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No Smoking in the Castle

by Sam Kazman



Source: www.fromoldbooks.org

Are Smokefree Zones Swallowing Our Homes?

(Not to Mention Our Sidewalks, Our Bars, Our Cars, and the Rest of the Universe)

Firsthand.

Secondhand.

Thirdhand.

Are these rounds in a poker game? Different degrees of gossip reliability?
Various grades of quality for clothes in a consignment shop?

The correct answer is all of the above, and more. These are different types of tobacco smoke, and they've come to epitomize the progressive stages of a regulatory program that accomplished its objectives a decade ago... but now keeps growing and growing.



What began as a medical safeguard, valid or not, quickly turned into a tool of social engineering from which, literally, there is no place to hide.

Firsthand smoke, obviously, is what smokers breathe in directly. Secondhand smoke is what other people breathe in from the lit cigarettes and exhalations of smokers. Thirdhand smoke, a new concept, is what secondhand smoke leaves on clothing, furniture, and other surfaces.

By the way, it doesn't end there. There's also *fourthhand* smoke—but that's something we'll get to later.

Healthwise, firsthand smoke is the riskiest. The medical hazards of cigarette smoking are well established and well known. In fact, they're so well known that adults who smoke are justifiably viewed as willingly taking those risks. In a free society that respects individuals, that should end most political battles over smoking: let's prohibit kids from lighting up, punish whoever sells or markets cigarettes to them... and let grown-ups live their lives as they please.

Unfortunately, it hasn't quite worked out that way. Yes, adults can smoke, but they're constantly bombarded by higher taxes, more restrictions on the products available to them, more limits on advertising, and more rules on where they can light up.

THE SMOKE-FREE ZONE SWALLOWS YOUR HOME

So, will there come a day when you won't even be able to smoke in the privacy of your home?

You can stop wondering. There are already places in California where that's exactly the case. In fact, in the piously smokefree world of tobacco politics, bans on smoking in your home may become the newest trend. Loma Linda ("the first 'smoke-free' city in San Bernardino County"!) bans smoking in most of its motels and apartments. Belmont requires no-smoking provisions in the leases of new and renewing apartment tenants. By 2012, Calabasas will require that 80 percent of its apartment buildings be smokefree.

Perhaps you figure that, if you happen to live in one of

these no-smoking apartments, then, at worst, you can take a walk outside and light up. Not so fast. Smoking in parks is banned in a number of cities around the country, including Los Angeles and San Diego (the latter of which also bans smoking on beaches). Sidewalk smoking bans are starting to appear as well, in places like Berkeley and the above-mentioned Calabasas, which bans smoking in practically all public places. The Calabasas ordinance has been described as the "strictest smoking ban in the United States"—and you've got to admire its authoritarian succinctness: "*Except as otherwise provided by this chapter or by state or federal law, smoking is prohibited everywhere in the city...*"

Okay, then, how about a drive instead? That you can probably do—as long as you don't have your kids with you. At least three states have already banned smoking in cars in which minors are riding, and many others are considering proposals to do so.

These are not quaint local policies; they're being pushed by the federal government as well. In July of 2009, the US Department of Housing and Urban Development issued a formal notice urging public housing authorities around the country to start making their apartment buildings smokefree. The US Environmental Protection Agency has injected the issue into the Head Start school readiness program ("Smoke-free Homes for Head Start Children"). If your kids aren't in Head Start, you can still get a free four-color certificate—the "Smoke-Free Home Pledge"—from the EPA's Web site, on which you can officially promise "to protect my children from the health risks from secondhand smoke by making my home and car smoke-free."

Does the thought of all these restrictions make you want to sit down somewhere and have a drink? If so, you'll have to be really careful—over 30 states ban smoking in restaurants and bars.

SECONDHAND SMOKE RISES, POLITICALLY

These restrictions are, for the most part, driven by a single issue—the risks of secondhand smoke (SHS). If SHS really is as deadly as some antitobacco activists claim, then just a few whiffs of it would put nonsmokers in mortal danger. It's one thing for smokers to willingly accept the risks of tobacco, but it's quite another for them to subject unwilling bystanders to a mortal hazard.

According to the surgeon general, SHS is extremely dangerous. A 2006 surgeon general's report claimed that SHS was responsible for 50,000 deaths per year among nonsmokers, and that it increased a host of other risks as well, ranging from sudden infant death syndrome (SIDS) to ear infections and asthma. The report's slogan was, "It hurts you. It doesn't take much. It doesn't take long."

The report energized a major new push by antitobacco groups for wide-ranging bans on smoking in both public and private facilities. In March of 2010, the *British Medical Journal* called for smoking bans not just in apartments but in *all* homes containing children. (For you smokers who thought you could find sanctuary in detached homes, your days too might be numbered). In the journal's view, such a ban would not only protect children medically, it would serve the supposedly vital social function of reducing "the likelihood that adolescents will start to smoke and progress to regular smoking."

Thus we see how what began as a medical safeguard, valid or not, quickly turned into a tool of social engineering from which, literally, there is no place to hide. And just as the alleged protection of children was an essential element of the antitobacco regulatory wave of the 1990s, it continues to be an element of this second wave as well. Children grow up, but the politicians who use them evidently don't.

While the surgeon general's slogan may be snappy, the report has come in for serious criticism. For one thing, the increased risk that he reported for chronic diseases was suspiciously low. According to Dr. Elizabeth M. Whelan of the American Council on Science and Health, herself a strong critic of the tobacco industry, using this low increased

risk to predict deaths from SHS was "supposition on top of speculation."

Moreover, a number of studies have found little correlation between exposure to SHS and serious medical risks. In 1998, a federal court ruled that the EPA's finding of SHS risks was based on "cherry picked" data and a statistical confidence level that had been arbitrarily lowered.

The surgeon general's report generated widespread claims that even a few minutes of exposure to SHS could cause hardening of the arteries and reduced blood flow. But Dr. Michael Siegel of Boston University's School of Public Health has long criticized the exaggerations of many antitobacco groups despite his own career in tobacco control, and views this as sheer nonsense. Brief exposure to SHS might cause physiologic changes in cells, but those same changes can also occur merely from eating a high-fat meal. According to Dr. Siegel, they're "not clinically meaningful unless a person is exposed repeatedly to secondhand smoke for many years."

More importantly, the report's contention that there is no safe level of SHS violates a basic principle of toxicology—that the dose makes the poison. Practically everything we inhale or ingest (oxygen, water, vitamin C...) is harmful at a high enough dose, but one can't use that as the basis for claiming that these substances are harmful at *every* dose. In Dr. Whelan's words, "what is most alarming here is that the top doctor in the land is communicating a message that anything that is harmful at high dose can be lethal at low dose—when that is simply not true."

The surgeon general is far from the only one engaging in this hype. Michael Bloomberg, mayor of New York City, claimed that, under his sweeping restaurant smoking ban, "something like a thousand people will not die each year," an assertion that Dr. Whelan branded as "patently absurd."

There's similar hype in the campaign to ban smoking in cars that contain kids. For example, it's often claimed that the confined space of a vehicle makes SHS even more lethal than usual. According to one frequently cited statistic, SHS is "23 times more toxic in a vehicle than in a home." But according

Customers, be they diners or tenants, have choices and proprietors
have strong incentives to satisfy those customers.
Is politics really necessary here?

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to a recent report in the *Canadian Medical Association Journal*, this is one of those fake statistics that pops up out of nowhere and then spreads like wildfire. One of the report's authors states: "In a subsequent exhaustive search of the relevant literature, we failed to locate any scientific source for this comparison." He goes on to warn that, "given that the issue of banning smoking in cars is gaining traction internationally, use of this media-friendly tobacco control 'fact' presents potential problems of credibility."

Another critic, pulmonologist Jerome C. Arnett Jr., states that the surgeon general's SHS report "reminds us that one ongoing peril for citizens is being misled by government bureaucrats seeking to expand their power." That's putting it mildly.

PROPERTY RIGHTS INSTEAD OF GOVERNMENT MANDATES—A BETTER APPROACH

Even if we accept, for the sake of argument, that SHS poses serious risks to most people, there's a far better way to deal with those risks than through politics. SHS has an extremely important characteristic—you can smell it. And for that reason, you can easily avoid it; if you walk into a restaurant and there's too much of it, you can leave.

So, how we handle SHS depends on a very basic question: Whose property is involved? If it's your property, you've obviously got a wide array of choices. A guest in your home who smokes? Easy—you can put up with it, ask him to do his smoking outside, or (if he declines) send him packing.

A boomerang kid who picked up smoking while at college and is now back home living with you? Also easy; it's your place and you set the rules.

A spouse or significant other who smokes? Maybe not so easy, but still doable. The two of you work it out, or... you don't. If the issue is important enough, perhaps the relationship fails.

In all of these cases, SHS is treated much like any other issue where one person's behavior affects another person.

Now let's make things a bit more complicated: Suppose you don't live in a single-family detached home, but in an

apartment, condo, or co-op, and the units aren't airtight. Your neighbors may not like the smell of your smoking, or you might not care for theirs. What then?

Well, there are lots of activities in these buildings that might bother other occupants, such as parties, loud music, and pets. For that very reason, institutional arrangements have been developed. Condos and co-ops have governing documents and bylaws, and boards that implement them, while apartment buildings have leases and landlords. All of these are aimed at keeping members and tenants happy, and at protecting the property values of the buildings. Some places will be stricter than others, and they'll attract people who prefer things that way. Other buildings will cater to a different crowd. No doubt there'll be disputes in many cases but, in the end, things work out pretty well, especially in comparison to the alternative—a city council, state government, or federal agency (with no stake in the building) deciding that it knows the best approach and then imposing it on an across-the-board basis.

Consider restaurants, venues where smoking bans are extremely common. Restaurants have a relatively high failure rate; about 60 percent of new restaurants close within five years of starting up. Most restaurant owners, I suspect, bust their butts to succeed, and they succeed by pleasing their customers. Some of those customers like to smoke in restaurants while others hate SHS. And still others simply don't care.

Every restaurant owner is going to try to attract and satisfy customers as best he can. Absent government involvement, some will do so by allowing smoking, some by setting up special smoking or no-smoking areas, and some by prohibiting smoking altogether. (Some, perhaps, will take comedian Denis Leary's suggestion for a restaurant with *two* smoking sections—regular and ultra). With choices like this, just how is the public better served by a government-imposed ban on smoking in restaurants?

Bans are often justified as protecting restaurant staff as well as patrons, but workers are roughly in the same position as customers, as the presence or absence of SHS will be one factor helping to determine where they choose to work and how much they accept in wages.

In short, these are situations where customers, be they diners or tenants, have choices and where proprietors have strong incentives to satisfy those customers. Is politics really necessary here?

BUT WAIT, THERE'S MORE!

While SHS was the driving force behind the spread of smoking bans, a new factor has been added in the last few years—thirdhand smoke. This refers to what's left after SHS clears, or, in the poetic words of the *New York Times*, “the invisible yet toxic brew of gases and particles clinging to smokers' hair and clothing, not to mention cushions and carpeting, that lingers long after second-hand smoke has cleared from a room.” The term was coined in a widely publicized study in the medical journal *Pediatrics* in 2009.

Thirdhand smoke has quickly become yet another rationale for regulation, in some ways even stronger than SHS. After all, SHS eventually dissipates, but thirdhand smoke allegedly hangs around and pollutes everything. According to the study's lead author, when you smell the stale odor of old smoke in a hotel room or on a smoker who finished his cigarette a while ago, “your nose isn't lying. The stuff is so toxic that your brain is telling you: ‘Get away.’”

That's a pretty questionable criterion. I knew lots of guys in high school who deliberately passed gases that made me want to “get away,” but I never regarded them as toxic. Nor did I view my young kids as toxic when I changed some especially bad diapers. Nonetheless, according to this scientist, smokers are “contaminated” and “actually emit toxins” to which children, due to their developing brains, are “uniquely susceptible.”

Despite all the publicity given to this study, it actually provides no support for these claims, as it contains no epidemiological or toxicological research whatsoever. Instead,

it takes as gospel the surgeon general's questionable claim that “there is no safe level of exposure to tobacco smoke,” and then presents the findings of a telephone survey on the public's views of the risks of SHS and thirdhand smoke! That's the study... *period*. Any doubt of the authors' political agenda is dispelled by their conclusion: “Emphasizing that thirdhand smoke harms the health of children may be an important element in encouraging home smoking bans.” (Perhaps if President Obama had been one of their coauthors, they would have picked up a Nobel Prize in medicine.)

SMOKERS BECOME CHILD ABUSERS?

SHS opened the door, literally, for government intrusion into our homes. But it doesn't end there because SHS is also becoming a tool for the expanded regulation of family life as well. In the eyes of many antitobacco activists, the dangers of SHS and thirdhand smoke mean that smokers are not fit to be parents.

One national group, Action on Smoking and Health, claims that smokers are “polluters” who “kill thousands of their own children every year.” Smokefree Pennsylvania, another organization, contends that “repeatedly exposing a child to hazardous tobacco smoke pollution is child abuse.”

These claims, outrageous as they may sound, are making an impact. We may not be hearing calls for forcibly sterilizing smokers, but smoking is becoming a factor in child-custody battles, foster home placements, and adoptions. In Scotland, one child-welfare agency threatens to actually *remove* foster children from parents who fail to stop smoking in their homes.

Parental promises to smoke only outdoors do little to change things in such cases. The parents will still be seen as poor role models for their children, and as “contaminated” with thirdhand smoke.

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Yet consider how these so-called risks to children compare with other, more politically correct risks. Minicars, for example, are touted as environmentally friendlier than large cars. Because of their size, however, they're far less crashworthy, with an occupant death rate of three times that of larger vehicles. Are there any child-welfare agencies threatening to punish parents who put their kids in a Smart Car?

More fundamental is the fact that a child in a smokefree orphanage is far worse off than a child with parents who are smokers. Dr. Michael Siegel points out that SHS is only one of many factors affecting child welfare, and it's by no means the top one. According to him, what really counts is that a child is cared for by parents and a family. "And frankly, the fact that many policy makers, antismoking groups and advocates fail to have any perspective on the relative importance of the two is unfortunate," he writes. "How they could believe that removing children from a family to protect them from secondhand smoke exposure is in the best interests of the child is absolutely beyond my comprehension."

FOURTHHAND SMOKE: THE LAST FRONTIER?

As surely as four comes after three, the next stage in this progression from firsthand smoke should be fourthhand smoke. Do a bit of searching on the Web and you'll see that it's already arrived. But it's limited, thankfully, to jokes. My favorite: fourthhand smoke is what happens when I listen to someone complain about all the second- and thirdhand smoke at the bar they went to last night.

Here's hoping it doesn't go any further than that. **CM**

Sam Kazman is general counsel of the Competitive Enterprise Institute (www.cei.org), a free-market advocacy organization in Washington, DC.

