



Smoking, Health and Social Care (Scotland) Bill

**Submission to the Scottish Parliament's Health Committee from
The Scottish Beer and Pub Association (SBPA)**

February 2005

About the Scottish Beer and Pub Association (SBPA)

The Scottish Beer and Pub Association was originally formed in 1906. Our members are made up of brewing and large pub companies representing the licensed trade industry in Scotland. The main aim of the Association is to contribute to the economic and social wellbeing of Scotland through employment, investment and training.

The Scottish Beer and Pub Association's members include Scottish Brewers Ltd, Tennent Caledonian Breweries Ltd, Carlsberg U.K. (Scotland) Ltd, Belhaven Group plc, The Caledonian Brewing Company Ltd, Diageo Ltd, Broughton Ales, Scottish and Newcastle Pub Enterprises, Mitchells and Butlers, Spirit Group, Punch Taverns plc, Enterprise Inns & Maclay Group plc.

Our members account for 1,500 of the 5,100 licensed public houses in Scotland.

A total of 150,511 people are employed in the licensed trade in Scotland and in the manufacture of alcohol products, including beer. 10,573 people are employed in manufacturing alcoholic beverages in Scotland, including beer.

If further information is required please contact:

**Patrick Browne
Chief Executive
Scottish Beer & Pub Association
6 St Colme Street
Edinburgh EH3 6AD**

**Telephone: 0131 225 4681
Fax: 0131 220 1132
patrick.browne@geoghegans.co.uk**

Summary

SBPA is fully supportive of the objective of providing more smoke free areas in Scotland's pubs and clubs. Moreover, we are committed to providing more comfort and choice for non-smokers within the hospitality environment and to provide a more healthy work environment for our staff.

However, we are opposed to the legislation relating to smoking in the Smoking, Health and Social Care (Scotland) Bill.

There are a number of reasons for this:

Firstly, in May 2004, the licensed trade in Scotland put forward a proposal to the Scottish Executive, outlining a five-point plan which we believe would have achieved the Executive's objective of creating more smoke free areas in Scotland without the potential damage to the industry of an outright smoking ban. **We believe the Scottish Parliament should legislate for additional anti-smoking measures as outlined in the industry's five-point plan which we believe will maximise both the health and the financial benefits of tobacco restrictions.**

Secondly, we oppose the legislation because we do not believe the proposals for a total smoking ban in all premises as outlined in the Bill are supported by Scottish public opinion. This is borne out by the results of a public opinion survey commissioned by the Scottish Executive on this issue and by the Scottish Executive's own consultation which showed mixed support for the proposal.

Thirdly, we believe the economic and financial research on which the decision to proceed with a total smoking ban in Scotland is fundamentally flawed and we fear that the Bill if implemented would have a detrimental impact on the licensed sector in Scotland, our staff, and our customers. Indeed, studies commissioned by the Against and Outright Ban (AOB) Group, of which we are a member, bear this out.

For the reasons as above we would ask the Scottish Parliament to reject the clauses relating to smoking as outlined in the Smoking, Health and Social Care (Scotland) Bill.

The Industry's Preferred Approach

Over the last few years, we realise that there has been tremendous pressure to take positive action by way of legislation for smoke free areas. It is clear to the industry, as well as everyone else, that the status quo is not an option. Whilst significant progress was made on this issue through the Voluntary Charter in providing more smoke free areas and much better ventilation for pub goers, we recognise that voluntary action does not provide a level playing field as individual licensees are naturally reluctant to take steps to restrict smoking if these steps place them at a competitive disadvantage.

In recognition of this in May 2004, the licensed trade asked the Scottish Executive, through the then Health Minister, to legislate for smoke free areas and introduce five measures which would have been compulsory for all licensed premises ranging from pubs, hotels, restaurants, sports clubs, and social clubs, to entertainment venues. The points were:

- ☒☒ Smoking should be banned at the bar counter in all licensed premises.*
- ☒☒ Smoking should not be permitted in any area where and when hot food is being served.*
- ☒☒ All licensed premises (whether or not they sell food) should be required to allocate a minimum of 30% of total floor space as a non-smoking area and this percentage would be ratcheted upwards to 40% in year 2 and 50% in year 3.*
- ☒☒ Every licensed premise should have a smoking policy sign at the entrance.*
- ☒☒ Smoking should not be permitted in any area of licensed premises from which the public are excluded (i.e., back of house).*

At the end of year three a review of progress would be made and appropriate further steps taken. This was very similar to the Norwegian model which has moved to a total ban over a period of years.

The licensed trade did not underestimate the difficulties in introducing these measures but we believed that if these measures were introduced, Scotland would have made a huge stride forward in improving choice for non-smokers and protecting their health as well as the health of employees in the industry. A firm message would be conveyed to the Scottish public in general and smokers in particular and, over a period of time, we would anticipate a significant increase in the presence of non-smokers in licensed premises.

We strongly oppose the introduction of a total smoking ban believing instead that a stepped approach as outlined above is preferable.

Scottish Public Opinion

Responses to the Consultation on Smoking in Public Places

The Scottish Executive undertook its "Consultation on Smoking in Public Places" before arriving at its decision to introduce a smoking ban.

The Scottish Executive's own consultation, although showing that 80% of respondents favoured a ban on smoking in enclosed public spaces, also showed that a bare majority, just 56% of respondents, favoured a total ban on smoking without any exemptions for any sector which is the proposal contained in the Bill.

mruk Research Findings

mruk research were commissioned by the Scottish Executive to undertake a research exercise with a sample of the Scottish population, regarding smoking in public places and addressing aspects of the smoking in public places consultation exercise itself.

A key finding of the opinion survey was that: "Views were mixed with respect to the level of support for a law that would make enclosed public places smoke free, with just over half expressing support for such a law and around a third indicating that they were unsupportive.

"Overall, two thirds of those who would support such a law were also of the opinion that should such a law be introduced, exemptions should be considered, with pubs and clubs the most commonly suggested exemptions (57% and 21% respectively)."

This suggests that although a majority of those surveyed supported a ban on smoking in enclosed public places, two thirds of those also believed that exemptions should be considered, meaning that just one in five, or 18%, of those surveyed supported a total smoking ban.

It is evident from the findings of the Scottish Executive's own consultation exercise that a bare majority of respondents want a total smoking ban in Scotland and that less than one in five respondents to a Scottish Executive commissioned survey support the proposed total smoking ban. These findings have been borne out by other surveys including research commissioned by the UK Department of Health in 2003.

Flawed Scottish Executive Research

The Scottish Executive based its decision to proceed with a total smoking ban on a range of research which we believe to be fundamentally flawed. This research included the “International Review of the Health and Economic Impact of the Regulation of Smoking in Public Places” undertaken by the University of Aberdeen.

There were a number of comments in the Summary version of the report which illustrated the weakness of this piece of research.

The Aberdeen Study considered the “specific effects on the hospitality sector” of a smoking ban and used a number of studies. 11 of these related to restaurants, four to hotels. Significantly only one related to the experience of bars in California. The report indicated that “this was the only study available to model results for Scotland.”

In relation to the “quality and relevance of the literature,” the Aberdeen Study indicates “There are a number of valid criticisms relating to the studies carried out in this area and these reflect the difficulties of conducting research into policy impacts. The problems include: the inadequacy of sales tax data to capture all the effects, the timing of the intervention in relation to the data periods; limitations to the smoking restrictions; compliance with the smoking restrictions; selection bias; and the transferability of the results to other settings. The failure to find any significant impact on revenues in the sectors analysed does not rule out the possibility of a small negative effect on business ... However, it is also the case that there has been no analysis of impacts within sectors and no analysis based on measures such as sales volume or profits.”

The Study also makes no attempt to analyse the macroeconomic impact of any smoking ban on the Scottish economy, instead the report relies on the statement that “the net effect on the Scottish economy of any impact on the hospitality sector will be reduced as any change in spending is redistributed to or from other sectors of the economy. Expenditure that is diverted from or gained by the hospitality sector will be taken up in or lost from other sectors.” However, the study also stated that “it was outwith the scope of this study to provide a full macroeconomic model of the net economic effects.”

Given the lack of robustness within the research produced by the University of Aberdeen on which the Scottish Executive based its decision and on the incompleteness and non-transferability of the international studies analysed, we do not believe that the Executive has justified its assertion that a smoking ban will cause minimal impact to the hospitality sector, and specifically pubs in Scotland.

Economic Impact of a Smoking Ban

Tobacco is not a banned substance and research shows that 67% of Scottish pub goers are also smokers who are addicted to nicotine. The dictionary definition of addiction is “something, usually a narcotic drug, upon which people are dependent.” So it is hardly surprising that we fear the impact of a total smoking ban as it could greatly reduce turnover in all licensed establishments with the possible exception of those which specialise in the provision of food.

A reduction in turnover would result in a much higher reduction in operating profit in most licensed businesses, further exacerbating the impact of a downturn in trade.

Recent reports from Ireland suggest that volume sales of beer have fallen by 10% in the first five months of the smoking ban, with sales in Dublin down 14% (Figures from AC Nielsen.) Industry trade bodies in Ireland have estimated that so far some 2,000 jobs have been lost within the industry.

It is impossible for us to quantify the precise economic impact in Scotland of a total ban but we take the view that it would have a significant effect on both large and small businesses many of which would become unsustainable.

Research commissioned by the Against and Outright Ban (AOB) Group, of which we are a member, from the Centre for Economics and Business Research (CEBR), suggests that as a result of a smoking ban in Scotland:

- ~~££~~**The value of annual turnover in the licensed trade will decline by £105m**
- ~~££~~**Annual profits in licensed premises may decline by £86m**
- ~~££~~**Employment in the licensed trade can be expected to decline by 2,300 jobs initially**
- ~~££~~**About 142 average sized licensed premises may close as a result of decreased trade**

It should be stressed that these figures are based on the reduction in the volume and value of bar sales which has already been experienced in the Republic of Ireland and suggest that a total and immediate smoking ban introduced in Scotland would cost jobs and result in the closure of a significant number of licensed premises.

Conclusion

As we have already stated, SBPA is fully supportive of the objective of providing more smoke free areas in Scotland's pubs and clubs. Moreover, we are committed to providing more comfort and choice for non-smokers within the hospitality environment and to provide a more healthy work environment for our staff.

However, we are opposed to the legislation relating to smoking in the Smoking, Health and Social Care (Scotland) Bill.

We would propose that the Scottish Executive and the Scottish Parliament delay the implementation of its proposals for total smoking ban in enclosed public spaces until the impact of the ban in the Republic of Ireland over a period of twelve months has been fully assessed.

As we have indicated if the impact of the smoking ban on the value and volume of beer sales already experienced in Ireland were replicated in Scotland we would possibly be faced with:

- ~~✂~~ **The value of annual turnover in the licensed trade declining by £105m**
- ~~✂~~ **Annual profits in licensed premises declining by £86m**
- ~~✂~~ **Employment in the licensed trade can be expected to decline by 2,300 jobs initially**
- ~~✂~~ **About 142 average sized licensed premises closing as a result of decreased trade**

We would ask the Scottish Executive and Parliament to:

- ~~✂~~ Adopt the industry five-point plan as put forward last May to the Scottish Executive. Similar solutions have worked well in Norway and Australia and our proposal would not be materially damaging to the Scottish economy.
- ~~✂~~ At the very minimum research should be undertaken on the economic impact of the workplace tobacco ban introduced in Ireland at the end of March 2004 and the outcome of that research should be carefully studied before any further action if taken on the smoking aspects of the Smoking, Health and Social Care (Scotland) Bill.

The licensed trade in Scotland and the membership of the Scottish Beer and Pub Association will of course continue to work in partnership with the Scottish Executive in furthering its objectives of promoting health and tackling smoking. We would however urge the Scottish Executive and the Scottish Parliament to think again before proceeding with the current proposals and to instead work with the industry to introduce the change we all want to see in a considered way.