

# Should NYC's Restaurateurs Lighten Up?

Effects of the City's  
Smoke-Free-Air Act

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This study indicates that legislation that mandates smoke-free restaurants attracts more business (and money) than it drives away.

**N**ew York City's Smoke-Free-Air Act, which went into effect in April 1995, resulted in the vast majority of the city's restaurants becoming smoke free.<sup>1</sup> Prior to the act's passage, predictions regarding the severe negative impact of the act on restaurant revenues abounded.<sup>2</sup> Among restaurateurs, however, there was little agreement about the act's potential long-term effect. And al-

<sup>1</sup> The New York City Smoke-Free-Air Act bans smoking in all dining rooms with more than 35 seats and provides for limited smoking in outdoor seating, in separate bar areas under certain circumstances, and in separate lounges where food isn't served. (See the box on the next page for a synopsis of the act.)

<sup>2</sup> *New York Newsday*, Nassau & Suffolk Edition, April 11, 1995, p. A26.



### Excerpts from The Smoke-Free-Air Act

Smoking is prohibited in restaurants with an indoor seating capacity of 35 or more patrons. However, smoking may be permitted in:

- (1) Any enclosed room designated as a smoking lounge (beverage service only).
- (2) Any restaurant bar, defined by meeting the following conditions:
  - (a) the restaurant bar is located at least six feet from, or is separated by a solid floor-to-ceiling partition from, any indoor dining area of such restaurant.
  - (b) the smoking lounge and restaurant bar do not individually or in the aggregate exceed 25 percent of the aggregate square footage of the restaurant.
  - (c) seating at tables in such restaurant bar shall be limited to:
    - no more than 15 percent of up to and including 100 seats at tables in such restaurant, and
    - no more than 10 percent of any seats in excess of 100 seats at tables in such restaurant.
  - (d) the smoking lounge and restaurant bar are not the sole indoor patron-waiting areas of such restaurant.

Smoking may be permitted in a contiguous outdoor area designated for smoking so long as such area constitutes no more than 25 percent of the outdoor seating capacity.

though the act has been in force for several months now, restaurateurs' discussions about the act's effects are still driven by opinion rather than data. This study was therefore undertaken to explore the actual impact of the act on consumer behavior, and its results serve as a first attempt at compiling real data.<sup>3</sup>

The study's findings are two-pronged. On the one hand, the data confirm some restaurateurs' worst revenue-related predictions, which is to say that restaurant patrons who smoke are dining out less frequently and spending less time when dining out. On the other hand there's good news, which is that *nonsmokers* who are sensitive to smoky environments, estimated at 47 percent of the general population, are eating out more frequently.<sup>4</sup> In fact, our results indicate that these nonsmokers are more than making up the revenues lost from inconvenienced diners who smoke.

<sup>3</sup> The conclusions drawn from these data should be treated as preliminary. Similar results based on the collection of additional data in the future would strengthen the conclusions drawn herein.

<sup>4</sup> Based on information from the American Lung Association stating that smokers comprise 26 percent of the population.

### Pre-Act Arguments

The Smoke-Free-Air Act went into effect on April 10, 1995. With limited exceptions, the act banned smoking entirely in New York City's restaurants. Prior to passage of the act, the smoking lobby and many restaurateurs fought against such government intervention, voicing "fears about the impact on food service."<sup>5</sup> Those opposed to the act claimed that New York's restaurants would be irreparably hurt as smokers would dine out less often and spend less money as a result of the act.<sup>6</sup>

Other restaurateurs, however, indicated they were favorably predisposed to the act, anticipating that it would make managing seating in the dining room easier as well as protect them from liability related to workers' compensation claims and civil suits tied to exposure to second-hand smoke. Said Tim Zagat, publisher of Zagat restaurant surveys, "Since the majority of people are nonsmokers, it is more likely to be good for business than bad."<sup>7</sup>

<sup>5</sup> *Nation's Restaurant News*, May 22, 1995, p. 195; *Chicago Tribune*, April 11, 1995, p. 3; and *Nation's Restaurant News*, April 24, 1995, p. 73.

<sup>6</sup> *Nation's Restaurant News*, May 22, 1995, p. 195.

<sup>7</sup> *Chicago Tribune*, April 11, 1995, p. 3.

### The Absence of Objective Data

For the first six months since the new smoking rules were enacted, the only available data regarding economic impact consisted either of anecdotes relating operators' reactions, as featured in numerous media reports, or the results of surveys of operators regarding their impressions or opinions of the act's effects. The National Smokers Alliance (NSA), an organization in opposition to the act, sponsored a survey of New York City restaurant-owners' reactions to the act one month after its enactment. That survey suggested a startling finding: 56.4 percent reported a decline in sales, which they blamed on the Smoke-Free-Air Act. Of the restaurateurs who reported a decrease in sales, the average decrease was estimated to be 16 percent.<sup>8</sup>

The validity of such a study is suspect, however, for two reasons. First, the inference drawn from the data implies a causal relationship between the act and the decline in sales when in fact it may be that other unspecified factors contributed to the reduced revenue. Based on the incomplete information currently available, a reliable assessment of the degree to which the act or any other factor caused this alleged decline is impossible. Second, the NSA study was a survey of restaurant owners; it failed to report on New York City restaurant *consumers*, the population whose change in behavior is of primary interest.<sup>9</sup>

<sup>8</sup> *Nation's Restaurant News*, May 22, 1995, pp. 4, 195.

<sup>9</sup> A survey conducted by the National Restaurant Association in January 1993, well before the act took effect, did assess consumers' attitudes. However, this national phone survey of 1,000 people took place prior to the enactment of smoke-free legislation in New York City, California (statewide), and most other municipalities. The data include consumers' attitudes regarding the possibility of smoke-free legislation and their best guesses about how they would act if such legislation were enacted where they live. The NRA study did not address the actual impact of smoke-free legislation on restaurateurs or consumers.

Any impact the act has on New York City restaurants comes as a result of changes in the dining behavior of New York's restaurant consumers. To estimate the impact of the act, one needed to study restaurant consumers, not owners and managers. This study differs from the prior studies in two ways. First, these data were gathered four months after the legislation went into effect, not before; and second, rather than rely on restaurateurs' impressions, these findings come straight from the source—New York City restaurant patrons. They were asked how their dining behavior changed as a result of the act. In addition, the funding source for this study is not advocating a position and the results are not purely anecdotal.<sup>10</sup>

#### What this Study Is About

During the week of August 13–20, 1995, Cornell University researchers surveyed a total of 389 patrons of New York City restaurants concerning any changes in their dining behavior, their attitudes toward and tolerance of smoking, spending patterns, demographics, and feelings about government legislation of smoking. Patrons were asked whether, since the passage of the act, they had changed how frequently they dined out; whether they were avoiding smoking-allowed (or smoke-free) restaurants; and whether they took any longer to dine while eating out. Questions about the appropriateness of the legislation included whether the respondent favored the act, would support a similar ban on smoking in stand-alone bars, and would favor

<sup>10</sup> The source of funding for this study is the Center for Hospitality Research at the Cornell University School of Hotel Administration. This study was undertaken to fill the gaps in knowledge regarding NYC restaurant consumers' behavior and to overcome the weaknesses inherent in the previous studies on the impact of smoke-free legislation.

other cities' adopting smoke-free-air legislation. In addition, patrons were asked whether they had either violated or witnessed a violation of the act.

#### Asking the Consumer

The researchers used restaurants as data-collection sites as a way to survey a cross section of New York City restaurant goers, and patrons were personally surveyed as they exited the selected restaurants. Restaurants were stratified according to smoking accommodations provided and price category and randomly selected within each of the 12 categories we identified (see Exhibit 1). Employing this design maximized the likelihood that all types of restaurant patrons would be included, that is, those who spend a little, those who spend much more, those who smoke, and those who don't. In addition, to best use the interviewers' time, people walking by the restaurants were randomly interviewed as well. When compared, the restaurant patrons' responses did not differ statistically from those of the pedestrians, so the groups were analyzed as one. Because only a limited number of data-collection sites could be used, the researchers chose Manhattan restaurants. Manhattan was chosen over the four other New York boroughs due to its variety of restaurants and preponderance of commuters. Data were collected at both lunch and dinner hours and on each of the seven days of the week.

We created a master list of 4,982 Manhattan restaurants by combining those restaurants listed in the 1995 Manhattan NYNEX *Yellow Pages* with the Manhattan restaurants listed in the *ZagatSurvey 1995 of New York City Restaurants*.<sup>11</sup> Restaurants were randomly selected and

<sup>11</sup> E. Zagat and N. Zagat, *ZagatSurvey 1995 of New York City Restaurants* (New York: ZagatSurvey, 1994).

**“Before the Act, I used to dine out...you know, I'd have an appetizer, drinks, dinner, dessert, and then I'd have a cigarette with an after-dinner drink. But now that I can't smoke, I just eat, I don't dine. No more dessert or after-dinner drinks. I get in and I get out.”**

**—Anonymous survey respondent**

## Exhibit 1

### Classification protocol and restaurant locations

Restaurant Smoking Accommodations				
Price categories:*	Smoke-free	Smoking at the bar	Smoking-allowed dining tables	Smoking throughout
<b>Inexpensive</b>	La Parisienne Rose of India	Blarney Stone	Le Figaro MacMenamin's	Rathbones Pasqua Coffee Bar
<b>Moderate</b>	Bon 75 Restaurant Umberto's	Sequoia 3 Degrees North Hard Rock	Square Rigger Pub	New World Grill
<b>Expensive</b>	Sammy's Roumanian	Chin Chin Assembly Steak House	La Petite Auberge	La Ripaille

\*All price categories are based on the cost of an entrée and drink at dinner, including tax and tip. These are the criteria used in the *Zagat Survey of New York City Restaurants*:

Inexpensive	≤ \$15
Moderate	\$16–30
Expensive	≥ \$31

## Exhibit 2

### Demographic information

N = 389	Do you smoke?			Percentage of all Smokers	Percentage of all Nonsmokers
	Yes	No	Overall		
Sex: Female	33%	67%	42.1%	40.3%	43.1%
Male	36%	64%	57.9%	59.7%	56.9%
Average Age	36.56	38.17	37.61		
Place of Residence:					
NYC	76.8%	69.2%	71.8%		
NY Metro Area	18.7%	22.5%	21.2%		
Other	4.5%	8.3%	7.0%		

### Smokers:

Number of packs smoked per week 5.03

### Nonsmokers:

Former smoker 34.6%  
Never smoked 57.5%  
Other (e.g., former pipe or cigar smoker) 7.9%

contacted by telephone to determine where they would fit in our study's price-smoking classification scheme and to gain approval for the researchers to survey patrons as they exited the restaurant. After contacting 100 randomly selected restaurants, we had not found any restaurants with smoking-allowed dining tables, meaning that three price-smoking categories remained unrepresented. A supplemental list of restaurants was compiled consisting only of restaurants with smoking-allowed dining tables. That list was created from two sources: *The Smoker's Guide to Dining Out in New York City* and *The Insider's Guide to Smoking and Dining in Manhattan*.<sup>12</sup> Selecting randomly from this new list, the researchers gained access to restaurants in all 12 categories.

## The Findings

Of those surveyed, 134 (34.4 percent) are smokers and 255 (65.6 percent) are nonsmokers (never smoked or are former smokers). Forty-two percent of the respondents are women, of whom 33 percent smoke and 67 percent are nonsmokers. Among the male respondents (58 percent of the sample), 36 percent smoke and 64 percent are nonsmokers. Other characteristics of the sample, including place of residence, the number of meals eaten away from home per week, restaurant spending per week, and the number of cigarettes smoked per week (smokers only) are included in Exhibits 2 and 4.

## Dining Behavior

Almost 38 percent of smokers reported that they had dined out less frequently during the four or so months previous to our study. Fur-

<sup>12</sup> A. Yeck, *The Smoker's Guide to Dining Out in New York City* (New York: Salmeri Publishing, 1995); and C. Davenport, *The Insider's Guide to Smoking and Dining in Manhattan* (New York: Kato Enterprises, 1995).

ther, 40.6 percent said that they took less time to dine when they did dine out (see Exhibit 3). As can be seen in Exhibit 3, the majority of smokers (almost 60 percent) are spending more time seeking out restaurants that permit them to smoke, and 47 percent are now "actively avoiding" dining in restaurants that do not permit smoking. About a quarter of the smokers in the sample are patronizing stand-alone bars (23.6 percent) and purchasing take-out food (27.7 percent) *more frequently* since the smoke-free-air legislation was enacted. Additionally, 16 percent of smokers are dining outside of New York City more frequently since April.

Exhibit 3 also shows that some nonsmokers (16.5 percent) are dining out more frequently since the act went into effect, and most (85.7 percent) are taking the same amount of time to dine as they did prior to implementation of the act. Other dining behavior, including the frequency with which nonsmokers purchase take-out food (89.8 percent) and patronize stand-alone bars (82.1 percent), have not changed very much since the act went into effect. (It is worth noting that almost 12 percent of nonsmokers say they now spend less time patronizing stand-alone bars, but whether that change is entirely the result of the act is unclear.)

This first, cursory examination of the data provides support for restaurateurs' contentions that smokers' dining behaviors have changed—for the worse. But a more refined look at the data suggests the possibility of positive outcomes.

### Consumer Spending Patterns

In spite of decreases in the dining frequency and dining time of smokers, the average smoker in our study outspent the average nonsmoker by \$21.58 per week. This

<b>Exhibit 3</b>			
<i>Changes in consumer dining behavior</i>			
	Less	More	Same
<b>Smokers</b>			
Dine out	37.6%	5.3%	57.1%
Time dining	40.6%	9.8%	49.6%
Seek out <i>smoke-permitting</i> restaurants	1.5%	59.4%	39.1%
Actively avoid <i>smoke-free</i> restaurants	6.7%	47.4%	45.9%
Purchase take-out	7.7%	27.7%	64.6%
Patronize stand-alone bars	3.9%	23.6%	72.4%
Dine outside New York City	4.6%	16.0%	79.4%
<b>Nonsmokers</b>			
Dine out	1.9%	16.5%	81.6%
Time dining	8.7%	5.6%	85.7%
Avoid <i>smoke-permitting</i> restaurants	4.7%	36.5%	58.8%
Purchase take-out	5.9%	4.3%	89.8%
Patronize stand-alone bars	12.0%	6.0%	82.1%
Dine outside New York City	1.6%	31.4%	67.0%

  

<b>Exhibit 4</b>		
<i>Consumer spending patterns</i>		
	Smokers	Nonsmokers
Number of times dining out per week	6.6 times	5.59 times
Money spent per week dining out	\$133.24	\$111.45
Average amount spent per meal*	\$23.91	\$21.74
Percent of population	26.0%	74.0%
<b>Per 100 patrons:</b>		
Amount spent dining out per week	\$3,464.24	\$8,247.30
Percentage of restaurant spending per week	29.6%	70.4%

\*The computation for "average amount spent per meal" was determined by first obtaining individual per-meal averages and then computing an average for each profile category based on within-profile averages of individual patrons. This method was used to accommodate missing data from some individual respondents.

finding provides support for restaurateurs' oft-made claim that smokers are their biggest spenders. Nevertheless, despite their high individual spending relative to nonsmokers, as a group smokers account for nearly 2.5 times *less* overall restaurant revenue than nonsmokers. To fully understand the impact of the act it is important to look beyond individual spending and recognize the importance of nonsmokers as a consumer group. Exhibit 4 shows the spending patterns of smokers and nonsmokers, including aggregate group spending each week per 100 restau-

rant patrons. Clearly, operators would be remiss if they simply ignored this sizable majority.

### Enforcement and Violation

Restaurateurs caught breaking New York City's Smoke-Free-Air Act face fines ranging from \$100 to as much as \$1,000 for repeated offenses within a 12-month period, and patrons caught with a cigarette face fines up to \$100. The New York City Health Department considers the law "self-enforcing" and does not use roaming inspectors. Instead, health inspectors look for violations

## Exhibit 5

### Violation and Enforcement of the Smoke-Free Air Act

Smokers	Yes	No
Have you smoked in a smoke-free area in violation of the act?	41%	59%
If "yes" to the above,		
Were you asked to stop?	36.5%	63.5%
Who asked you to stop?		
Another customer	27%	
Manager	27%	
Restaurant employee	46%	
Nonsmokers	Yes	No
Have you seen someone smoke in a smoke-free area in violation of the act?	54.6%	45.4%
If "yes" to the above,		
Was the smoker asked to stop?	46.7%	53.3%
Who asked the smoker to stop?		
Another customer	40%	
Manager	20%	
Restaurant employee	40%	

## Exhibit 6

### Attitudes Toward Smoke-Free Legislation and Smoking

	Smokers	Nonsmokers
Favor the act	12.7%	76.7%
Believe it will be repealed	42.1%	23.2%
Favor similar legislation for bars	3.7%	49.8%
Favor similar legislation for other cities	14.5%	80.0%
Believe second-hand smoke is hazardous	61.2%	91.3%
Believe the act will harm the restaurant business	67.6%	21.0%

as part of their routine restaurant visits.<sup>13</sup>

Data regarding violation and enforcement of the act are included in Exhibit 5. Fully 41 percent of smokers in the sample admit they have broken the law by smoking in restricted areas in restaurants, while more than half of nonsmokers claim to have seen people violate the act. Of smokers who admitted smoking in violation of the ban, 63.5 percent report not having been asked to stop. Similarly, over half of the nonsmokers surveyed said the violators they saw were not asked to stop smoking.

<sup>13</sup> *Nation's Restaurant News*, April 24, 1995, pp. 1, 73.

The loose enforcement of the law may be related to restaurant managers' reluctance to risk alienating those law-breaking smokers. Restaurant managers personally took responsibility to enforce the act in only about 25 percent of the cases in which a violator was asked to stop smoking. Non-management restaurant employees were the ones who enforced the act in over 40 percent of the instances of violation.

Interestingly, in about 25 percent of the instances when they were asked to stop smoking, violators reported that it was another customer who made the request. Nonsmokers, however, claimed cus-

tomers responsibility for enforcement in 40 percent of the cases. How can this discrepancy be reconciled? It may well be that one's position *vis-à-vis* smoking affects one's perception of enforcement. Smokers may see enforcement as emanating from restaurant employees who are "just doing their jobs" (i.e., to enforce an objectionable law). Nonsmokers are most likely asking the server to direct a smoker to stop smoking, hence, to the nonsmoker, it was she or he who made the "stop" request while in the eyes of the offending smoker the "stop" request came from the server.

The system by which the act is expected to be enforced poses some problems in that restaurateurs are being asked to be self-policing. This is the human equivalent of the fox guarding the chicken coop, and the incidence of nonconformance reflects the complexity of enforcing the act. Some operators we spoke with indicated that they disregard the law by not refusing smoking guests. According to one report,

"...operators, speaking anonymously, said they are flouting the law and are not abiding by it. Many said privately that they are not telling customers to put out their cigarettes or cigars."<sup>14</sup>

Joan Borkowski, owner of the 125-year-old Billy's Tavern on Manhattan's East Side and founder of New Yorkers United to Repeal the Smoking Ban, is urging restaurateurs to comply with the law while efforts to repeal the act are underway. Nevertheless, the results of our study support the claims of ongoing civil disobedience.

### Attitudes Toward Smoking and the Act

Not surprisingly, smokers and nonsmokers differ greatly in their attitudes toward smoking and smoke-free legislation (see Exhibit 6).

<sup>14</sup> *Nation's Restaurant News*, May 22, 1995, p. 195.

Nonsmokers are generally in favor of legislation governing smoking in restaurants in New York and other cities, whereas smokers are overwhelmingly against it. One somewhat surprising finding is that over 60 percent of smokers believe second-hand smoke is hazardous to one's health.

A smoking ban in taverns and bars receives little support from all types of restaurant patrons. Fifty percent of nonsmokers would not support a smoking ban in stand-alone bars and, as anticipated, an overwhelming majority of smokers oppose a smoking ban in bars (96 percent). As Exhibit 6 reveals, when asked whether smoke-free-air legislation should be adopted by other cities, consumers' responses virtually matched those for support of the New York City ban.

**Not All Smokers and Nonsmokers Are Alike**

Only examining smokers' and nonsmokers' responses to questions concerning their attitudes and behavior obscures differences within those two groups. By further refining the restaurant-consumer categories, within-group differences are revealed. Based on their dining and smoking behavior, New York restaurant consumers may be classified into five profile categories. Smokers were classified into these three categories: *violators*, *avoiders*, and *adapters*, based on their adherence to the law and avoidance of smoke-free restaurants. Two types of nonsmoker were identified based on their avoidance of smoking restaurants: *smoke-sensitive* and *smoke-tolerant*. This inductively devised profile classification provides the most meaningful and parsimonious description of the consumers we surveyed.

Exhibit 7 defines those five profile categories and shows spending and dining frequency data for each. Among smokers, the group most

**Exhibit 7**  
*Dining behaviors and spending by profile category*

	Types of Smokers <sup>1</sup>		
	Violator	Avoider	Adapter
<b>Dining behaviors</b>			
Dine out <i>less</i> frequently	39.0%	70.0%	16.0%
Take <i>less</i> time to dine	50.0%	40.0%	29.0%
<b>Spending</b>			
Number of times dining out per week	8.17	6.87	4.71
Amount spent on dining out per week	\$167.87	\$141.60	\$92.21
Average spending per meal <sup>2</sup>	\$ 24.33	\$ 28.68	\$20.59
Percent of smokers	41.0%	22.0%	37.0%
Percent of population	10.6%	5.9%	9.5%

  

	Types of Nonsmokers <sup>1</sup>	
	Smoke-sensitive	Smoke-tolerant
<b>Dining behaviors</b>		
Dine out <i>more</i> frequently	34.4%	6.2%
Take <i>more</i> time to dine	6.6%	5.0%
<b>Spending</b>		
Number of times dining out per week	5.51	5.74
Amount spent on dining out per week	\$111.49	\$111.38
Average spending per meal <sup>2</sup>	\$ 22.15	\$ 21.02
Percent of Nonsmokers	64.0%	36.0%
Percent of population <sup>3</sup>	47.0%	27.0%

<sup>1</sup> Smoking status was determined using the following criteria:  
 • *Violator*: any smoker who admitted violating the act  
 • *Avoider*: smokers who have not violated the act and who actively avoid dining in smoke-free restaurants  
 • *Adapter*: smokers who have not violated the act and who *do not* actively avoid smoke-free restaurants  
 • *Smoke-sensitive*: nonsmokers who actively avoid smoking-allowed restaurants  
 • *Smoke-tolerant*: nonsmokers who *do not* actively avoid smoking-allowed restaurants

<sup>2</sup> The computation for "average spending per meal" was determined by first obtaining individual per-meal averages and then computing an average for each profile category based on within-profile averages of individual patterns. This method was used to accommodate missing data from some individual respondents.

<sup>3</sup> Based on information from the American Lung Association stating that smokers comprise 26 percent of the population.

affected by the act in terms of frequency of dining out is the avoiders. Fully 70 percent of avoiders dine out less often since April. Yet in spite of curtailing his or her restaurant visits, the average avoider is the biggest spender per meal and is second only to violators in the amount spent on dining per week.

Thirty-nine percent of violators, the highest-spending consumer group, dine out less frequently. It's possible that fewer violators than avoiders have cut back on dining

out because violators may know that they can eat where they please, violate the act, and often get away with it.

Only 16 percent of adapters dine out less frequently now than they did prior to April 10. Among the smoke-sensitive nonsmokers (47 percent of the population), 34.4 percent are dining out *more frequently* since the act took effect. This increase is in contrast to the 6.2 percent of the smoke-tolerants who now dine out more frequently.

## Exhibit 8

### Restaurant spending per 100 patrons by profile category

	Smokers		
	Violators	Avoiders	Adapters
Percent of population	10.6%	5.9%	9.5%
Weekly restaurant spending	\$167.87	\$141.60	\$92.21
Total spending per week	\$1,779.42	\$835.44	\$876.00
Percent of total spending	15.2%	7.1%	7.5%

  

	Nonsmokers	
	Smoke-sensitives	Smoke-tolerants
Percent of population	47.0%	27.0%
Weekly restaurant spending	\$111.49	\$111.38
Total spending per week	\$5,240.03	\$3,007.26
Percent of total spending	44.6%	25.6%

If smokers are not dining out as frequently, what are they doing instead? Only 27 percent of smokers are purchasing more take-out, with no difference in the increase in purchase frequency across smoking category. Are smokers, because of the almost mystical link between alcohol and cigarettes, seeking safe haven in stand-alone bars? Yes, to a degree they are. Nearly 35 percent of violators spend more time in bars, giving them the highest rate of increase in bar patronage among smokers. There was virtually no change, however, among avoiders (14 percent) and adapters (17 percent).

As for the amount of time smokers spend dining, our study detected no differences across the three smoking categories in the degree to which dining times were reduced—all groups are eating faster. Perhaps the reason is, as one respondent suggested, the trend for all smokers is away from dining and toward eating. By comparison, the dining time of both groups of nonsmokers remains virtually unchanged (see Exhibits 3 and 7).

Although we know that violators are the biggest spenders per week and avoiders are the biggest spenders per meal (Exhibits 3 and 7), one must be cautious in assessing the importance of this information. Together, the two high-spending groups of smokers (violators and avoiders) constitute only 16.5 percent of the general population. Smoke-sensitive nonsmokers, who constitute nearly 50 percent of the population, are responsible for twice as much restaurant revenue as violators and avoiders combined. As can be seen from the breakdown of restaurant revenue per 100 patrons presented in Exhibit 8, operators who choose to focus on the smoking population put all their eggs in a very small basket.

### What Is a Restaurateur to Do?

The Smoke-Free-Air Act presents restaurateurs with a choice—whom to offend? Enforcing the law may alienate smokers while the converse may hold for nonsmokers. Keeping in mind our simple consumer-classification scheme, a restaurateur's challenge is to determine which kinds of consumers she or he wishes to please. One might engage in a niche strategy and target smokers by reducing total seating, adding smoking-allowed dining tables in the bar area (where permitted), or constructing a special smoking-allowed lounge. But such a strategy appeals directly to only about 16 percent of the population, although smokers who are adapters and nonsmokers who are smoke-tolerant would not be directly excluded.

However, all smoke-sensitive people, who account for 47 percent of the general population, will actively avoid dining in an operation that is *not* smoke free. In contrast, a strategy of total smoke-free dining may accommodate as much as 83.5 percent of the population. This large



majority, comprising adapters and all nonsmokers, is responsible for nearly 80 percent of consumer restaurant spending. The only groups one is likely to lose as a result of an unyielding enforcement strategy are the violators and avoiders. And while they are the biggest spenders, they are a small percentage of the population.

It behooves operators, then, to analyze their clientele in light of a consumer classification such as that presented here. Decisions about marketing, particularly niche marketing, should be driven by one's reliance on a particular consumer category. Should the operator remove seats or construct a special smoking lounge to permit smoking and still comply with the law? That would depend on which groups the restaurant relies on for its revenue.

The classification of consumers and their spending enables the operator to perform a cost-benefit analysis heretofore impossible. The 50-seat neighborhood pub, for example, may have difficulty drawing nonsmokers. Pubs may be perceived as smoky, and therefore unacceptable, by smoke-sensitive nonsmokers. If so, it may be cost-effective to lose 15 seats to retain one's smoking clientele. Moreover, our data regarding the degree to which smokers seek out smoking-allowed restaurants indicate that such a decision may be further rewarded by an increase in the volume of high-spending violators and avoiders. However, a niche strategy targeting such a small group may be short-sighted. As more and more operators make alterations to accommodate smokers, the niche will become saturated and supply will exceed demand.

The potential impact of more rigorous enforcement is also worth considering. If the City of New York and restaurateurs take enforcement seriously, it may well be that

violators, mindful of the penalties associated with violation, will become avoiders and dine out even less frequently. Further, they would be more likely to seek out smoking-allowed restaurants. Hence it appears that adding a smoking lounge or smoking-allowed dining tables, or reducing seating, might be a wise strategy. However, this may also prove to be a short-sighted strategy if, in the long run, smokers' dining-and-smoking attitudes begin to change. Consider that in an environment of strict enforcement, smokers can dine without smoking or smoke without dining. Currently, most smokers have chosen to continue dining (even if somewhat less often) while controlling their smoking. But thus far their beliefs about smoking remain unchanged (i.e., they still *want* to smoke with their meal, but they can't). As such, smokers' behavior and attitudes are incongruent with each other. Ample evidence in the psychological literature demonstrates that people seek consistency between their attitudes and behavior. Therefore, in trying to make sense of that incongruity (wanting to smoke while dining, but "choosing" not to), smokers may alter their attitudes and become more accepting of smoke-free legislation.

#### What it All Means

Our findings show that smokers are dining out less and eating faster, and a large percentage of them are violating the Smoke-Free-Air Act. Despite their decrease in dining out, smokers, particularly violators of the act, still eat out more often and spend more than nonsmokers. In contrast, nonsmokers who are smoke-sensitive are dining out more than before. This consumer group is the largest, and spends the most overall. The act has had a decidedly negative impact on some restaurants,

particularly those restaurants whose smokers come less frequently but which have not realized a counterbalancing increase in the attendance and spending of nonsmokers. Conversely, some restaurants are probably benefiting from the smoke-sensitive nonsmokers' increased dining frequency. Still other restaurants remain relatively unaffected with regard to their sales.

On the whole, the population of New York City restaurants has not been negatively affected economically. The increased revenue from smoke-sensitive patrons balances the decline from violators and avoiders. It is likely that, as in other cities where smoke-free legislation has been enacted, sales-tax receipts from restaurants will ultimately prove that the Smoke-Free-Air Act has no impact on total restaurant revenue in New York City. Moreover, it may well be that over time, as smokers become resigned to living within the act's parameters, restaurant revenues will grow as smokers' dining behavior rebounds to pre-act levels. Those are issues deserving further study.

Our findings suggest that New York City's restaurateurs should "lighten up" instead of trying to cater to those who insist on "lightening up." The data indicate it is unwise to try to please everyone. Lightening up may just mean pleasing the nonsmoking majority and making more money in the long run. At the very least restaurateurs should make business decisions based on data, not opinion. Ultimately, smoke-free legislation is likely to have a positive impact on restaurant-industry revenues. Our advice to other cities and municipalities is to consider seriously similar legislation. The restaurant industry collectively may experience higher revenues through smoke-free legislation. □