates Throughout the World,” *Journal of Risk and Uncertainty*, Vol. 27, No. 1 (August 2003), pp. 5-76. This latter article examines a large number of econometric studies related to risk premiums. See also J.R. Lott and R.L. Manning, “Have Changing Liability Rules Compensated Workers Twice for Occupational Hazards? Earning Premiums and Cancer Risks,” *Journal of Legal Studies*, Vol. 29 (2000), pp. 99-128.

14. W. Kip Viscusi, “The Value of Life: Estimates with Risks by Occupation and Industry,” *op.cit.*, pp. 40 and after.

15. Pierre-Yves Crémieux *et al.*, *op.cit.*

16. Kenneth Warner, “The Economics of Tobacco and Health: An Overview,” in Iraj Abedian *et al.* (directed by), *The Economics of Tobacco Control: Towards an Optimal Policy Mix*, Cape Town: University of Cape Town, 1998, p. 71.

17. Ministère de la Santé et des Services sociaux du Québec, *op.cit.*, p. 17.

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Printed in Canada

Illustration : Benoit Lafond
Graphic Design : Valna inc.