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Smoking Bans Are Dangerous to a Free Society's Health

by Thomas A. Firey

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Early next year, the Baltimore City Council and the Maryland General Assembly will likely vote on legislation to ban smoking in all bars and restaurants. If passed, these laws would end the nuisance and clothes-fouling stench of tobacco smoke in public places and reduce the health risks of secondhand smoke.

And yet, the city and state would be wrong to pass them.

Proponents justify a ban by arguing that secondhand smoke is a health risk. But all sorts of human activities are risky - from contact sports to rock climbing, from skiing to swimming, from riding a bike to having sex. Yet many people swim, bike and play football because they take pleasure in doing so, and that's their choice. In a liberal society, people are free to make their own risk and lifestyle choices - including whether to smoke.

Ban supporters respond that smokers inflict harm on other people, including bar and restaurant employees and other patrons. But again, all sorts of activities impose risks on others, and again, those people bear those risks willingly. Rock climbers endanger rescue workers, pool owners endanger lifeguards and patrons, fishing boat captains endanger their crews, and so on. We grant people the choice to be rangers or lifeguards or commercial fishermen. Why shouldn't we allow people to choose to patronize or work in smoking bars and restaurants?

Ban supporters may dispute this, arguing that our society has health and safety regulations to protect people from risk. Smoking bans, they say, are no different than those regulations. But their reasoning is wrong. Most health and safety regulations are justified because they protect people from hidden risks. For instance, government inspects restaurant kitchens because patrons can't. Bars where smoking is permitted are hardly hidden risks.

In fairness, some safety regulations do involve recognized risks, but few of them are outright bans. Coal mining, farming and commercial fishing are all extremely risky jobs and heavily regulated, yet there is no push to ban them. We respect the entrepreneurs' choice to own these businesses and the workers' choice to operate them. If smokers want to smoke in a bar, and an entrepreneur wants to provide that bar, and workers are willing to work there, why shouldn't we accept their choices?

Liberal societies have market economies in part because the pursuit of profit and the threat of competition force the marketplace to provide choices for people with many different preferences. This should include the choice of smoking-allowed and smoke-free bars and restaurants.

The City Council and General Assembly can nurture that choice by requiring all bars and restaurants to determine their own smoking policies. Smoking-allowed establishments can then choose whether to be all-smoking or to have separate smoking and nonsmoking sections. To help consumers identify which establishments cater to their preferences, bars and restaurants could be required to post their smoking policies at their entrances, and they could be penalized for violating them.

A law like that would allow smokers and nonsmokers to enjoy the environments they choose. If most customers prefer a nonsmoking environment, many bars and restaurants will follow the money and prohibit smoking. But other establishments will cater to smokers and allow tobacco use.

Free societies allow people to make decisions that others don't like. That includes allowing smokers to have bars and restaurants to cater to their preferences, just as nonsmokers should have establishments that cater to theirs. Baltimore and Annapolis should stand by the ideals of a free society instead of opting to force smokers to live by the preferences of some nonsmokers.

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