

Sheila Martin
Hutchinson, KS 67502

Wednesday February 1, 2012

Testimony for Senate Federal and State Affairs Committee on HB 2340

Chairman Brungardt and Senators of the Committee,

Thank you for reading my letter. You have a chance to save many businesses. Yes, we are small, but we are many. And we are hardworking tax payers, not non tax-paying Foundations, and special interests. We own taverns, pool halls, bingo parlors, and diners. You won't see us at the Country Club or at soirees where the elite meet. We will be at work. Paying teachers, firemen, policemen, and yes, even our elected Officials.

We ask you not pass HB 2340 in its current form and instead add to the exemption addressed in this bill to include all businesses that only allow adults to enter their establishments.

Smoking bans are GOOD for business we were told in these very halls. (Whose business, pray tell?) This could NOT be further from the truth. What small locally owned businesses' owners want is prosperity and the free market. What we want is for the adult's only (over 21) businesses, who choose, to be allowed to cater to their smoking customers, and to post signs on all entrances stating those two facts. "We allow smoking" and "You must be 21 to enter).

The smoking ban is not working. Killing the casinos too is certainly the brainchild of Senator Barney Fife! Kansas shot itself in the foot with the first ban, and NOW it wants to blow its OTHER foot off by compounding this mess?

The promised non-smoking customers did not show up. And since the inception of the bans, bars are closing. Interesting how pro ban side worked this so the losses did not all show up at the same time, don't you think? Salina, Emporia, Lawrence, Garden, KC, spread out over 5 years. Nice way to cover losses, wouldn't you agree. I have looked at the numbers for these areas post bans, and the losses are there and they are bad for the little guys!(see attached map)

I just got information from Michigan and their Dept. of Revenue is reporting a big drop in revenue to from on premise businesses since their ban passed. Not in the big restaurant/bar chains, who are NOT locally owned, but to the little locally owned "Mom & Pop" places! People in Michigan, just like Kansas and Ohio and Nebraska are buying at the liquor store and going home!

The Dept. of Revenue numbers in Kansas are showing this too. You are probably not aware that a keg of Bud was \$80 in Jan of 2010. It has been raised FOUR TIMES since then to Nov 2011, by \$20. So every keg sold in that two year period should have shown an increase of \$1.60 to the Kansas Liquor Excise tax. Since all the small businesses had to raise glass and pitcher prices by \$.25 (glass) and many raised their pitcher prices over \$3, this should have reflected in a huge increase in the Liquor Enforcement tax paid to the state by retailers. (This 10% tax is NOT collected at liquor stores; it is only collected in for On-premise sales like bars and restaurants!)

Where is this huge influx of this beer tax increase? All other liquors and bottled beer have skyrocketed in this period. Where's the money?

Hutchinson's only bowling alley just closed. He provided two nights per week to ONLY nonsmokers. They didn't come. Then the State jumped in and took away his other 5 nights. He is closed, and bowlers are driving to Wichita, at night, and driving back home late. I noticed the big increase in DUI traffic fatalities in Kansas in the

first year of the ban. It was on the front page of my paper. No one mentioned the smoking ban.

I would prefer that YOU draft a Bill allowing adults only businesses the right to choose, and that would include adults only casinos.

Little bar owners WANT the State to get out of debt! We WANT to have a place to go and have fun. It is certainly NOT FAR to drive to Missouri and Oklahoma, who do not have smoking bans in Casinos.

To those whom the ban has worked for, congratulations and stay nonsmoking. For those of us who OWN our businesses, who agree to serve and hire only adults, and who agree to post signs stating these requirements, we NEED our right to decide.

The MINUTE that Kansas bans the licensing of the selling of tobacco products to all, then we will agree to ban smoking in our businesses. It is NOT US who is addicted to tobacco. We CHOOSE to allow this legal activity by adults in our businesses.

It is wonderful that the big national chains, like Chile's, Applebee's, Logan's, and such are opening all over the place. They have on premise licenses just like the little bars do. And that is the ONLY reason that our losses are not noticeable. I know that the Dept. of Revenue can distinguish between an Applebee's and a Hot Pockets Pool Hall, if you ask them to.

So when our locally owned taverns close WHO NOTICES? Bars and restaurants have as much in common as apples and elephants! A tavern is like a living room and a restaurant is like a kitchen. Eat and get out.

Sincerely,

Sheila Martin
12 Countryside Drive
Hutchinson, KS 67502
anono1955@yahoo.com
620 664 3242

Hutchinson business owner
And the *Kansas Business Right to Choose Association*

Attachments
HYPE AND HYSTERIA ABOUT SECONDARY SMOKE
On Premise Licensee Map
Hutch News Article- Ban Feeling the Heat

Also see;
Kansas Retailers Say Smoking Ban Hurt Lottery Sales
http://www.wibw.com/localnews/headlines/Kan_retailers_say_smoking_ban_hurt_lottery_sales_131961603.html

HYPE AND HYSTERIA ABOUT SECONDARY SMOKE

MORE THAN 50,000 PEOPLE DIE EACH YEAR FROM HEART DISEASE DUE TO SECONDHAND SMOKE -- FALSE

At the Seventh World Conference on Tobacco and Health held in Perth, Australia in 1990, anti-smoker crusader Stanton Glantz gave the keynote address in which he said, among other things: "The main thing the science has done on the issue of ETS, in addition to help people like me pay mortgages, is it has legitimized the concerns that people have that *they don't like cigarette smoke*. And that is a strong emotional force that needs to be harnessed and used. We're on a roll, and the bastards are on the run. And I urge you to keep chasing them." But the public was not terribly incensed about the alleged "3000" deaths each year blamed on secondary smoke. So to create a problem of epidemic proportions that could be used in the war on smokers, and using several disparate epidemiological "studies," Stanton Glantz performed a meta-analysis which was published in the journal *Circulation* in 1991, and republished in *JAMA* in 1995. (Of the 12 studies on fatal myocardial events used by Glantz in this review, 8 showed NO statistically significant risk for ets exposure in non-smokers; of the 11 studies covering non-fatal myocardial events, 10 failed to show a significant link.) Relying heavily on questionable research about a tiny increase in arterial deposits, Glantz came to the conclusion that if a non-smoker exposed to secondary smoke had 20% increase in arterial deposits, then 20% of the 1,000,000 heart disease deaths each year must be attributed to secondary smoke. Disregarding the concept of "threshold," he wrote a massive paper on it and his conclusions have been used since to claim more than 50,000 deaths due to secondary smoke each year.

Realizing the flimsy basis for such a claim, no agency of the U.S. government--including the EPA and the CDC--has officially endorsed Glantz's misrepresentation of the facts. However, even with this most blatant misuse of science, the American Heart Association still uses Glantz's biased figure of 50,000 deaths a year as does the anti-smoker cartel of NGOs, pharmaceutical companies, once-respected charities, and paid professional anti-smoking activists.

MORE THAN 3,000 PEOPLE EACH YEAR DIE OF LUNG CANCER DUE TO SECONDHAND SMOKE -- FALSE

In 1992, the EPA report "Respiratory Health Effects of Passive Smoking," based on a meta analysis of 11 separate studies, uses 3,000 deaths per year attributable to environmental tobacco smoke. Federal judge William Osteen, the very same judge who had earlier ruled that the FDA should control tobacco, overturned the EPA's fraudulent report. He said that the EPA "publicly committed to a conclusion before research had begun... disregarded information and made findings on selective information; did not disseminate significant epidemiologic information; deviated from its own Risk Assessment Guidelines; failed to disclose important findings and reasoning; left significant questions without answers... produced limited evidence, then claimed the weight of the Agency's research evidence demonstrated ETS causes cancer." In short, the report was faked. In 1995 the Congressional Research Service (a 741 person, \$62 million per year think tank that works exclusively for Congress) rejects EPA and 3 other studies as not statistically significant and tainted by poor research and analysis. After 20 months and several million dollars, the CRS stated: "*It is very possible that no deaths have been caused by environmental tobacco smoke.*" It found no basis for a proposed OSHA smoking ban in federal workplaces.

In 1998, the World Health Organization study on environmental tobacco smoke, purportedly the largest such ever undertaken, comprising 20 years in 38 centers in 21 countries was denounced by anti-smoking activists because it minimized the allegedly detrimental effects of environmental tobacco smoke. It actually showed no statistically significant increase (1.16) in lung cancer in non-smokers who had lived and worked with smokers for 40-50 years. WHO didn't release the study at all until it was leaked to a newspaper, and when they did release the study, it was accompanied by a press release whose headline screamed: "Passive Smoke Does Cause Cancer, Do Not Let Them Fool You," which was published verbatim by the popular press here and abroad. Apparently not one of the journalists took the trouble to read the actual study.

ASTHMA IN CHILDREN IS CAUSED BY SECONDHAND SMOKE -- FALSE

Dr. Fernando Martinez, director of respiratory sciences at the University of Arizona and co-author of Chapter 8 of the 1993 EPA Report on environmental tobacco smoke, the chapter that dealt with asthma and other respiratory diseases, is among those specialists who believe that improved hygiene and overuse of antibiotics

at the heart of the problem. "Like most people," he says, "I assumed tobacco smoke and pollution were the problem -- this was the politically correct way to think. But these factors turned out not to play a major role." In 1970, 44.1% of all males in the US smoked, 33.9% of females smoked. That year the number of hospital discharges for asthma in the under 15 age group was 33,000 (5.8%). In 1980, 37.6% of males smoked, 29.3% of females smoked. The number of under 15 hospital discharges for asthma was 124,000 (24.2%). In 1990, 28.4% of males smoked, 22.8% of females smoked. The number of under 15 hospital discharges was 169,000 (30.8%). So while smoking decreased to nearly half the smoking rates of 1970, the number of children with asthma attacks severe enough for hospitalization skyrocketed six times from 5% to 30%. While other respiratory illnesses do not show such a monotonic curve, they too are on the increase as smoking decreases. According to the CDC, adult and childhood asthma cases have increased from approximately 6.7 million in 1980 when people smoked virtually everywhere to 17.3 million in 1998 when smokers seldom even smoke in their own homes. Blaming secondary smoke for asthma is nothing more than an emotion-laden gimmick in the war on smokers.

SIDS IS CAUSED BY SECONDHAND SMOKE -- FALSE

No one knows what causes SIDS. Ask any pediatrician.

SMOKING BANS ARE GOOD FOR BUSINESS

When the hospitality industry in California claimed that business was down due to the harsh smoking restrictions, and that claim began to effect other areas of the country in which ANR (Americans for Nonsmokers Rights, founded by Stanton Glantz) was attempting to enact similar laws, Glantz produced a "study" that showed business was up.

Dr. Michael K. Evans, a respected economist, accused Glantz of misrepresenting data in a study that was apparently designed to mislead elected officials. A Sacramento court issued a restraining order against Glantz for destroying documents in the above case and required him to show why he should not be held in contempt of court. It also charged him with unauthorized use of University of California resources for political lobbying, electioneering and private political activities, and of using his time on the University payroll to do so. Until recently, Glantz's "study" was the only one ever done and anti-tobacco crusaders conveniently ignored the questions brought up by Dr. Evans. Early in 2001 another study was completed, a study that cost no taxpayer dollars, a study performed by a non-smoker, a study that took into account all the things that Glantz's "study" didn't, and it came to a very different conclusion. With the growth rate of California since the smoking bans were enacted, it would be expected that there would be 1036 MORE dine-in restaurants than there are. The anti-smoker crusaders set out to change society and they have indeed done so, to the detriment of society.

Amelia Peck, left, and Shannon Renee King of Hutchinson, converse as they smoke cigarettes together shortly after midnight Feb. 13 outside Vic's, a bar on East Fourth Avenue in Hutchinson.

Photos by Joel Pines, The Hutchinson News

State law has been taking fiscal toll on local venues

Feeling the heat

Since a statewide smoking ban took effect last summer, Delynn Mowat said she's seen sales plummet some 40 percent at her East Fourth Avenue bar.

Although several other Hutchinson bar owners say they've not witnessed

STORIES BY JOHN GREEN THE HUTCHINSON NEWS

such impacts, state tax numbers do show drinking establishments in Hutchinson and Reno County overall took a significant hit last year. The result, the bar owners said, has been layoffs, reduced hours and a substantial drop in sales tax revenues flowing into city, county and state coffers.

The smoking ban can't be blamed entirely for the decline, since sales were down significantly before it became the law. But a look at restaurants that serve alcohol indicates the smoking ban is having an impact.

Local restaurants mirrored the substantial drop in sales through the first half of the year. Sales tax figures, however,

See **BAN** / A4

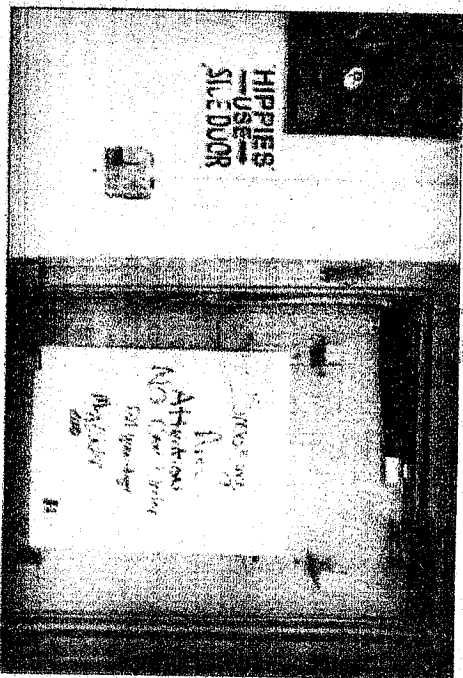
Hutch club owner wants to see measure repealed

She actually stands to benefit from the state smoking ban, but Hutchinson club owner Sheila Martin is on a campaign to see it repealed.

Martin's Top Hat Tavern, 2405 N. Main St., is one of three Class B clubs in Hutchinson exempt from the ban under the law at-

lowing smoking. As a result, she's seen membership there grow since the ban took effect July 1.

"I've not been promoting my business as a smoking establishment," Martin said. "I prefer not to take ad-



A sign on the back door of The Wooden Nickel shows tobacco smokers the way to the smoking area outside. Crowds of smokers consistently gathered in the designated area on Feb. 5.

vantage of others' misery. I can't stand seeing Claire and Connie and Delynn (Other Hutchinson bar owners) suffering like they are. They are brave girls."

"These people have been in business a very long time," Martin said. "Most of them are mid-

dledged ladies and they are supporting their families. This ban is hurting their business, pure and simple."

Martin and Paul Souler, of the Kansas Watchdog Organization, have put together an 18-page brochure they believe

See **LOBBYIST** / A4

retain sales records, but they came close, marking the highest February distribution for the city since 2008.

The City of Hutchinson received \$858,555 from the state for its tax collections in December. That was up nearly \$77,000, or more than 8.7 percent, over the same month last year. Adding the "use tax" distribution the city also received propels that to \$1,049 million, or an overall 8.5 percent growth.

Use tax is a voluntary sales tax collection from Internet and catalog sales that occur within

See **REVENUES** / A4

Union rally gives Dems some hope

Party elects Joan Wagnon as committee leader; GOP doesn't see its grip slipping.

By **JOHN HANNA**

AP Political Writer

TOPEKA—Kansas Democrats pondered Saturday how to rebuild after last year's disastrous elections but found encouragement in a rally that brought hundreds of people to the Statehouse to wave signs, sing protest songs and show support for the party's union allies.

Democratic activists and elected officials from across the state gathered in Topeka for Washington Days, the party's biggest annual convention. The Democratic State Committee unanimously elected former State Revenue Secretary Joan Wagnon as the party's new state chairwoman; she's also a former