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## **Lawmakers feel push back over smoking vote**

BY DION LEFLER The Wichita Eagle

Some lawmakers who originally voted for the statewide indoor smoking ban say they would be willing to consider tweaking it to be a bit more business-friendly. But they say it's unlikely that could happen by the end of this year's legislative session.

Legislators say they've felt some push back against the law, especially from proprietors of south-central Kansas businesses who want a few more exceptions in place when the ban takes effect July 1. A coalition of business owners and supporters called Kansas Right to Choose met last week to plan strategy. The group has scheduled a news conference today in Andover to make its case to the public.

Sheila Martin, owner of the Top Hat bar in Hutchinson and a leader of the Right to Choose group, said the business owners could have supported a ban like the one now in force in Wichita.

Here, proprietors can allow smoking if they buy a special permit, upgrade their ventilation systems and limit smoking-optional rooms to adults 21 and older.

Many of the businesses that are affected by the new state ban would re-form as private clubs, but the law exempts only clubs that were private as of Jan. 1, 2009, Martin said.

"What we're trying to do is save businesses, trying to save as many businesses as we can," she said.

Changing the law now would be difficult.

Before she was elected to the Legislature, Rep. Lisa Benlon, D-Overland Park, worked for the American Cancer Society helping cities draft smoking bans.

She acknowledged that history shows some businesses will end up shutting down, especially those that are marginally profitable.

"That's really sad, and I feel poorly about it," she said.

But, she added that the record also shows many businesspeople who think they'll go under actually wind up with more customers.

### **More exceptions**

Some senators who voted for the ban last year said they think a few more exceptions could have been written in — possibly cigar bars and the increasingly popular hookah bars, where patrons smoke a type of large pipe that originated in India.

State Sen. Jean Schodorf said this week that she would support revisiting the smoking ban to carve out some exceptions for businesses that can't survive without allowing smoking.

Given the state of the Kansas economy, "we've got to keep every business open that we can," Schodorf said. "I wish that we had been able to make some more exceptions for businesses."

Schodorf spoke Thursday to a group of Wichita State University political science students. The smoking ban came up when one of them asked if she had made any votes in the Senate that she now regrets.

Schodorf replied that she voted for the bill to establish the ban because she supports its goals of reducing smoking and improving public health.

"It is nice to go into a bar and there's no smoke," she said.

But she and other senators said they thought some compromises would be added as the bill made its way through the House and a House-Senate conference committee.

It didn't work out that way. Supporters of the smoking ban brought the Senate bill straight to the House floor, where it passed in late February.

Smoking ban supporters such as Benlon said they think it should be left as is or made more restrictive.

"I think Jean Schodorf is a great legislator, and I understand she's trying to protect her constituents down there," Benlon said. "I think she and I probably have to disagree on this."

Senate Majority Leader Derek Schmidt, R-Independence, said he thinks the issue will come up again.

"Like any major new law, I expect it will be revisited over time," he said. "I suspect there is room for adjustments around the edges of it that would make Kansans more comfortable with it."

But he doesn't see a clear path to changing the law this session.

He said any further exceptions would probably have to clear the Legislature by a two-thirds majority to overcome a near-certain veto by Gov. Mark Parkinson. Schmidt said that's probably an insurmountable hurdle.

Like Benlon, Parkinson is a strong supporter of the legislation and has indicated he would take it a step further if he could.

One of the few significant exceptions to the ban is casinos, which under Kansas law are technically owned by the state through the lottery.

When he signed the bill, Parkinson said he hoped the Legislature would pass another bill to ban smoking in casinos as well.

#### **'A lot of heat'**

Craig Gabel, owner of Mike's Steak House in Wichita, said he doesn't understand what the government's interest is as long as children are excluded from smoking rooms and nonsmokers aren't exposed to the smoke.

He said he reworked the ventilation systems in his restaurant to comply with the Wichita ban. Now, he said, that effort is wasted because the state law will override Wichita's ordinance and he'll be forced to go smoke-free anyway.

Sen. Dick Kelsey, R-Goddard, voted for the smoking ban in the Senate last year. Kelsey, who represents a sliver of Wichita and several suburban cities, said he understands the concerns of business owners like Gabel. And, like Schodorf and Schmidt, he said he was surprised that the bill went through the House and to the governor unchanged.

"There was an opportunity on the House side to do some fixes," he said. "I would support making the casinos (exemption) go bye-bye. I could be supportive of grandfathering in some of the city ordinances." He said he's "gotten a lot of heat from the people pushing back on it." But, he added, polls show more than seven out of 10 Kansans support the ban and he said he thinks the opposition to it will probably diminish after it takes effect.

Read more:

<http://www.kansas.com/2010/04/10/1263214/lawmakers-feel-push-back-over.html#ixzz0qUyrYDN6>

# Avon businesses ask to add patios

APPENDIX G

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**AVON** — Two Avon gathering spots are responding to Ohio's strict no-smoking laws with proposals to build patios.

The Red Tail Golf Club, 4400 Nagel Road, and Veterans of Foreign Wars Post 7035, 36950 Mills Road, are going to the Avon Planning Commission Wednesday at 7:15 p.m. to discuss patio plans.

**Business at the VFW post is down about 35 percent since voters passed the no-smoking law a few years ago, according to Andy Feuchter, post commander.**

"Since the no-smoking law came in, it's killing everybody's business," he said. "People come here to drink, smoke and talk. We think a patio will be good for business."

The VFW has a small outdoor area, about 8 feet by 10 feet, with a table and a couple of chairs for smokers, he said. But the proposed project, on the east side of the building, would be a poured concrete slab with room for several picnic tables.

"If we get approval (from the planning commission), we already have a contractor ready to go," he said.

Red Tail Golf Club changed a patio plan already in place, to include outdoor service areas, according to Jim Piazza, Avon planning coordinator.

"At first, they just wanted a raised platform," Piazza said. "Now they're redesigning it. They want a full bar and cooking area and roof."

Red Tail is requesting an amended special use permit for the project at the planning commission meeting.

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<http://www.morningjournal.com/articles/2010/06/15/news/mj2887631.txt>