



May 13, 2009

## Editorial: Compromise on statewide smoking ban is better than nothing

Regarding the impending passage of a statewide smoking ban, we're not sure whether to cry "It's about time" or "Not so fast."

The state Legislature is scheduled to vote today on the compromise bill announced last week, which overturns the various municipal smoke-free workplace laws and replaces them with a uniform, statewide ban.

Our problem is not with the concept — this is a long-overdue step toward improving public health and safety — but with the bait-and-switch tactics that accompanied the May 6 announcement. We're troubled by lawmakers' eagerness to pass the compromise as quickly as possible and with a minimum of further public comment.

On May 5, the Senate health committee held a public hearing on the bill (SB 181), and the next morning the Assembly Committee on Health and Healthcare Reform held its own hearing on the nearly identical Assembly version (AB 253).

Lawmakers gave the public those chances to weigh in; then and only then did they roll out a much-ballyhooed alternative bill, with chief sponsor Sen. Fred Risser admitting the deal was crafted by people who "worked overtime." In other words, the compromise was achieved over weeks, not in the hour or two between the end of the hearing and the start of the news conference.

They denied the public a formal opportunity to comment on several significant changes.

- AB 253 and SB 181 prohibited enclosed outdoor smoking areas with "a roof or overhead covering" and more than one permanent or temporary wall. Now overhead coverings and two walls are OK — in other words, a canopy — and the definition of a wall is refined so that the area can be substantially more, well, enclosed.
- The fines for smokers are increased — what was \$25-\$50 increasing to \$100-\$250 on the third offense is now \$100-\$250 starting with the first offense. But the fines for business owners are decreased — what was a fine of up to \$500 for a third offense is now a flat \$100 for every violation.
- If the original bill was passed, signed and published this month, it would take effect Aug. 1. If the "compromise" is passed, signed and published this month, it will take effect July 5, 2010.
- Language has been inserted that prohibits local municipalities from passing any more ordinances regulating smoking except on city, village, town or school district property.

It looks to us like the Wisconsin Tavern League succeeded in punching bigger loopholes into the bill — indeed, in a May 6 letter to his members, league president Rob Swearingen crowed, "We were up against over 40 other organizations supporting the governor's proposal, and we succeeded in making significant changes to the bill to hopefully make it more workable for you."

Legislators muzzled public input after making concessions to a single, powerful lobby group over the wishes of the vast majority of citizens. As a result our reaction is more a sigh of relief than an enthusiastic ovation. And we will hold our applause until the bill is actually passed into law.

