



May 8, 2009

## Editorial: Smoking ban comes down to democracy

*Wausau Daily Herald*

For years now, two high-minded ideas have formed the foundation for Wisconsin's smoking debate.

On one side have been health advocates who have argued that everyone in the state has the right to work in a safe, carcinogen-free environment — including bar and restaurant employees.

On the other side have been those who argue that this is a property rights issue — that business owners should decide what otherwise legal activities are and are not permissible on their properties and that customers and workers are free to go somewhere else if they don't like it.

The Wausau Daily Herald Editorial Board has focused on those two arguments in the past while favoring a statewide smoking ban.

But behind all the principled arguments, isn't this debate really about something much more prosaic? Isn't it really about whether you mind the smell of smoke on your jacket?

Many of those who favor a smoking ban really just want to be able to go out to dinner or for a drink and not be bothered by the stench of smoke. And many of those who oppose a ban want to be able to do those same things while enjoying a cigarette.

Now, the smoking ban proponents have won — as we could have predicted when only about 21 percent of the population still smokes.

Although both the health advocates and libertarians have legitimate and defensible good-faith arguments on smoking, what really drove Wisconsin lawmakers to compromise on a no-smoking law is democracy.

The majority of people in the state — about 70 percent, according to the most recent poll — favor a smoking ban.

The majority won.

That doesn't mean the debate is over. Opponents of the bill likely will try to stall it in the Legislature or fight it in court before it goes into effect in July 2010.

But no-smoking laws have passed constitutional muster elsewhere, and the tide of public opinion can't be resisted.

Wisconsin soon will be smoke-free. Whether it's because of high-ideals argumentation or more prosaic concerns, that is democracy.

### **A law we don't need**

When it comes to government regulation, some of our critics like to accuse us of always wanting more. The statewide workplace smoking ban, which we favored, is a prime example.

But we have limits. The bill passed last week by the Legislature to fine drivers who open their car

doors into passing bicyclists seems like a singularly unnecessary law.

We love bicyclists. We favor the creation of bike lanes and protections for the bikers who use them. But this law is a solution in search of a problem. If a driver were to intentionally clip a biker with his car door, that would be an assault, which is already illegal. If it isn't intentional, it's a matter for insurance to sort out.

To be clear: Drivers should always check their mirrors for bikes and other traffic before opening their car doors. Be considerate, be safe, follow traffic laws, etc.

But do we really need a law for this? We doubt it. We're pretty sure this is one instance where good old common sense — with backup from the various traffic, insurance and public safety laws already on the books — would suffice.

---