



**State of Minnesota  
Department of Finance**

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February 21, 2007

**To:** Representative Lenczewski, Chair  
Representative Simpson  
Senator Bakk, Chair  
Senator Ortman

**From:** James Schowalter   
Assistant Commissioner

**Re:** Local Impact Note – **HF 305/SF 238 (Huntley/Sheran)**  
**The Freedom to Breathe Act of 2007**

On February 2, the Department of Finance received a request to prepare a local impact note on HF 305, a bill to expand the statewide prohibition on smoking in public places to include bars and restaurants with some exceptions. We have completed our analysis and a copy of the note is attached.

Local impact notes are similar to the fiscal notes that you are familiar with, but they focus on the fiscal impact of proposed legislation on local governments rather than the State. This process is described in Minnesota Statutes 3.987 and 3.988. This statute requires the Department of Finance to gather and analyze information on local costs of legislation when requested by the chair or ranking minority member of either tax committee.

This local impact analysis is based on HF 305 as introduced. It divides potential costs or benefits to local governments between direct and secondary. The direct costs to local governments as a result of this legislation would be enforcement costs. Possible secondary costs or benefits from a statewide ban on smoking in bars and restaurants would include changes in sales tax receipts, decreased local gambling revenues, and border effects. All of these secondary effects are related to unpredictable behavioral changes that cannot be objectively and accurately analyzed. Therefore, these possible secondary effects are discussed in this analysis, but not quantified.

To complete this local impact note, we contacted fifteen cities and counties that already prohibit smoking in restaurants and/or bars. Three cities and two counties responded to our request for information. We asked these communities about the direct costs associated with

enforcing smoking bans in their jurisdictions. From there responses, it appears that costs to local governments for enforcing such a ban are minimal.

This local impact note is a mix of quantitative and qualitative information that we hope will help inform the legislative discussions on this bill. If you or your staff has any questions regarding this local impact analysis, please contact Alexandra Broat, Executive Budget Officer at 651-201-8026.

#### Attachments

cc: Representative Huntley  
Senator Sheran  
Legislative Staff (email)



**State of Minnesota - Local Impact Note**  
 Department of Finance with the  
 Local Mandates Advisory Committee

**February 21, 2007**

**Freedom to Breathe Act  
 of 2007**

H.F. 305 (Huntley)  
 S.F. 238 (Sheran)

<b>Local Fiscal Impact</b>				
Net Expenditure Increase/Revenue Loss or (Expenditure Decrease/Revenue Gain) Dollars in Thousands, State Fiscal Years				
	<u><b>FY 2008</b></u>	<u><b>FY 2009</b></u>	<u><b>FY 2010</b></u>	<u><b>FY 2011</b></u>
<b>Statewide:</b>	<i>minimal</i>	<i>minimal</i>	<i>minimal</i>	<i>minimal</i>

<b>Breakdown of Direct Costs by Category</b>	<u><b>FY 2008</b></u>	<u><b>FY 2009</b></u>	<u><b>FY 2010</b></u>	<u><b>FY 2011</b></u>
Enforcement Costs:	<i>minimal</i>	<i>minimal</i>	<i>minimal</i>	<i>minimal</i>
<b>TOTAL</b>	<i>minimal</i>	<i>minimal</i>	<i>minimal</i>	<i>minimal</i>

**Local Governments Contributing:**

**Counties:** Hennepin, Olmsted  
**Cities:** Bloomington, Duluth, Minneapolis

**EXPLANATION OF BILL**

The Freedom to Breathe Act of 2007 (HF 305/SF 238) expands the statewide prohibition on smoking in public places to include restaurants and bars with some exceptions. Violating the provisions of this bill would result in a misdemeanor for business owners and a petty misdemeanor for a person smoking in a prohibited area.

**LOCAL IMPACT ANALYSIS SUMMARY**

This analysis looks at the potential costs HF 305/SF 238 would have for local units of government in Minnesota that do not currently prohibit smoking in bars and/or restaurants. Seventeen communities, or 39.5% of the state's population, are already covered by a smoking ban in bars and/or restaurants. Table 1 below provides a list of these communities, their populations, and what type of ban they have adopted.

A statewide ban on smoking in bars and restaurants would have potential direct and secondary costs and/or benefits to local units of government in Minnesota. The direct costs to communities that do not currently have smoking bans would be the enforcement costs and revenues associated with this bill. All of the other potential costs or benefits to local jurisdictions would be secondary. These secondary effects cannot be accurately and objectively analyzed since they are

the result of unpredictable behavioral changes. This analysis attempts to estimate the direct costs that local governments would incur as a result of HF 305/SF 238 and provides a discussion of potential secondary effects this legislation would have on Minnesota communities.

**Table 1: Minnesota Communities with Smoking Bans**

Community	Restaurants	Bars	Effective Date	Population
Cloquet	X		9/7/2001	11,201
Duluth	X		1/1/2004	85,734
International Falls	X		11/11/2005	6,703
Mankato	X	X	8/1/2006	33,925
Moorhead	X		12/15/2004	32,786
Moose Lake	X		8/1/2000	2,239
Hennepin County	X	X	1/3/2006	1,119,364
Bloomington	X	X	3/31/2005	
Minneapolis	X	X	3/31/2005	
Golden Valley	X	X	3/31/2005	
Ramsey County	X		3/31/2005	494,920
St. Paul	X	X	3/31/2006	
McLeod County	X		8/1/2006	36,636
Hutchinson	X	X	6/1/2007	
Beltrami County	X	X	12/1/2005	42,871
Meeker County	X	X	9/10/2005	23,371
Olmsted County*	X		1/1/2002	135,189
<b>Total Population Affected</b>				<b>2,024,939</b>

Notes: Counties are shaded. Population estimates from the U.S. Census Bureau

\* Olmsted County has adopted a smoking ban in bars effective 6/1/2007

## LOCAL IMPACT ANALYSIS DETAIL

### Direct Costs to Local Units of Government

#### *Enforcement Costs*

To determine the enforcement costs associated with a smoking ban, fifteen Minnesota communities that already have enacted smoking bans were contacted. They were asked how many times they have had to enforce their smoking ban, the penalty for violating the ban, and the costs associated with enforcement. The following local units of government responded: Minneapolis, Bloomington, Hennepin County, Duluth, and Olmsted County.

From the responses received, it appears that the enforcement costs associated with a smoking ban are minimal. For example, Minneapolis estimates that the enforcement costs for implementing the first year of its smoking ban in bars and restaurants totaled \$8,555.15. This calculation was based on a total of 300 hours of city license inspector wages and overhead dedicated to investigating smoking complaints and on-site inspections. Considering Minneapolis is the most populous city in the state, the costs to smaller communities should be minimal.

Olmsted County also stated that complaints regarding secondhand smoke have decreased since their ban on smoking in restaurants was enacted. The other units that responded indicated that few citations were issued for violating their smoking ban. While few smoking ban violations mean smaller enforcement costs for local units of government, they also mean that minimal revenue is collected from penalties. Table 2 below provides more information on the responses from local units of government.

**Table 2: Local Government Responses**

<b>Community</b>	<b>Penalties</b>	<b>Complaints Received</b>	<b>Citations Issued</b>
Minneapolis	First violation is \$200; next are double the previous fine	168	14
Bloomington	Misdemeanor	30	1
Duluth	Maximum fine of \$1,000	Unknown	12
Olmsted County	Administrative and/or misdemeanor process	1	0
Hennepin County	Misdemeanor; adverse license action	Unknown	A few early on; now none

### **Secondary Effects on Local Units of Government**

#### ***Local Government Sales Tax Receipts***

Some argue that smoking bans cause business in bars and restaurants to decline, resulting in decreased sales tax collections in communities with local option sales taxes. Though several research studies have been completed on the effects on smoking bans in bars and restaurants, no conclusive evidence has been found proving that they hurt bar or restaurant sales. A House Research review of economic studies on smoking bans in bars and restaurants concluded that most studies have found no significant decrease in bar or restaurant sales as a result of a smoking ban, though these studies cannot rule out the possibility that some individual communities or establishments may be hurt by such a ban.<sup>1</sup>

The experiences of local governments in Minnesota that have smoking bans in bars and/or restaurants suggest that these bans have not hurt sales in these establishments. Olmsted County has seen a net increase of 75 smoke-free restaurants since its smoking ban in restaurants was enacted in 2002 and Duluth reports increased sales tax revenue from bars and restaurants since its ban took effect in 2004. A study prepared by the Minnesota Institute of Public Health on the economic impact of certain smoking ordinances in Minnesota showed that there was no economic impact on the local economies examined in the report or Minnesota as a whole as a

<sup>1</sup> Hirasuna, Donald, "Review of Economic Studies on Smoking Bans in Bars and Restaurants." Minnesota House Research, March 2006 (p.1).

result of these ordinances.<sup>2</sup> This study was based on a short period of time, though, and did not appropriately control for all factors, such as the condition of the particular local economy. Due to the lack of conclusive evidence nationally or locally on the economic impact of smoking bans, this analysis cannot attempt to estimate the economic impact of a statewide smoking ban.

### ***Local Government Gambling Revenues***

Similar to the sales tax argument, some believe that smoking bans in bars and restaurants cause a decrease in lawful gambling receipts. According to the Minnesota Gambling Control Board, lawful gambling has declined in the last two years in cities and counties where smoking bans have been enacted. At the same time, lawful gambling receipts have been generally declining statewide. Therefore, it is difficult to determine if the decrease in gambling receipts in local jurisdictions with smoking bans is a direct result of a smoking ban or the result of other societal or economic trends.

Local governments in Minnesota are allowed to collect receipts related to gambling in their jurisdictions. Ninety-two local governments in the state collect these revenues. Of this total, twenty-two cities impose a local gambling tax of up to 3 percent per year to cover the costs to regulate gambling. Eighty-one Minnesota cities and counties require an organization to contribute up to 10 percent per year of net profits derived from lawful gambling within their jurisdiction to a fund that the city or county administers. These local governments are only able to spend the funds for lawful purposes, including police, fire, and other emergency or public-safety related services, equipment, and training.

Even if a statewide smoking ban did have an effect on lawful gambling receipts, the statewide impact to local governments would be minimal. For informational purposes, an estimate of the potential impact of this legislation on local gambling receipts has been calculated. The estimate assumes that a statewide smoking ban would result in a 14 percent decrease in gambling receipts to local governments that *do not* currently prohibit smoking in bars. The 14 percent figure was obtained by subtracting the average percentage decrease in gambling receipts in counties without a smoking ban from 2004 to 2006 (6%) from the average decrease in gambling receipts in counties with smoking bans during the same time period (20%).<sup>3</sup> This is a rough estimate that attempts to control for the existing downward trend in gambling receipts regardless of any smoking ban legislation.

To determine the potential impact of this legislation on local gambling receipts, 2005 data on the total local revenues from the gambling tax and local 10 percent funds was used. According to the Minnesota Gambling Control Board's 2006 Annual Report, \$2,066,779 in gambling-related revenues was collected by local governments statewide in 2005. Subtracting the revenues from Minnesota cities and counties that have already enacted smoking bans in bars, the total local revenues from the gambling tax and fund revenues for local governments without smoking bans in bars equaled \$1,368,897 statewide. Using this data and assuming a 14 percent decrease in gambling sales as the result of a statewide smoking ban in bars, this would cost local governments in the state a total of **\$191,646** in lost gambling tax and fund revenues. Regardless

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<sup>2</sup> Bromelkamp, Michael and Dan Stoltz, "A Research Study: The Measurable Economic Impact of Certain Smoke-Free Ordinances in Minnesota." Minnesota Institute of Public Health, February 2007 (p.1).

<sup>3</sup> Counties with smoking bans include Hennepin, Ramsey, Blue Earth, and St. Louis.

of the relationship between smoking bans and gambling receipts, this figure demonstrates that the impact to local governments from prohibiting smoking in bars statewide would likely be minimal.

### ***Border Effects***

Opponents of a statewide smoking ban argue that bars and restaurants in communities that border neighboring states will lose business since those who want to smoke can easily cross over into the other state with looser smoking regulations. This analysis does not attempt to calculate this possible secondary effect, but provides some context to the argument. Currently, North Dakota, Wisconsin, South Dakota, and Iowa are all considering some form of a statewide smoking ban in bars and restaurants. North Dakota already prohibits smoking in all restaurants in the state, while South Dakota prohibits smoking in restaurants that do not sell alcohol. Wisconsin and Iowa have looser bans, allowing smoking in designated areas of restaurants. All four states continue to allow smoking in bars.

It could also be argued that though a statewide smoking ban might negatively affect some border cities, it would help Minnesota communities that have already enacted smoking bans. If the bars and restaurants in these communities had lost business to neighboring communities after enacting smoking bans, they might get this business back in the event of a statewide smoking ban. Depending on the behavior of individuals and neighboring state governments in response to a statewide smoking ban in Minnesota bars and restaurants, border effects could result in a negative or positive fiscal impact to a community or have no impact at all.